

ESTTA Tracking number: **ESTTA651649**

Filing date: **01/22/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Akebia Therapeutics, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	245 First Street, Suite 1100 Cambridge, MA 02142 UNITED STATES		

Attorney information	Christopher K. Albert Hamilton, Brook, Smith & Reynolds, P.C. 155 Seaport Boulevard, 2nd Floor Boston, MA 02210 UNITED STATES trademarks@hbsr.com, christopher.albert@hbsr.com, john.dupre@hbsr.com Phone:(617) 607-5900
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Registration Subject to Cancellation

Registration No	3798292	Registration date	06/08/2010
International Registration No.	NONE	International Registration Date	NONE
Registrant	DAIICHI SANKYO COMPANY, LIMITED 3-5-1, Nihonbashi Honcho, Chuo-ku Tokyo, JAPAN		

Goods/Services Subject to Cancellation

Class 005. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Pharmaceutical preparations for the treatment and prevention of cardiovascular disease, atherosclerosis, diabetic nephropathy, stroke, heart attack, hypercholesterolemia, dyslipidemia, anemia, blood disorders, diabetes, thyroid function disease, metabolic disorders, cancer, oncological disease, metastasis, autoimmune disease, allergy, bacterial infection, viral infection, fungal infection, inflammation and inflammatory disease, musculoskeletal disorders, pain, osteoporosis, obesity, anorexia, urinary and kidney disease, respiratory disease; Diagnostic reagents and contrast media for medical use
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Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition for Cancellation.PDF(77572 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Christopher K. Albert/
Name	Christopher K. Albert
Date	01/22/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Akebia Therapeutics, Inc.,

Petitioner,

v.

Daiichi Sankyo Company, Limited,

Respondent.

Cancellation No.:

PETITION FOR CANCELLATION

Akebia Therapeutics, Inc. (“Petitioner”), a Delaware corporation, having its principal place of business at 245 First Street, Suite 1100, Cambridge, Massachusetts, 02142, hereby petitions for the cancellation of U.S. Trademark Registration No. 3,798,292, registered June 8, 2010, to Daiichi Sankyo Company, Limited (“Respondent”), of 3-5-1, Nihonbashi Honcho, Chuo-ku, Tokyo, 103-8426, JAPAN, for the mark AKEBIN for “Pharmaceutical preparations for the treatment and prevention of cardiovascular disease, atherosclerosis, diabetic nephropathy, stroke, heart attack, hypercholesterolemia, dyslipidemia, anemia, blood disorders, diabetes, thyroid function disease, metabolic disorders, cancer, oncological disease, metastasis, autoimmune disease, allergy, bacterial infection, viral infection, fungal infection, inflammation and inflammatory disease, musculoskeletal disorders, pain, osteoporosis, obesity, anorexia, urinary and kidney disease, respiratory disease; Diagnostic reagents and contrast media for medical use” in International Class 005.

Petitioner believes it will continue to be damaged if such registration remains on the Principal Register.

As grounds for cancellation, Petitioner alleges that:

1. Respondent obtained United States Trademark Registration No. 3,798,292 on the Principal Register for the mark AKEBIN for “Pharmaceutical preparations for the treatment and prevention of cardiovascular disease, atherosclerosis, diabetic nephropathy, stroke, heart attack, hypercholesterolemia, dyslipidemia, anemia, blood disorders, diabetes, thyroid function disease, metabolic disorders, cancer, oncological disease, metastasis, autoimmune disease, allergy, bacterial infection, viral infection, fungal infection, inflammation and inflammatory disease, musculoskeletal disorders, pain, osteoporosis, obesity, anorexia, urinary and kidney disease, respiratory disease; Diagnostic reagents and contrast media for medical use” in International Class 005. Respondent’s application for the mark AKEBIN was filed on March 24, 2009 and the mark was registered on June 8, 2010. This registration has not been cancelled.

2. Petitioner is and has been the owner of all right, title, and interest in U.S. Trademark Application Serial No. 86/217,725 for registration of the mark AKEBIA THERAPEUTICS for use in connection with its goods and services including: “Pharmaceutical preparations for the treatment of hematological, oncological, immunological, cardio-vascular, diabetes mellitus, and ophthalmological conditions and diseases, and pharmaceutical preparations for the treatment of chronic conditions, namely, Chronic Kidney Disease, and all types of anemias; Pharmaceutical preparations for veterinary use in the treatment of hematological, oncological, immunological, cardio-vascular, diabetes mellitus, and ophthalmological conditions and diseases, and pharmaceutical preparations for the treatment of chronic conditions, namely, Chronic Kidney Disease, and all types of anemias; Drug testing kits comprised of medical diagnostic reagents and assays that test for the presence of a drug; therapeutics test kits comprised of medical diagnostic reagents and assays for determining the

effectiveness of a pharmaceutical product” in International Class 005; and “Pharmaceutical research and development” in International Class 042.

3. Petitioner is and has been the owner of all right, title, and interest in U.S. Trademark Application Serial No. 86/217,936 for registration of the mark AKEBIA THERAPEUTICS & Design for use in connection with its goods and services including: “Pharmaceutical preparations for the treatment of hematological, oncological, immunological, cardio-vascular, diabetes mellitus, and ophthalmological conditions and diseases, and pharmaceutical preparations for the treatment of chronic conditions, namely, Chronic Kidney Disease, and all types of anemias; Pharmaceutical preparations for veterinary use in the treatment of hematological, oncological, immunological, cardio-vascular, diabetes mellitus, and ophthalmological conditions and diseases, and pharmaceutical preparations for the treatment of chronic conditions, namely, Chronic Kidney Disease, and all types of anemias; drug testing kits comprised of medical diagnostic reagents and assays that test for the presence of a drug; therapeutics test kits comprised of medical diagnostic reagents and assays for determining the effectiveness of a pharmaceutical product” in International Class 005; and “Pharmaceutical research and development” in International Class 042.

4. Petitioner’s AKEBIA THERAPEUTICS and AKEBIA THERAPEUTICS & Design marks are of significant value to Petitioner to be used as an identification of source in connection with the promotion and offering of its goods and services. Petitioner’s AKEBIA THERAPEUTICS and AKEBIA THERAPEUTICS & Design marks distinguish such goods and services from the goods and services of others.

5. Petitioner is now pursuing registration for its AKEBIA THERAPEUTICS mark in United States Patent and Trademark Office (“USPTO”) under U.S. Trademark Application Serial

No. 86/217,725, filed on March 11, 2014. The Respondent's registration for AKEBIN has been cited by the Examiner and it is preventing the approval for registration of Petitioner's pending Application Serial No. 86/217,725.

6. On June 15, 2014, the USPTO sent Petitioner an Office Action rejecting its Application Serial No. 86/217,725 for the mark AKEBIA THERAPEUTICS, based on alleged likelihood of confusion with Respondent's United States Trademark Registration No. 3,798,292 for AKEBIN. Despite the differences between the marks, the USPTO maintained the rejection of Petitioner's Application Serial No. 86/217,725 for AKEBIA THERAPEUTICS in a Final Office Action dated December 16, 2014 based on alleged likelihood of confusion with Respondent's United States Trademark Registration No. 3,798,292 for AKEBIN.

7. Petitioner is now pursuing registration for its AKEBIA THERAPEUTICS & Design mark in United States Patent and Trademark Office ("USPTO") under U.S. Trademark Application Serial No. 86/217,936, filed on March 11, 2014. The Respondent's registration for AKEBIN has been cited by the Examiner and it is preventing the approval for registration of Petitioner's pending Application Serial No. 86/217,936.

8. On June 15, 2014, the USPTO sent Petitioner an Office Action rejecting its Application Serial No. 86/217,936 for the mark AKEBIA THERAPEUTICS & Design, based on alleged likelihood of confusion with Respondent's United States Trademark Registration No. 3,798,292 for AKEBIN. Despite the differences between the marks, the USPTO maintained the rejection of Petitioner's Application Serial No. 86/217,936 for AKEBIA THERAPEUTICS & Design in a Final Office Action dated December 16, 2014 based on alleged likelihood of confusion with Respondent's United States Trademark Registration No. 3,798,292 for AKEBIN.

9. On information and belief, Respondent has abandoned its use of the mark AKEBIN in connection with the goods set forth in Registration No. 3,798,292. In view of this abandonment, the registration should be cancelled.

10. The continued registration of the mark AKEBIN, as issued to Respondent, causes damage to Petitioner. Such registration, which upon information and belief covers an abandoned mark, inhibits Petitioner in its ability to register its marks, and causes injury and damage to Petitioner.

WHEREFORE, PETITIONER respectfully requests that Registration No. 3,798,292 of Respondent be cancelled from the Trademark Register.

Respectfully submitted,



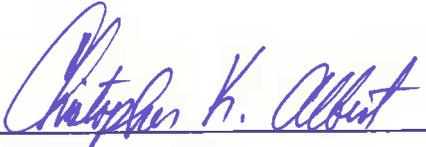
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Attorneys for Petitioner

Dated: January 22, 2015

CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2015, I served the foregoing Petition for Cancellation by first class mail international upon the owner of record for the registration, addressed as follows:

Daiichi Sankyo Company, Limited
3-5-1, Nihonbashi Honcho
Chuo-ku, Tokyo 103-8426
JAPAN



Christopher K. Albert