

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

**TEVA PHARMACEUTICALS USA, INC.'S
OBJECTIONS TO EVIDENCE**

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
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Petitioner, Teva Pharmaceuticals USA, Inc. (“Teva”), objects under the Federal Rules of Evidence (FRE) and 37 C.F.R. § 42.64(b)(1) to the admissibility of Exhibits 2001-2005, 2010, 2017-2019, 2024-2033, 2037-2040, 2045, and 2046 (the “Challenged Evidence”), filed by Patent Owner Corcept Therapeutics, Inc. (“Corcept”) with its Patent Owner’s Preliminary Response, filed on August 23, 2018, and its Patent Owner’s Sur-Reply in Further Support of its Preliminary Response, filed on October 3, 2018. Teva’s Objections are timely filed under 37 C.F.R. § 42.64(b)(1), within ten business days of the institution of trial. Teva files these Objections to provide notice to Corcept that Teva may move to exclude the Challenged Evidence under 37 C.F.R. § 42.64(c).

I. IDENTIFICATION OF GROUNDS FOR OBJECTIONS

A. Exhibits 2001-2005, 2017-2019, 2024-2033, 2037-2039

Teva objects to Exhibits 2001-2005, 2017-2019, 2024-2033, 2037-2039 as irrelevant under FRE 401 through FRE 403. Exhibit 2001 is a document titled Trial Practice Guide Update (August 2018), which is cited as an exhibit by Corcept because one of its citations discusses the August 2018 Update to the Office Patent Trial Practice Guide. Exhibit 2002 appears to be a chart created by Corcept’s attorneys comprising of handpicked quotes from different filings in a district-court case involving the patent at issue in this proceeding. Exhibit 2003 appears to be an email communication between Corcept’s and Teva’s district court counsel.

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Exhibits 2004 and 2005 appear to be copies of filings in the district-court case.

Exhibits 2017 through 2019, 2024 through 2033, and 2037 through 2039 purport to be prescribing information for different drugs.

These exhibits do not have any tendency to make a fact of consequence in determining the patentability of the patent-at-issue more or less probable than it would be without the evidence. They are, therefore, irrelevant under FRE 401.

Teva therefore objects to these exhibits under FRE 402. Teva also objects to these exhibits under FRE 403 because they have no probative value, create unfair prejudice to Teva, and will only confuse issues and waste the Board's time.

Teva also objects to Exhibit 2002 as inconsistent with FRE 1006 because the summaries do not accurately reflect the underlying documents, and because the writings purportedly summarized are not so voluminous so as to be unable to be conveniently examined in court. Because this exhibit is unreliable, it is inadmissible under FRE 403 because the exhibit risks unfair prejudice, confusing the issues, and misleading the Board.

Teva also objects to Exhibit 2003 as inconsistent with FRE 106 because it appears to be emails selected from a larger chain of communication, rendering it inadmissible under FRE 106 ("If a party introduces all or part of a writing or recorded statement, an adverse party may require the introduction, at that time, of any other part...that in fairness ought to be considered at the same time."). Because

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this exhibit is part of a larger work, it is inadmissible under FRE 403 because using only a portion of the exhibit risks unfair prejudice, confusing the issues, and misleading the Board.

B. Exhibits 2010, 2045, and 2046

Teva objects to Exhibits 2010, 2045, and 2046 as lacking authentication under FRE 901. These exhibits purport to be PDF printouts of web pages, but each is inadmissible under FRE 901 because Corcept has failed to provide sufficient evidence indicating the origin and creation of the PDF documents, and accordingly Corcept has not provided sufficient information regarding their authenticity. Further, these exhibits are not self-authenticating under FRE 902.

C. Exhibit 2040

Teva also objects to Exhibit 2040 as irrelevant under FRE 401 through FRE 403. This exhibit is not cited in either the Patent Owner's Preliminary Response or the Patent Owner's Sur-Reply in Further Support of its Preliminary Response. It is, therefore, irrelevant under FRE 401. Teva therefore objects to this exhibit under FRE 402. Teva also objects to this exhibit under FRE 403 because it has no probative value, creates unfair prejudice to Teva, and will only confuse issues and waste the Board's time.

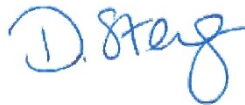
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II. CONCLUSION

To the extent Corcept fails to correct the defects associated with the Challenged Evidence in view of Teva's objections herein, Teva may file a motion to exclude the Challenged Evidence under 37 C.F.R. § 42.64(c).

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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