

DECLARATION OF THOMAS SPRINKLE
IN SUPPORT OF PATENT OWNER’S RESPONSE TO
PETITION FOR INTER PARTES REVIEW

IPR2017-00453
U.S. Patent No. 9,199,055

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INTRODUCTION

1. I, Thomas Sprinkle, have been retained by the law firm of Friedman, Suder & Cooke, P.C. (“FSC”), on behalf of its client Separation Design Group IP Holdings LLC (“SDG”), in connection with *Inter Partes* Review No. IPR2017-00453 of U.S. Patent No. 9,199,055 (which I will refer to in this declaration as “the ‘055 Patent”). I understand that the ‘055 Patent is owned by SDG and that SDG has sued Inogen, Inc. (“Inogen”) for infringement of the ‘055 Patent. I understand that Inogen, a manufacturer of oxygen concentrator devices, filed a Petition for *inter partes* review of the ‘055 Patent which has been instituted by the Patent Trials and Appeals Board.
2. I am being compensated at my standard hourly rate for my work on this matter, including providing this declaration. My compensation is not dependent on the outcome of this *inter partes* review and in no way affects the substance of my testimony in this declaration. I have no financial interest in ‘055 Patent, SDG, any entity affiliated with the foregoing entities, or in the outcome of this *inter partes* review or any of the lawsuits involving the ‘055 Patent.
3. I have reviewed and am familiar with the ‘055 Patent (Ex. 1001) and its prosecution history (Ex. 1009).
4. I have reviewed and am familiar with the Petition for *Inter Partes* Review filed by Inogen on December 8, 2016 (Paper 2) (“Petition”) and the Declaration of Brenton Taylor (Exh. 1011) (“Taylor Decl.”), the Board’s Institution Decision in

this case dated June 16, 2017 (Paper 10) (“Institution Decision”), and at least the following documents:

- U.S. Patent Application Publication 20060117957 (Ex. 1002) (“McCombs”);
- U.S. Patent Application Publication 20070137487 (Ex. 1003) (“Whitley”);
- U.S. Patent No. 7,297,029 (Ex. 1004) (“Occhialini”);
- U.S. Patent Application Publication 20060174874 (Ex. 1005) (“Jagger”);

5. I have also reviewed and am familiar with the following documents:

- U.S. Patent No. 9,592,360 B2, entitled “Gas Concentrator with Removable Cartridge Adsorbent Beds” which lists Brenton Taylor as an inventor and is assigned to Inogen;
- the prosecution history for U.S. Patent No. 9,592,360 B2;
- the transcripts of the depositions of Brenton Taylor taken as part of this IPR proceeding as well as those conducted in relation to the pending litigation between SDG and Inogen; and,

6. In addition, I have reviewed and am familiar with any other documents I specifically reference in this declaration.

I. SUMMARY OF OPINIONS

7. Based on my review and analysis of the materials in this matter, including the Petition and the prior art references identified therein, as well as my experience and education, I provide the following opinions.

8. It is my opinion that none of the prior art references identified and relied on by Petitioner, whether alone or in combination, disclose all of the limitations of claims 12 or 21 of the '055 Patent. It is further my opinion that it would not be obvious to modify or combine one or more of the prior art references to disclose all of the limitations of claims 12 or 21 of the '055 Patent.

9. In particular, it is my opinion that claims 12 and 21 are not obvious over McCombs in view of Whitley and further in view of the applicant admitted prior art ("AAPA"). Each of the asserted references fail to disclose a POC comprising a removable module comprising at least one adsorbent bed in accordance with the broadest reasonable interpretation of those terms in view of the disclosure of the specification of the '055 Patent. Accordingly, the asserted references also fail to disclose a POC implemented with a removable module designed for user replacement because neither McCombs nor Whitley, either standing alone or when

combined in the manner suggested by Petitioner, comprise a component configuration in which a removable module comprising at least one adsorbent bed is so easily replaceable that the full range of intended users would be able to perform the replacement procedure, as these terms are described in the specification of the '055 Patent.

10. In particular, it is my opinion that claims 12 and 21 are not obvious over McCombs in view of Whitley and further in view of Occhialini. Each of the asserted references fail to disclose a POC comprising a removable module comprising at least one adsorbent bed in accordance with the broadest reasonable interpretation of those terms in view of the disclosure of the specification of the '055 Patent. Accordingly, the asserted references also fail to disclose a POC implemented with a removable module designed for user replacement because neither McCombs nor Whitley, either standing alone or when combined in the manner suggested by Petitioner, comprise a component configuration in which a removable module comprising at least one adsorbent bed is so easily replaceable that the full range of intended users would be able to perform the replacement procedure, as these terms are described in the specification of the '055 Patent.

11. In particular, it is my opinion that claims 12 and 21 are not obvious over Jagger in view of McCombs and further in view of the AAPA. Each of the asserted references fail to disclose a POC comprising a removable module comprising at least

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