

Filed on behalf of: Pharmacyclics LLC

Entered: November 6, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BeiGene USA, Inc. and BeiGene, LTD.,
Petitioner,

v.

Pharmacyclics LLC,
Patent Owner.

PGR2024-00009
Patent 11,672,803

PATENT OWNER'S OBJECTIONS TO PETITIONER'S EVIDENCE

Pursuant to 37 C.F.R. § 42.64(b)(1), Patent Owner Pharmacyclics LLC ("Patent Owner") submits the following objections to evidence submitted by BeiGene USA, Inc. and BeiGene, LTD. ("Petitioner"). Patent Owner's objections apply equally to Petitioner's reliance on this evidence in any subsequently filed documents or further proceedings in this matter. These objections are timely, having been filed and served within five business days of service. Notwithstanding these objections, Patent Owner expressly reserves the right to rely on any evidence submitted by Petitioner, including on the ground that such evidence constitutes a party admission.

Objections

Exhibits 1105 and 1106

Patent Owner objects to these exhibits as inadmissible hearsay under Federal Rule of Evidence ("FRE") 801 and 802 not falling under any exception, and as improper expert testimony under FRE 702 and 703, to the extent they impermissibly act as a conduit for hearsay, including the hearsay objected to herein, and do not rely on the kinds of facts or data that experts in the relevant fields would reasonably rely on in forming an opinion on the subject without providing the underlying facts, data, and other required disclosures.

Patent Owner further objects to these exhibits for lack of foundation and lack of personal knowledge under FRE 602, and as improper lay testimony under FRE

701, to the extent they offer testimony in areas outside of Dr. Showalter's and Dr. Veal's areas of expertise or fail to properly provide the underlying facts, data, and other required disclosures.

Patent Owner further objects to these exhibits under FRE 705 and/or 37 C.F.R. § 42.65 as including expert testimony that does not disclose the underlying facts or data.

Patent Owner further objects to Exhibits 1105 and 1106 and the exhibits cited therein as improper reply evidence under 37 C.F.R. § 42.23. Petitioner could have and should have filed such evidence earlier (i.e., with the Petition), e.g., to make its prima facie case.

Exhibits 1111, 1118, 1120-1158

Patent Owner objects to these exhibits as not properly authenticated under FRE 901 because Petitioner has not presented sufficient evidence to show that they are authentic or self-authenticating under FRE 902. To the extent Petitioner relies on these documents for the truth of the matter asserted, Patent Owner objects to these exhibit as inadmissible hearsay under FRE 801 and 802 that do not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

Exhibits 1108, 1109, 1113-1116

To the extent Petitioner relies on these exhibits for the truth of the matter asserted, Patent Owner objects to these exhibits as inadmissible hearsay under FRE

801 and 802 that does not fall under any exceptions, including those of FRE 803, 804, 805, or 807.

Patent Owner further objects to Exhibits 1108 and 1109 as improper reply evidence under 37 C.F.R. § 42.23. Petitioner could have and should have filed such evidence earlier (i.e., with the Petition), e.g., to make its prima facie case.

Exhibits 1110 and 1117

Patent Owner objects to these exhibits as incomplete under FRE 106 because they do not include sworn errata submitted by the respective deponents. Petitioner filed Exhibits 1110 and 1117 without allowing Patent Owner an opportunity to enter the entirety of these documents into the record. Patent Owner is prejudiced by the partial presentation of documents that in fairness ought to be considered in their entireties.

Respectfully submitted,

Dated: November 6, 2024

By: / David P. Frazier /

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 6th day of November, 2024, a true and correct copy of the foregoing **Patent Owner's Objections to Petitioner's Evidence** was served by electronic mail on Patent Owner's lead and backup counsel at the following email addresses:

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