

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GNOSIS S.P.A., GNOSIS BIORESEARCH S.A., and GNOSIS U.S.A., INC.
Petitioners

v.

SOUTH ALABAMA MEDICAL SCIENCE FOUNDATION and MERCK & CIE
Patent Owners

Case IPR2013-00116 (Patent 5,997,915)
Case IPR2013-00117 (Patent 6,011,040)
Case IPR2013-00118 (Patent 6,673,381)
Case IPR2013-00119 (Patent 7,172,778)¹

Before JACQUELINE WRIGHT BONILLA, SCOTT E. KAMHOLZ, and
SHERIDAN K. SNEDDEN, *Administrative Patent Judges*.

KAMHOLZ, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

¹ South Alabama Medical Science Foundation (“SAMSF”) is the Patent Owner in cases IPR2013-00116, -00117, and -00119. Merck & Cie (“Merck”) is the Patent Owner in case IPR2013-00117.

IPR2013-00116; IPR2013-00117;
IPR2013-00118; IPR2013-00119

By email dated May 6, 2014 (copy attached), Patent Owners requested correction of an error in the oral argument transcript. In particular, Patent Owners request correction of the word “either” at page 102, line 8 to --neither--. Petitioners oppose on the ground that the transcript should stand, absent access to the audio recording of the hearing.

Upon review of the audio recording of the hearing, the Court Reporter has determined that the following corrections to the transcript are to be made:

1. At page 102, line 5: replace “high methods” with --high levels--;
2. At page 102, line 8: replace “either” with --neither--; and
3. At page 102, line 9: replace “5-MTHFs. 5-MTHF” with --5-MTHFs -- 5-MTHF--.

Accordingly, it is

ORDERED that the transcript of the oral argument be corrected as indicated above;

FURTHER ORDERED that a corrected transcript shall be entered in the record of each case; and

FURTHER ORDERED that the original transcript entered in each case shall be expunged.

IPR2013-00116; IPR2013-00117;
IPR2013-00118; IPR2013-00119

For PETITIONERS:

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IPR2013-00116; IPR2013-00117;
IPR2013-00118; IPR2013-00119

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Subject: IPR2013-00116, IPR2013-00117, IPR2013-00118, and IPR2013-00119

Dear PTAB:

We are counsel for Patent Owners in the above-listed four IPRs. We write to report a transcription error at page 102, lines 8-9 in the transcript of the Oral Hearing held on March 20, 2014. Case IPR2013-00116, Paper 64; Case IPR2013-00117, Paper 67; Case IPR2013-00118, Paper 60; Case IPR2013-00119, Paper 61. The transcript was first made available on April 24, 2014.

There, the transcript incorrectly recorded statements from Patent Owners' counsel, Mr. Parker, regarding the Ueland reference (Ex. 1013). Specifically, the transcript states "First on the list is folic acid, either folinic acid or 5-MTHFs, 5-MTHF is on the list." (Underscoring added.) Instead, Mr. Parker stated "First on the list is folic acid, neither folinic acid or 5-MTHFs, 5-MTHF is on the list." Evidence that Mr. Parker's statements were mistranscribed is readily apparent from the Ueland reference itself (Ex. 1013) at Table II.

Patent Owners raised this matter with Petitioners, who indicated that the transcript should stand as-is absent access to the audio recording from the hearing.

Patent Owners seek guidance from the Board regarding how Patent Owners may address this issue, as it is unclear whether the Board's prior decisions regarding transcription errors in deposition transcripts are applicable here. *See, e.g., Apple Inc. v. Achatos Reference Publishing, Inc.*, IPR2013-00081, Paper 52 at 3-5 (Jan. 21, 2014).

Respectfully,

IPR2013-00116; IPR2013-00117;
IPR2013-00118; IPR2013-00119

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