UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SLAYBACK PHARMA LLC

Petitioner v. EYE THERAPIES, LLC

Patent Owner

Patent No. 8,293,742 Filing Date: July 27, 2009 Issue Date: October 23, 2012

Title
PREFERENTIAL VASOCONSTRICTION COMPOSITIONS
AND METHODS OF USE

Case No. IPR2022-00142

PETITION FOR INTER PARTES REVIEW

Filed November 4, 2021



TABLE OF CONTENTS

				Page		
TAB	LE OF	AUTI	HORITIES	7		
LIST	ING O	F EXI	HIBITS	9		
I.	INTRODUCTION					
	A.	Summary of Grounds				
	B.	Chain of Priority Earliest Effective Filing Date				
	C.	Person of Ordinary Skill in the Art (POSA)				
	D.	Background Facts				
		1.	Vasoconstrictor Eye Drops to Reduce Eye Redness Were Known	15		
		2.	2-Imidazoline Derivatives Were Known as Vasoconstrictor to Reduce Eye Redness			
		3.	Brimonidine Was Known as Potent Vasoconstrictor With Favorable Properties for Reducing Eye Redness			
		4.	Brimonidine Was Approved in 1996 for Eye Drops	19		
		5.	Prior Art Disclosed Brimonidine Drops to Reduce Eye Redness from LASIK Surgery	21		
		6.	Prior Art Discloses "Low Concentrations" of Brimonidine The Alleged Basis of the Claimed Invention			
		7.	Prior Art Disclosed Brimonidine Eye Drops With pH 6.3 to 6.5			
II.	U.S. PATENT 8,293,742					
	A.	Summary of the "Present Invention"				

	B.	Bacl	Background of the Invention					
	C.	"Bri	"Brimonidine" Is Defined Broadly					
	D.	"Ocular Conditions" Are Listed Broadly						
	E.	and 0.03% Brimonidine of the Prior Art Fall Within Ranges of the '742 Patent	26					
III.	CLA	CLAIM CONSTRUCTION						
	A.	Claim Construction Is Needed for "about 0.025%"						
	B.	"about 0.025%" Includes "0.03%"						
	C.	"Oc	"Ocular condition"					
IV.	CLA	CLAIMS 1-6 ARE UNPATENTABLE						
	A.	Gro	und 1:	Claims 1-2 Anticipated by '553 Patent	32			
		1.	U.S.	Patent 6,294,553	32			
		2.	Clair	m 1: Anticipated by '553 Patent Example 1	33			
			a.	[1.P] "[a] method for reducing eye redness"	33			
			b.	[1.1] "consisting essentially of administering brimonidine"	34			
			c.	[1.2] "to a patient having an ocular condition"	35			
			d.	[1.3] "wherein brimonidine is present at a concentration between about 0.001% weight by volume and about 0.05% weight by volume"	35			
		3.	Clair	m 2: Anticipated by the '553 Patent	36			
			a.	[2.1] "wherein brimonidine is present at a concentration between about 0.001% to about 0.025% weight by volume"	36			

В.	Gro	und 2:	Claims 1-2 Anticipated by Walters 1991	37		
	1.	Walters 1991				
	2.	Clai	Claim 1: Anticipated by Walters 1991			
		a.	[1.P] "A method for reducing eye redness"	40		
		b.	[1.1] "consisting essentially of administering brimonidine"	41		
		c.	[1.2] "to a patient having an ocular condition"	42		
		d.	[1.3] "wherein brimonidine is present at a concentration between about 0.001% weight by volume and about 0.05% weight by volume"	42		
	3.	Clai	Claim 2: Anticipated by Walters 1991			
		a.	[2.1] "wherein brimonidine is present at a concentration between about 0.001% to about 0.025% weight by volume"			
C.	Grou	Ground 3: Claims 1-6 Are Obvious				
	1.	Pate	Patents and Printed Publications Listed in Ground 3			
		a.	'553 Patent	44		
		b.	Norden 2002	46		
		c.	'442 Patent	48		
		d.	Alphagan® Label 1998	48		
		e.	Federal Register 1988	49		
	2.	Clai	ms 1-6 Are Obvious Claim By Claim Analysis	50		
		я	Claim 3 is Obvious	50		

50
51
52
54
55
56
60
60
61
62
63
64
65
65
65
66



V.

DOCKET

Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

