

Filed On Behalf Of:
Novartis AG

By:
Nicholas N. Kallas
NKallas@fchs.com
ZortressAfinitorIPR@fchs.com
(212) 218-2100

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

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

I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c), Patent Owner Novartis AG respectfully requests the *pro hac vice* admission of Christina Schwarz in this proceeding.

This motion is being filed more than twenty one (21) days after service of the Petition. Petitioner has indicated that it does not oppose this motion.

II. THE GOVERNING LAW, RULES, AND PRECEDENT

37 C.F.R. § 42.10(c) concerns motions for pro hac vice admission and states as follows:

The Board may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause, subject to the condition that lead counsel be a registered practitioner and to any other conditions as the Board may impose. For example, where the lead counsel is a registered practitioner, a motion to appear *pro hac vice* by counsel who is not a registered practitioner may be granted upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.

The Board has stated that motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c) must be filed in accordance with the “Order – Authorizing

Motion for *Pro Hac Vice* Admission” entered in Case IPR2013-00639 (Paper 7) (Representative Order).

In that Order, the Board stated that motions for *pro hac vice* admission must “[c]ontain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding,” and must “[b]e accompanied by an affidavit or declaration of the individual seeking to appear attesting to the following:”

- i. Membership in good standing of the Bar of at least one State or the District of Columbia;
- ii. No suspensions or disbarments from practice before any court or administrative body;
- iii. No application for admission to practice before any court or administrative body ever denied;
- iv. No sanctions or contempt citations imposed by any court or administrative body;
- v. The individual seeking to appear has 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.;

- vi. The individual will be subject to the USPTO 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);
- vii. All other proceedings before the Office for which the individual has applied to appear *pro hac vice* in the last three (3) years; and
- viii. Familiarity with the subject matter at issue in the proceeding.

III. STATEMENT OF MATERIAL FACTS

Based on the following facts, which are supported by the Declaration of Ms. Christina Schwarz (Ex 2088) filed concurrently with this motion, Patent Owner requests that Christina Schwarz be admitted *pro hac vice* in this proceeding:

1. Patent Owner's lead counsel, Nicholas N. Kallas, is a registered practitioner (Reg. No. 32,530).
2. Ms. Schwarz is a partner at the law firm of Fitzpatrick, Cella, Harper & Scinto. (Ex 2088 at ¶ 3.)
3. Ms. Schwarz is an experienced patent litigation attorney. Ms. Schwarz has been a patent litigation attorney for more than eight years and has been litigating patent cases during this entire time period. (*Id.* at ¶ 4.)

She has been involved in *inter partes* review proceedings as well as patent interference proceedings before the Board. (*Id.*) She has been involved in numerous cases involving patent validity and infringement in both the District Courts and the Federal Circuit. (*Id.*)

4. Ms. Schwarz is a member in good standing of the State Bar of New York and the Province of Ontario. (*Id.* at ¶ 5.)
5. Ms. Schwarz has never been suspended or disbarred from practice before any court or administrative body. (*Id.*)
6. No application of Ms. Schwarz for admission to practice before any court or administrative body has ever been denied. (*Id.* at ¶ 6.)
7. No sanctions or contempt citations have ever been imposed against Ms. Schwarz by any court or administrative body. (*Id.* at ¶ 7.)
8. Ms. Schwarz has 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. (*Id.* at ¶ 8.)
9. Ms. Schwarz understands that she 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). (*Id.* at ¶ 9.)
10. Ms. Schwarz has applied to appear *pro hac vice* in three other proceedings before the Office in the last three (3) years: *Inter Partes*

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