

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CATALENT PHARMA SOLUTIONS, INC.,
Petitioner,

v.

PATHEON SOFTGELS INC.,
Patent Owner.

Case IPR2018-00422
Patent 9,693,979

**PETITION FOR *INTER PARTES* REVIEW OF
U.S. PATENT NO. 9,693,979**

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TABLE OF AUTHORITIES

Cases

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EXHIBIT LIST

Exhibit No.	Description	Issue or Publication Date
1001	Declaration of Peter Draper	
1002	Curriculum Vitae of Peter Draper	
1003	U.S. Patent No. 9,693,979	July 4, 2017
1004	Prosecution History of U.S. Patent No. 9,693,978 (App. No. 60/659,679)	
1005	Prosecution History of U.S. Patent No. 9,693,978 (App. No. 11/367,238)	
1006	Prosecution History of U.S. Patent No. 9,693,978 (App. No. 14/977,808)	
1007	Prosecution History of EP 1863458 (Counterpart of U.S. Patent No. 9,693,978)	
1008	Prosecution History of U.S. Patent No. 9,693,979 (App. No. 15/159,972)	
1009	U.S. Patent No. 6,383,471 (“Chen”)	May 7, 2002
1010	U.S. Publication No. 20040157928 (“Kim”)	August 12, 2004
1011	U.S. Publication No. 20040224020 (“Schoenhard”)	November 11, 2004
1012	U.S. Patent No. 5,141,961 (“Coapman”)	August 25, 1992
1013	U.S. Patent No. 5,641,512 (“Cimileuca”)	December 27, 1994
1014	U.S. Patent No. 5,360,615 (“Yu”)	November 1, 1994
1015	U.S. Patent No. 6,383,515 (“Sawyer”)	May 7, 2002

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