

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MARINUS PHARMACEUTICALS, INC.,
Petitioner

v.

OVID THERAPEUTICS, INC.,
Patent Owner

Case PGR2023-00020
Patent 11,395,817

PETITIONER'S OBJECTIONS TO PATENT OWNER'S EVIDENCE

Petitioner Marinus Pharmaceuticals, Inc. (“Marinus” or “Petitioner”) hereby submits the following objections, pursuant to 37 C.F.R. § 42.64(b)(1) and the Federal Rules of Evidence (F.R.E.), to certain exhibits submitted filed by Patent Owner Ovid Therapeutics Inc. (“Ovid” or “Patent Owner”).

These objections apply equally to Petitioner’s reliance on these exhibits in any subsequently filed documents. These objections are timely filed and served under the governing rules and regulations.

Exhibit 2002

Marinus objects to Exhibit 2002 under FRE 401-403 as lacking relevance to the grounds on which the Board has instituted a post-grant review. In particular, this exhibit does not make any fact more or less probable than it would be without it. This exhibit is unfairly prejudicial, confuses the issues, misleads the factfinder, and/or is a waste of time.

Marinus also objects to Exhibit 2002 as inadmissible hearsay (see FRE 801 and 802), that does not fall under any exceptions, including FRE 803, 804, 805, and 807.

Exhibit 2004

Marinus objects to Exhibit 2004 under FRE 401-403 as lacking relevance to the grounds on which the Board has instituted a post-grant review. In particular,

this exhibit does not make any fact more or less probable than it would be without it. This exhibit is unfairly prejudicial, confuses the issues, misleads the factfinder, and/or is a waste of time.

Marinus also objects to Exhibit 2004 as inadmissible hearsay (see FRE 801 and 802), that does not fall under any exceptions, including FRE 803, 804, 805, and 807.

Exhibit 2011

Marinus objects to Exhibit 2011 under FRE 401-403 as lacking relevance to the grounds on which the Board has instituted a post-grant review. In particular, this exhibit does not make any fact more or less probable than it would be without it. This exhibit is unfairly prejudicial, confuses the issues, misleads the factfinder, and/or is a waste of time.

Marinus also objects to Exhibit 2011 as inadmissible hearsay (see FRE 801 and 802), that does not fall under any exceptions, including FRE 803, 804, 805, and 807.

Exhibit 2012

Marinus objects to Exhibit 2012 under FRE 401-403 as lacking relevance to the grounds on which the Board has instituted a post-grant review. In particular, this exhibit does not make any fact more or less probable than it would be without

it. This exhibit is unfairly prejudicial, confuses the issues, misleads the factfinder, and/or is a waste of time.

Marinus also objects to Exhibit 2012 as inadmissible hearsay (see FRE 801 and 802), that does not fall under any exceptions, including FRE 803, 804, 805, and 807.

Exhibit 2014

Marinus objects to Exhibit 2014 under FRE 401-403 as lacking relevance to the grounds on which the Board has instituted a post-grant review. In particular, this exhibit does not make any fact more or less probable than it would be without it. This exhibit is unfairly prejudicial, particularly in light of Dr. Sankar's existing consulting relationship with Marinus; confuses the issues; misleads the factfinder; and/or is a waste of time.

Marinus also objects to Exhibit 2014 under FRE 602 as lacking sufficient support to find that Dr. Raman Sankar has personal knowledge of the subject matter to which he is testifying. As one example, Dr. Sankar states that "Petitioner Marinus has employed Ovid's innovative epilepsy treatment discoveries and research as the foundation for its own development of ganaxalone products as therapeutics. Ovid's '817 patent is the basis for Marinus's clinical development efforts." (Ex. 2014, ¶ 18.) He provides no support for those statements and, indeed, could not because they are false.

Marinus also objects to Exhibit 2014 as inadmissible hearsay (see FRE 801 and 802), that does not fall under any exceptions, including FRE 803, 804, 805, and 807. Until Patent Owner offers Dr. Sankar for cross-examination as part of routine discovery under 37 C.F.R. § 42.51(b)(1)(ii), Exhibit 2014 is inadmissible hearsay under FRE 802.

Respectfully submitted,

Dated 7 DEC 2023

/Anita L. Meiklejohn/

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(Control No. PGR2023-00020)

Attorneys for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e)(4)(i), the undersigned certifies that on December 7, 2023, a complete and entire copy of this Petitioner's Objections to Patent Owner's Evidence were provided via email, by serving the email correspondence addresses of record as follows:

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