

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PAR PHARMACEUTICAL, INC.,

Petitioner,

v.

NOVARTIS AG,

Patent Owner.

Case IPR2016-00084

Patent No. 5,665,772

**DECLARATION IN SUPPORT OF PATENT OWNER NOVARTIS'S
MOTION FOR *PRO HAC VICE* ADMISSION OF CHRISTINA SCHWARZ
UNDER 37 C.F.R. § 42.10**

NOVARTIS EXHIBIT 2088
Par v Novartis, IPR 2016-00084

1. I, Christina Schwarz, am more than twenty-one years of age, am competent to present this declaration, and have personal knowledge of the facts set forth herein.

2. This declaration is given in support of Patent Owner Novartis's Motion for *Pro Hac Vice* Admission.

3. I am a partner at the law firm of Fitzpatrick, Cella, Harper & Scinto, in the firm's New York office.

4. I have been a patent litigation attorney for more than eight years. I have been litigating patent cases for this entire time period and have been involved in numerous cases involving patent validity and infringement, at both the District Court and the Federal Circuit. I have also been involved in *inter partes* review proceedings and patent interference proceedings before the Board. A significant portion of my work has involved biological and chemical arts, with particular emphasis on pharmaceuticals. I am, therefore, an experienced litigating attorney.

5. I am a member in good standing of the State Bar of New York and the Province of Ontario. I have never been suspended or disbarred from practice before any court or administrative body.

6. No court or administrative body has ever denied my application for admission to practice before it.

7. No court or administrative body has ever imposed sanctions or contempt citations on me.

8. I have read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in part 42 of 37 C.F.R.

9. I understand that I will be subject to the Office's Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a).

10. I have applied to appear *pro hac vice* in three other proceedings before the Office in the last three (3) years. In BioMarin Pharm. Inc. v. Genzyme Therapeutic Prods. Ltd. P'ship, *Inter Partes* Reviews 2013-00534 and 2013-00537, I sought and was granted permission to appear *pro hac vice* as back-up counsel. In Patent Interference 105,871 (DK), I sought and was granted *pro hac vice* admission for the purpose of both taking and defending depositions in the priority phase of the interference.

11. I have an established familiarity with the subject matter at issue in this proceeding. I have been involved consistently and substantively in the instant matter for over seven (7) months and have been involved consistently and substantively in District Court litigation involving the same patent for over two (2) years. I have read in detail and understand the Petition filed by Petitioner and the challenged patent, U.S. Patent 5,665,772 (“the ’772 patent”). I have also reviewed in detail all the exhibits relied upon by Petitioner in this proceeding, including Ex 1005 (Morris, “Rapamycins: Antifungal, Antitumor, Antiproliferative, and Immunosuppressive Macrolides,” *Transplant. Rev.*, 6:39-87 (1992)); Ex 1006 (Van Duyne, *et al.*, “Atomic Structure of the Rapamycin Human Immunophilin FKBP-12 Complex,” *J. Am. Chem. Soc’y*, 113:7433-35 (1991)); Ex 1007 (Yalkowsky, “Estimation of Entropies of Fusion of Organic Compounds” *Indus. Eng’g Chem. Fundam.*, 18:108-11 (1979)); Ex 1008 (Lemke, “Chapter 16: Predicting Water Solubility,” *Review of Organic Functional Groups*, 113-21 (2nd ed. 1988)); Ex 1009 (Hughes *et al.*, U.S. Patent No. 5,233,036 (issued Aug. 3, 1993)); and Ex 1024 (Rossmann, *et al.*, “Three-Dimensional Coordinates from Stereodiagrams of Molecular Structures,” *Acta Cryst.*, B36:819-23 (1980)).

12. I have engaged in extensive strategic and substantive discussions regarding this proceeding with Nicholas N. Kallas, who is the lead counsel for Patent Owner in this proceeding and a registered practitioner (Reg. No. 32,530). I have also engaged in extensive substantive discussions with experts concerning issues relevant to this proceeding.

13. Therefore, I have an established familiarity with the subject matter at issue in this proceeding.

14. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the '772 patent.

Dated: June 3, 2016



Christina Schwarz