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Paper 70
Date: October 11, 2022

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INCYTE CORPORATION,
Petitioner,

v.

CONCERT PHARMACEUTICALS, INC.,
Patent Owner.

PGR2021-00006
Patent 10,561,659 B2

Before CHRISTOPHER G. PAULRAJ, ROBERT A. POLLOCK, and DEVON ZASTROW NEWMAN, *Administrative Patent Judges.*

NEWMAN, *Administrative Patent Judge*.

DECISION
Denying Petitioner's Request for Rehearing of Final Written Decision
37 C.F.R. § 42.71(d)

I. INTRODUCTION

Incyte Corporation ("Petitioner") filed a Petition (Paper 1, "Pet.") requesting a post-grant review of claims 1–21 of U.S. Patent No. 10,561,659 B2 ("the '659 patent"). Concert Pharmaceuticals, Inc., ("Patent Owner") filed a Preliminary Response (Paper 11, "Prelim. Resp."). Petitioner filed a Reply to Patent Owner's Preliminary Response (Paper 17, "Prelim. Reply") and Patent Owner filed a Preliminary Sur-Reply (Paper 19, "Prelim. Sur-Reply"). Based on the record then before us, we instituted trial with respect to all challenged claims.[1] Paper 20, 49. After institution of trial, Patent Owner filed a Request for Rehearing (Paper 23), which was denied (Paper 25). Patent Owner filed a Response (Paper 37, "Resp."), Petitioner filed a Reply to Patent Owner's Response (Paper 44, "Reply"), and Patent Owner filed a Sur-reply to Petitioner's Reply (Paper 51, "Sur-reply"). An oral hearing was held on February 10, 2022, and the transcript of that hearing is entered as Paper 67 ("Tr.").

We issued a Final Written Decision concluding that Petitioner did not demonstrate by a preponderance of the evidence that each of the challenged claims is unpatentable. *See* Paper 68, 2 ("Dec." or "Decision"). Petitioner timely filed a Request for Rehearing of the Final Written Decision. Paper 69 ("Reh'g Req."). For the reasons expressed below, we deny the Request for Rehearing.

[1] Patent Owner disclaimed claim 8 subsequent to filing. *See* Ex. 2020. Hence, claim 8 and the Petition's Ground 3 challenging only claim 8 are no longer at issue in this case.

II. STANDARD OF REVIEW

The party challenging a decision in a request for rehearing bears the burden of showing the decision should be modified. 37 C.F.R. § 42.71(d). A request for rehearing "must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed." *Id.*

III. ANALYSIS

In the Request for Rehearing, Petitioner contends that the Board erred in its obviousness analysis by erroneously interpreting the law and by overlooking Petitioner's arguments and evidence for unpatentability. Reh'g Req. 1–10. Petitioner also contends that the Board misapplied 35 U.S.C. § 102(b)(1) to find that certain disclosures were made by a joint inventor and therefore did not qualify as prior art. *Id.* at 10–15. We address each of Petitioner's arguments below.

A. Motivation to Combine Based on Silverman's Disclosure of Compound (I)

Petitioner contends that: (1) "[t]he Board applied an erroneous legal test for motivation to use a known compound," and (2) "[t]he Board further overlooked and misapprehended argument and evidence that [a person of ordinary skill in the art (POSA)] would have selected Compound (I) based on deuteration at ruxolitinib's metabolic hot spots." Reh'g Req. 2. We first address Petitioner's arguments as to the legal standard, followed by Petitioner's arguments as to the evidence presented during the trial.

Petitioner argues that the Board "improperly required Petitioner to establish motivation to (1) 'select Compound (I)' from the Silverman Formula A compounds" and "(2) 'select[] the disclosed compound with deuteration at only the 2- and 3-Y' positions over Silverman's Compound

127." *Id*. at 1. Petitioner argues that it needed only to prove that "a skilled artisan would have been motivated to combine the teachings of the prior art references to achieve the claimed invention" and that a "lead compound analysis" is not required. *Id*. at 2 (citing *Novartis Pharm. Corp. v. West-Ward Pharm. Int'l Ltd*., 923 F.3d 1051, 1059–60 (Fed. Cir. 2019), at 1059–60). According to Petitioner, proper application of *Novartis* means that Petitioner only needed to prove that the ordinary artisan would have found it obvious to use any of the compounds disclosed in Silverman's Formula A, and that our preliminary finding along these lines was "sufficient as a matter of law" to establish obviousness of the challenged claims. *Id*. at 1–2 (citing Dec. 50). Petitioner alleges that we erred in requiring Petitioner to prove that the ordinary artisan would have been motivated to select Compound (I) specifically from among the disclosed Formula A compounds. *Id*. at 2.

We are not persuaded that we erred in applying the law by requiring Petitioner to prove what it alleged in the Petition—i.e., that the ordinary artisan would have selected Compound (I), the subject of the challenged claims. The Petition asserts that a "POSA would have been motivated to use Compound (I), the deuterated analog of ruxolitinib from *Silverman*, to treat [(AA)], which *Xing* taught could be treated with ruxolitinib, to obtain at least the same efficacy as ruxolitinib and/or potentially improved pharmacokinetic properties in that treatment." Pet. 33 (citing Ex. 1007 ¶¶ 38–43, 126–135). Petitioner further argued that "Compound (I) would have been 'a natural choice for further development,' . . . in treating AA" because Silverman specifically disclosed and claimed the compound, and because the compound was reported to be more stable metabolically than

ruxolitinib. *Id.* at 34 (quoting *Altana Pharma AG v. Teva Pharm. USA, Inc.,* 566 F.3d 999, 1008 (Fed. Cir. 2009)).

Nowhere in the Petition did Petitioner argue that one of ordinary skill in the art would have been motivated to use *any* of the sixty or more compounds disclosed in Silverman; rather, Petitioner introduced Compound (I) from Silverman at the beginning of its Petition (*id*. at 1–3, 11–15) and framed its entire argument around Compound (I) alone.[2] *See Pet., generally*. As such, the entirety of Petitioner's arguments regarding the skilled artisan's motivation relied only on Silverman's disclosure of Compound (I). *See id.* at 33–41. Considering the evidence adduced at trial, we determined that Petitioner's obviousness argument—and, in particular, its focus on Compound (I)—was not supported by the evidence of record without the 2015 Uttamsingh Declaration (Ex. 1045), which did not qualify as prior art. Dec. 51–52. We addressed Petitioner's reasoning under *Novartis*, that motivation can be found where the skilled artisan would have been motivated to pursue one compound as one of several potential treatment options, and concluded that this reasoning did not apply because Petitioner's case for motivation was stated only in terms of Compound (I) and its suitability for further use based on the 2015 Uttamsingh Declaration's conclusions regarding Compound (I)'s metabolic stability. Dec. 58–59.

[2] To the extent Petitioner argues that its phrasing on page 35 of the Petition that "a POSA would have been motivated to use [ruxolitinib's] deuterated analog—particularly Compound (I)—to achieve at least equally efficacious treatment of AA" demonstrates that Compound (I) was one of the larger number of compounds Petitioner asserted could be used, we are unpersuaded as the Petition elsewhere refers to Compound (I) as "the deuterated analog of ruxolitinib from Silverman." *See* Pet. 33.

Petitioner now argues that the Petition "established that a POSA would have been motivated to pursue Compound (I) as 'one of several potential treatment options' and 'to use [ruxolitinib's] deuterated analog—*particularly* Compound (I)—to achieve at least equally efficacious treatment of AA' as ruxolitinib." Reh'g Req. 7 (citing Pet. 34–35) (citing *Novartis*, 923 F.3d at 1060). In other words, Petitioner asks us to reread the Petition to ignore its exclusive focus on why the POSA would have selected Compound (I) specifically, and find – *despite these arguments* – that it would have been obvious to use any of Silverman's compounds, such as Compound (I), and ignoring Petitioner's reasoning about Compound (I)'s metabolic stability. *See id.* at 5–8.

In sum, Petitioner argues that the Board misapprehended the arguments in the Petition as being limited to the use of Compound (I), and asks that we recast Petitioner's focus on Silverman's Compound (I) to apply to the broader genus of compounds within Silverman's Formula A, which disclosed the entire genus of more than 60 deuterated analogs of ruxolitinib. *See id.* at 7–8.

We cannot craft arguments that were never made. Our reviewing court has made clear that the Board may not craft new grounds of unpatentability not advanced by the petitioner. *Arthrex, Inc. v. Smith & Nephew, Inc.*, 935 F.3d 1319, 1326 (Fed. Cir. 2019). Our "authority is not so broad that it allows the PTO to raise, address, and decide unpatentability theories never presented by the petitioner" and, thus, we may not "adopt arguments on behalf of petitioners that could have been, but were not, raised by the petitioner during an IPR." *In re Magnum Oil Tools Int'l, Ltd.*, 829 F.3d 1364, 1381 (Fed. Cir. 2016).

The challenged claims each recite *a method for using Compound (I)*, not a method for using any deuterated analog of ruxolitinib. Therefore, to prevail on obviousness, Petitioner needed to persuade the Board that "a skilled artisan would have been motivated to combine the teachings of the prior art references to achieve the claimed invention, and that the skilled artisan would have had a reasonable expectation of success in doing so." *Pfizer, Inc. v. Apotex, Inc*., 480 F.3d 1348, 1361 (Fed. Cir. 2007). "The presence or absence of a motivation to combine references in an obviousness determination is a pure question of fact." *Alza Corp. v. Mylan Labs., Inc*., 464 F.3d 1286, 1289 (Fed. Cir. 2006).

Petitioner argued that the specific use *of Compound (I)* was obvious. *See, e.g*., Pet. 23–24 ("This claimed subject matter is nothing more than the obvious substitution of Compound (I), in the treatment of a disease clinically established to be treated by ruxolitinib, at doses in a known range.") Petitioner argued that "a POSA would have been motivated to use Compound (I) in place of ruxolitinib to treat AA by potential improvements in metabolic properties resulting from deuterium substitution at ruxolitinib's metabolic hot spots." *Id*. at 37. *See also id.* at 33, stating the artisan would have been "motivated to orally administer tablets of Compound (I) according to Silverman to treat AA." In making these arguments, Petitioner had explained its basis for how the skilled artisan "would have been motivated to combine the teachings of the prior art references *to achieve the claimed invention*," which recites the use of Compound (I). *Pfizer*, 480 F.3d at 1361 (emphasis added). Following our analysis under 35 U.S.C. § 102(b)(1) (Dec. 38–42), which led us to excise the information discosed in the 2015 Uttamsingh Declaration that was used by Petitioner to identify

Compound (I) from the genus of Silverman's Formula A, we subsequently considered the remaining allegations regarding motivation to combine in the Petition. Dec. 50–60. This inquiry is a question of fact. *Alza*, 464 F.3d at 1289. We found Petitioner's evidence insufficient on the facts to have motivated the artisan to arrive at Compound (I), as recited in the claim. *Id*.

Novartis is distinguishable on these facts. In *Novartis*, the district court held

> The proper inquiry is whether a person of ordinary skill would have been motivated to modify the prior art disclosing use of temsirolimus to treat advanced RCC *with the prior art disclosing everolimus*. This question was answered affirmatively when the district court found that a person of ordinary skill "would have been motivated to pursue everolimus as one of several potential treatment options for advanced solid tumors, including advanced RCC."

Novartis, 923 F.3d at 1051 (emphasis added). Here, Compound (I) was not disclosed in the prior art as "one of several potential treatment options," but was one of over 60 compounds within Silverman's Formula A, which was itself one of other potential treatment options in the field, including ruxolitinib and other ongoing efforts to develop existing treatments. Ex. 1002, Tables 1–2 (providing "Exemplary Embodiments of Formula 1"); *See* Ex. 2056, Tables 1, 2; Ex. 2041, 1. Second, in *Novartis*, everolimus had itself been identified as a potential treatment option, despite the lack of clinical trial data. *Novartis* at 1061. Here, absent the disclosure in the 2015 Uttamsingh Declaration, Compound (I) had not been identified from the genus of Silverman's Formula A. Moreover, the evidence of record showed that because deuteration of compounds was not predictable, the ordinarily skilled artisan without the benefit of the 2015 Uttamsingh Declaration's disclosure would not have been able to predict that Compound (I) would

have been successful. Dec. 51–60. On these facts we concluded that the artisan would not have been motivated to arrive at the claimed method, which identified Compound (I). Dec. 60.

Even if we were to conclude that our factual findings support that the skilled artisan would have been motivated to combine the references to arrive at the claimed invention, the record provides insufficient reason to support a reasonable expectation of success in doing so absent the data from the 2015 Uttamsingh Declaration.

Regarding the imprecise outcome of deuteration, we found:

> if deuteration results were entirely predictable, the data in the 2015 Uttamsingh Declaration would not have been necessary to generate to overcome obviousness or in general to assess the performance of the compounds. *See also, e.g.*, Ex. 1033, 14 (Discussing the imperfect science of deuteration: "[i]t is often falsely assumed that one simply replaces a C−H pair that is subject to oxidation with a C−D pair so that stability ensues. This naive view is surprisingly pernicious and not one by which practitioners of this approach are burdened.").

Dec. 58. On this point, Petitioner argues that, even if the Board had applied the correct legal standard to the argument presented in the Petition, by requiring only that Petitioner show that the ordinary artisan would have been motivated to make any of the compounds disclosed in Formula A (which included Compound (I)), we nonetheless "overlooked substantial argument and evidence for selecting Compound (I) specifically." Reh'g Req. at 8 (emphasis omitted). Petitioner argues our Decision did not address "substantial evidence" that "deuterating at metabolic hotspots was well known in the art and provided motivation to select Compound (I) over the other compounds in Silverman even in the absence of the 2015 Uttamsingh Declaration." *Id.* at 8–9 (citing Pet. 37, 40, 62). Petitioner further argues

that "the Board did not address Dr. Ortiz De Montellano's admission that deuteration at a non-metabolic hot spot, *i.e.*, Compound 127's additional ninth position, 'would probably not be relevant.'" *Id.* at 10 (citing Paper 44, 21; quoting Ex. 1171, 40:18–41:5).

We do not agree that we overlooked Petitioner's metabolic hotspots arguments and evidence not related to the 2015 Uttamsingh Declaration. In our Decision, we found that "[t]he sole rationale that could potentially be separated [from the 2015 Uttamsingh Declaration] is that Compound (I) was deuterated at ruxolitinib's metabolic hotspots, and was reported to have improved metabolic properties *in vitro*." Dec. 54. Accordingly, we considered the evidence presented in the Petition, finding that "Dr. Patterson's testimony does not provide a sufficient evidentiary basis for a finding that the skilled artisan would have pursued use of Compound (I) independent of the information provided by the 2015 Uttamsingh Declaration." *Id.* at 55. Moreover, we considered Petitioner's citation to Silverman's discussion of known ruxolitinib metabolites, finding that Silverman did not "provide sufficient motivation to a skilled artisan to have selected the disclosed compound with deuteration at only the 2- and 3-Y positions." *Id.* at 57–58 (citing Ex. 1002, 3:7–12).

Dr. De Montellano's testimony that deuterating at an additional ninth position "would probably not be relevant" simply reinforces that deuteration was not entirely predictable, and thus does not alter our analysis that the evidence of record was insufficient to support the ordinarily skilled artisan's motivation to select Compound (I) as Petitioner argued. *See id.* at 58. Accordingly, we did not overlook Petitioner's metabolic hotspots argument. Rather, we considered the evidence and came to a conclusion that Petitioner

does not agree with. Because we did not overlook or misapprehend Petitioner's arguments presented in the Petition as to obviousness, we deny Petitioner's Request for Rehearing.

B. 35 U.S.C. § 102(b)(1) Exception to prior art

Petitioner contends that the Board (1) misapprehended the legal standard for establishing a § 102(b) exception (Reh'g Req. 11–12), and (2) misapplied the law of inventorship with respect to Dr. Uttamsingh. *See id.* at 12–15. We first address Petitioner's arguments as to the legal standard, followed by Petitioner's arguments as to the inventorship of Dr. Uttamsingh.

First, Petitioner contends that the Board misapprehended the legal standard for establishing a prior art exception under § 102(b) by "improperly adopting a presumption for correct inventorship from *Acromed Corp. v. Sofamor Danek Group, Inc.*, which was expressly based on 'a presumption of validity [under] 35 U.S.C. § 282.'" *Id.* at 11 (citing 253 F.3d 1371, 1379 (Fed. Cir. 2001); Dec. 34). Petitioner argues that Dr. Uttamsingh's status was "reflected in the provisional cover sheet," (where she was not listed as an inventor) and "[t]he signed oath and face of the patent [where she was listed as an inventor] are not contrary evidence." *Id.* at 12 (internal citations omitted). Petitioner also argues that "presumptions based on § 282 do not apply in PGR proceedings" and cites two Board decisions in support, *Taiwan Semiconductor Mfg. Co., Ltd. v. DSS Tech. Mgt., Inc. ("Taiwant Semiconductor")*, IPR2014-01030, Paper 28, at 6 (PTAB Nov. 30, 2015); *RF Controls, LLC, v. A-1 Packaging Sols., Inc*. ("*RF Controls*"), IPR2014-01536, Paper 10, at 8 (PTAB Mar. 30, 2015).

We do not agree with Petitioner's argument that we misapplied the case law as to the presumption of inventorship. Petitioner is correct that we held that *Acromed* frames the presumption of inventorship as associated with the presumption of validity. *See* 253 F.3d at 1379. *Acromed* is binding precedent and holds that the presumption of validity, which is derived from § 282, includes a "presumption that its named inventors are the true and only inventors" (hereafter "presumption of correct inventorship." *Id*. We find further support for the presumption of inventorship in the Manual of Patent Examining Procedure (MPEP), which explains the presumption also applies to inventors named on patent applications pending before the Office. *See Hess v. Advanced Cardiovascular Sys., Inc.,* 106 F.3d 976, 980 (Fed. Cir. 1997) (finding that the burden of proof for inventorship is the same under 35 U.S.C. § 116 (which governs patent applications), as section 256 (which covers issued patents)); *see also* MPEP § 2157 ("The Office presumes that the named inventor or joint inventors in the application are the actual inventor or joint inventors to be named on the patent."). In the absence of binding case law to the contrary, we are not persuaded that we misapplied the existing case law on these facts and decline Petitioner's invitation to apply a different standard for AIA proceedings.

Petitioner's allegation that the presumption of validity does not apply to post-grant review proceedings relies on statements in the cited Board proceedings referring to the presumption of validity *as applied to the challenged claims*, not to the presumption of correct inventorship acknowledged in *Acromed*. *See Taiwan Semiconductor,* Paper 28, 6 (addressing claim construction and stating "We do not apply a presumption of validity, and we evaluate Petitioner's burden of proof under the

preponderance of evidence standard."); *RF Controls*, Paper 10, 8 ("In an *inter partes* proceeding there is no presumption of [claim] validity, therefore, we will not be applying a rule of construction with an aim to preserve the validity of claims)[3]. Neither of these cases supports Petitioner's argument that the presumption of correct inventorship does not apply to post-grant review proceedings, and Petitioner has cited no binding authority for this proposition.

Moreover, as discussed further below, our conclusion with regard to Dr. Uttamsingh's inventorship status was not only based on the presumption of inventorship. We specifically held that "regardless of the burden, we find that the evidence supports a conclusion that Dr. Uttamsingh is a joint inventor of the '659 patent." Dec. 35.

We further do not agree with Petitioner that we should find the provisional cover sheet, which did not list Dr. Uttamsingh as an inventor, to be more persuasive evidence than the signed oath of Dr. Uttamsingh on the utility application. Reh'g Req. 11–12. Our governing statute requires that "each individual who is the inventor or a joint inventor of a claimed

[3] We further note that *Taiwan Semiconductor* cites for support *Cisco Sys., Inc. v. AIP Acquisition, LLC*, Case IPR2014-00247, Paper 17, slip op. at 3–4 (PTAB June 26, 2014), which further clarifies that the inapplicability of the presumption of validity refers to the challenged claims ("It should be noted, however, that there still would be no presumption of validity in this proceeding and Petitioner's burden of proof is still by a preponderance of the evidence. Also, we will not be applying a rule of construction with an aim to preserve the validity of claims."). In addition, the Board has previously held that the presumption of inventorship applies in *Ellsworth v. Moore*, Interference No. 104,528, Paper 54 at 13 (PTAB Nov. 20, 2001) (informative) ("There is a presumption that the inventorship identified in an application or a patent is correct.").

invention in an application for patent shall execute an oath or declaration in connection with the application." 35 U.S.C. § 115; *see also* 35 U.S.C. § 116 ("When an invention is made by two or more persons jointly, they shall apply for patent jointly and each make the required oath"). "A person may not execute an oath or declaration for an application unless that person has reviewed and understands the contents of the application, including the claims, and is aware of the duty to disclose to the Office all information known to the person to be material to patentability." 37 C.F.R. § 1.63(c). Accordingly, the statute and rules set forth a number of requirements met by the oath filed with a nonprovisional patent application. These requirements do not apply to provisional applications, as provisional applications do not include an oath, nor claims. *See* 35 U.S.C. § 111(b); MPEP 602.01(a)(I). Accordingly, we decline Petitioner's invitation to disregard Dr. Uttamsingh's oath of inventorship as compared to the provisional application cover sheet. Finally, we addressed Dr. Uttamsingh's relevant testimony in our Decision, and Petitioner merely disagrees with that analysis. *See* Dec. 36–37.

Second, Petitioner argues that "[t]he Board misapplied the law of inventorship as Dr. Uttamsingh did not conceive of or contribute to any claimed subject matter." Reh'g Req. 12 (emphasis omitted). Specifically, Petitioner argues that Dr. Uttamsingh's work in identifying the metabolic stability of Compound (I) "is not a contribution to the claimed use of Compound (I) to treat hair loss, as required for inventorship." *Id.* at 13. Petitioner argues that "Dr. Uttamsingh testified that she did not have the idea of using Compound (I) to treat hair loss or any other subject matter claimed." *Id.* at 15 (citing Ex. 1172, 19:14–25:21, 75:7–11; Paper 44, 8–9).

Petitioner argues the Board "misapprehends *Pannu v. Iolab Corp.*" by finding that Dr. Uttamsingh's contributions "were 'not insignificant in quality'" and "did 'more than merely explain to the real inventors well-known concepts and/or the current state of the art.'" *See id.* (citing Dec. 36–37 (quoting *Pannu*, 155 F.3d 1344 (Fed. Cir. 1998)). Petitioner cites to other cases in which the inventors of products were not considered inventors of methods for using the products. *See id.* at 14 (citing *Gen. Elec. Co. v. Wilkins*, 750 F.3d 1324, 1332 (Fed. Cir. 2014); *BJ Servs. Co. v. Halliburton Energy Services, Inc.*, 338 F.3d 1368, 1373–74 (Fed. Cir. 2003).

We are not persuaded that we misapplied the law in determining that Dr. Uttamsingh is a properly named inventor. In the Decision, we addressed Dr. Uttamsingh's testimony regarding inventorship of the claimed method. *See* Dec. 37 ("Petitioner's examination of Dr. Uttamsingh about the inventorship statements made within the '827 provisional do not evoke the nature of Dr. Uttamsingh's contribution to the utility of the compound and the claimed treatment method."). For the same reasons as those presented in the Decision, we find unpersuasive Petitioner's argument that Dr. Uttamsingh's testimony indicates that her contributions were insignificant to the claimed method, which recites the use of Compound (I) as identified by Dr. Uttamsingh to be of particular utility. Dec. 33–37.

The cases cited by Petitioner do not lead to a different conclusion. The cases all refer to the presumption that the named inventors are the true inventors. *See Gen. Elec. Co.*, 750 F.3d at 1229; *see BJ Servs. Co.*, 338 F.3d at 1373; *see Pannu*, 155 F.3d at 1349. As discussed above, we determine that the same presumption that applies to issued patents and pending applications applies to issued patents in AIA proceedings. *See supra* pp. 7–

8. Petitioner does not provide evidence sufficient to overcome the presumption, particularly in light of our factual findings on Dr. Uttamsingh's contributions in identifying Compound (I) as metabolically superior as addressed in our Final Decision. Dec. 33–37. Because Petitioner does not show that we misapprehended or overlooked the law or Petitioner's arguments and evidence as to inventorship, we deny Petitioner's Request for Rehearing.

IV. CONCLUSION

For the foregoing reasons, the Request for Rehearing is denied.

V. ORDER

Accordingly, it is

ORDERED that Patent Owner's Request for Rehearing is *denied*.

In summary:

Claims[4]	**35 U.S.C. §**	**Reference(s)/Basis**	**Claims Shown Unpatentable**	**Claims Not Shown Unpatentable**
1–7, 9–21	103	Silverman, Xing, Ruxolitinib Prescribing Information		1–7, 9–21
1–7, 9–21	103	Silverman, Christiano, Ni		1–7, 9–21
Overall Outcome				1–7, 9–21

[4] Ground 3 is no longer at issue in this case as Patent Owner filed a statutory disclaimer of claim 8 (*see* Ex. 2020). 37 C.F.R. § 42.207(e).

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