

Filed on behalf of: Corcept Therapeutics, Inc.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TEVA PHARMACEUTICALS USA, INC.,
Petitioner

v.

CORCEPT THERAPEUTICS, INC.,
Patent Owner

Case PGR2019-00048
U.S. Patent No. 10,195,214

PATENT OWNER'S OBJECTIONS TO EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Corcept Therapeutics, Inc. (“Patent Owner”) hereby submits the following objections to exhibits served with Petitioner’s Reply to Patent Owner’s Response. These objections are timely filed and served within five (5) business days of service of evidence to which the objections are directed.

Pursuant to 37 C.F.R. § 42.62, Patent Owner’s objections apply the Federal Rules of Evidence. As explained herein, Patent Owner also objects to evidence to the extent it violates 37 C.F.R. § 42.23(b). Patent Owner’s objections and the basis for each objection are as follows:

I. OBJECTIONS TO EXHIBITS 1065 AND 1066

Patent Owner objects to Exhibits 1065 and 1066 pursuant to Fed. R. Evid. 401, 402, 403, and 37 C.F.R. § 42.23(b). Each of these Exhibits are cited as allegedly supporting the invalidity of the challenged claims. They are improperly introduced for the first time in reply, in violation of 37 C.F.R. § 42.23(b). They are therefore irrelevant pursuant to Fed. R. Evid. 401, 402, and 403.

II. OBJECTIONS TO EXHIBIT 1067

Patent Owner Objects to Exhibit 1067, “Second Declaration of Dr. David J. Greenblatt, M.D.” Specifically, Patent Owner objects to the following paragraphs and associated headings in Exhibit 1067 pursuant to Fed. R. Evid. 702, Fed. R. Evid. 703 (insufficient qualification or support for expert testimony), Fed. R. Evid.

602 (lack of personal knowledge, speculation), 37 C.F.R. § 42.65 (expert testimony does not disclose the underlying facts or data), and 37 C.F.R. § 42.23(b) (expert testimony improperly relies on and/or introduces evidence for the first time in reply): ¶¶ 10-21 and 24-25.

Corcept also objects to ¶¶ 1-7 and 22 of Exhibit 1067 under FRE 402 and 403. Teva does not cite any of these paragraphs in its Reply, rendering Dr. Greenblatt's testimony in these paragraphs irrelevant under FRE 401. Corcept therefore objects to these paragraphs under FRE 402. Corcept also objects to these paragraphs under FRE 403 because they have no probative value, create unfair prejudice to Corcept, and will only confuse the issues and waste the Board's time.

III. OBJECTIONS TO EXHIBIT 1068

Patent Owner Objects to Exhibit 1068, "Declaration of Adrian Dobs, M.D." Specifically, Patent Owner objects to Exhibit 1068 in its entirety pursuant to Fed. R. Evid. 401, 402, 403, and 37 C.F.R. § 42.23(b). This Exhibit is cited as allegedly supporting the invalidity of the challenged claims. It is improperly introduced for the first time in reply, in violation of 37 C.F.R. § 42.23(b). It is therefore irrelevant pursuant to Fed. R. Evid. 401, 402, and 403. Patent Owner further objects to the following paragraphs and associated headings in Exhibit 1068 pursuant to Fed. R. Evid. 702, Fed. R. Evid. 703 (insufficient qualification or support for expert testimony), Fed. R. Evid. 602 (lack of personal knowledge,

speculation) and 37 C.F.R. § 42.65 (expert testimony does not disclose the underlying facts or data): ¶¶ 13, 17-18, 21-24, 26-27.

Corcept also objects to ¶¶ 1-16, 19-21, and 24-25 of Exhibit 1068 under FRE 402 and 403. Teva does not cite any of these paragraphs in its Reply, rendering Dr. Dobs' testimony in these paragraphs irrelevant under FRE 401. Corcept therefore objects to these paragraphs under FRE 402. Corcept also objects to these paragraphs under FRE 403 because they have no probative value, create unfair prejudice to Corcept, and will only confuse the issues and waste the Board's time.

IV. OBJECTIONS TO EXHIBIT 1072

Patent Owner objects to Exhibit 1072 as lacking authentication under FRE 901. This exhibit purports to be a PDF printout of a webpage, but it is inadmissible under FRE 901 because Petitioner has failed to provide sufficient evidence indicating the origin and creation of the PDF document, and accordingly Petitioner has not provided sufficient information regarding its authenticity. Further, this exhibit is not self-authenticating under FRE 902.

Patent Owner further objects to Exhibit 1072 pursuant to Fed. R. Evid. 802 (hearsay) if offered to prove the truth of the matter asserted therein.

V. OBJECTIONS TO EXHIBIT 1075

Patent Owner objects to Exhibit 1075 as lacking authentication under FRE 901. This exhibit purports to be a PDF printout of thesis, but it is inadmissible under FRE 901 because Petitioner has failed to provide sufficient evidence indicating the origin and creation of the PDF document, and accordingly Petitioner has not provided sufficient information regarding its authenticity. Further, this exhibit is not self-authenticating under FRE 902.

Patent Owner further objects to Exhibit 1075 pursuant to Fed. R. Evid. 802 (hearsay) if offered to prove the truth of the matter asserted therein.

Patent Owner further objects to Exhibit 1075 pursuant to Fed. R. Evid. 401, 402, 403, and 37 C.F.R. § 42.23(b). This Exhibit is cited as allegedly supporting the invalidity of the challenged claims. It is improperly introduced for the first time in reply, in violation of 37 C.F.R. § 42.23(b). It is therefore irrelevant pursuant to Fed. R. Evid. 401, 402, and 403.

Exhibit 1075 is also irrelevant pursuant to Fed. R. Evid. 401, 402, and 403 because it is not the type of evidence on which the relevant POSA would rely.

VI. OBJECTIONS TO EXHIBITS 1076 AND 1077

Patent Owner objects to Exhibits 1076 and 1077 as lacking authentication under FRE 901. These exhibits purport to be, respectively, a PDF printout of an email and a PDF printout of a web page, but each is inadmissible under FRE 901

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