

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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**PAR PHARMACEUTICAL, INC.**

**Petitioner**

**v.**

**HORIZON THERAPEUTICS, INC.**

**Patent Owner**

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**Case IPR2015-01117 (Patent 8,642,012)**

**Case IPR2015-01127 (Patent 8,404,215)**

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**DECLARATION OF BARRY GILMAN**

**Mail Stop PATENT BOARD**  
Patent Trial and Appeal Board  
United States Patent and Trademark Office  
PO Box 1450  
Alexandria, Virginia 22313-1450

I, Barry Gilman, declare as follows:

1. I am the Deputy General Counsel for Par Pharmaceutical, Inc. I am also the Secretary for Par Pharmaceutical, Inc.

2. Par Pharmaceutical, Inc. is a wholly-owned subsidiary of Par Pharmaceutical Companies, Inc. (“Par Co.”). Par Co. is the sole wholly-owned subsidiary of Sky Growth Intermediate Holdings II Corporation (“SGIH II”), which is the sole wholly-owned subsidiary of Sky Growth Intermediate Holdings I Corporation (“SGIH I”). SGIH I is the sole wholly-owned subsidiary of Par Pharmaceutical Holdings, Inc. (f/k/a Sky Growth Holdings Corporation) (“Par Holdings”). For ease of reference, I will refer to Par Co., SGIH I, SGIH II, and Par Holdings collectively as the “Par Parents.”

3. Par Pharmaceutical, Inc. is a corporation engaged in the business of, *inter alia*, manufacturing, distributing, and selling drugs, including generic drugs. As part of its business, Par Pharmaceutical, Inc. prepares and files Abbreviated New Drug Applications (“ANDAs”) directed to generic drug products. As Par Pharmaceutical, Inc. is engaged in this business, Par Pharmaceutical, Inc. holds various Federal and state licenses to engage in the business of manufacturing,

distributing, and selling drugs, including licenses with the United States Drug Enforcement Agency, the New York State Board of Pharmacy, and the United States Food and Drug Administration. Par Co. does not conduct any such operations. Par Co. is a non-operational holding company that does not engage in the manufacture, distribution, or sale of drugs. It does not generate any revenues itself (outside revenues are generated by its operating subsidiaries, including Par Pharmaceutical, Inc.). Par Co. has no legal department of its own.

4. Par Pharmaceutical, Inc. was solely responsible for preparing and filing ANDA No. 20-5742, which is directed to a glycerol phenylbutyrate product that is a generic version of Horizon Therapeutics, Inc.'s (f/k/a Hyperion Therapeutics, Inc.) ("Horizon's") RAVICTI drug product ("the ANDA Product"). Par Pharmaceutical, Inc. is the owner of all right and title to ANDA No. 20-5742. Par Pharmaceutical, Inc. paid all fees associated with filing ANDA No. 20-5742. The individuals who prepared and filed ANDA No. 20-5742 are employed on behalf of Par Pharmaceutical, Inc. Michelle Bonomi-Huvala, an employee of Par Pharmaceutical, Inc., signed the notice letter to Horizon stating that Par Pharmaceutical, Inc. had filed an ANDA that included a Paragraph IV certification to Horizon's patents.

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5. Horizon has sued Par Pharmaceutical, Inc.—but none of the Par Parents—for infringement of U.S. Patent Nos. 8,642,012 and 8,404,215 (“the Petition Patents”) as a result of Par Pharmaceutical, Inc. filing ANDA No. 20-5742. Par Pharmaceutical, Inc. is the sole party directing, controlling, and funding that litigation.

6. Par Pharmaceutical, Inc. is also the sole entity responsible for filing the petitions for *inter partes* review of the Petition Patents (the “instant Petitions”). Par Pharmaceutical, Inc. directed, controlled, and funded the preparation and filing of the instant Petitions. Par Pharmaceutical, Inc. was the only Par entity that paid any filing or legal fees associated with the preparation of the instant Petitions. None of the Par Parents participated in the decision to file the instant Petitions, nor did any co-author the instant Petitions, nor did any exercise any control over the filing or content of the instant Petitions, nor did any provide funding or other compensation for the preparation and filing of the instant Petitions. At no point was the filing, content, or funding of the instant Petitions discussed at any meeting of the Board for any of the Par Parents. The individuals primarily responsible for the decision to file and the content of the instant Petitions, David Silverstein and

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Lawrence Brown, are employed on behalf of Par Pharmaceutical, Inc. David Silverstein and Lawrence Brown are not employed by any of the Par Parents.

7. I have reviewed the March 31, 2015 Form 10-Q for Par Pharmaceutical Companies, Inc. On page 36 of the filing, there is the statement, “On April 23, 2014, Hyperion Therapeutics filed a lawsuit against us in the U.S. District Court for the Eastern District of Texas.” In this context, “us” refers to Par Pharmaceutical, Inc., which is the only defendant to that lawsuit. In this same paragraph, there is the statement, “On April 29, 2015, we filed Inter Partes Review petitions seeking institution of a trial on invalidity at the U.S. Patent and Trademark Office for both of the patents asserted in the Texas litigation.” In this context, “we” refers to Par Pharmaceutical, Inc., which is the only entity involved with the “Inter Partes Review.”

8. None of the Par Parents have any reason for, or interest in, seeking review of the Petition Patents. As stated above, each of the Par Parents is a holding company that merely holds ownership of its subsidiaries and conducts no independent operations. None of the Par Parents has ever been accused of infringing the Petition Patents, nor have any of the Par Parents moved to intervene

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