

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.,
Petitioner,

v.

GENENTECH, INC. AND CITY OF HOPE,
Patent Owners.

Case IPR2016-00710
U.S. Patent 6,331,415

**DECLARATION OF ROBERT J. GUNTHER, JR. IN SUPPORT OF
MOTION FOR ADMISSION *PRO HAC VICE***

Mylan v. Genentech

I, Robert J. Gunther, Jr. declare as follows:

1. I was admitted to the New York Bar in February of 1985 and have been practicing law for over 30 years. During the entire time that I have been practicing law, my practice has focused on the field of intellectual property, and particularly, patent litigation.
2. I am a member in good standing of the Bar of New York, and am admitted to practice before District Courts of the Southern District of New York the Eastern District of New York, the Western District of New York, the Northern District of California, the District of Colorado, the Eastern District of Michigan, the Western District of Michigan, and the Northern District of Illinois. I am also admitted to practice before the U.S. Courts of Appeals for the Second, Ninth, Tenth, and Federal Circuits. I am a fellow of The American College of Trial Lawyers.
3. My New York Bar membership number is 1967652.
4. Over the course of my career, I have been counsel in dozens of patent litigations. Several of these cases have concerned Patent Office rules and regulations. For example, I have litigated a number of cases concerning the duty of candor to the Patent Office embodied in 37 C.F.R. § 1.56. Cases that I have been involved in which implicate this rule include *Apotex, Inc. v.*

Cephalon, Inc., et al., Civ. No. 2:06-cv-02768-MSG (E.D. Pa.); *Anascope Ltd. V. Nintendo of America Inc.*, Civ. No. 9:06-CV-158-RC (E.D. Tex.) and *Nintendo of America Inc. v. The Magnavox Company et al*, Civ. No. 86 Civ. 1606 (LBS) (S.D.N.Y.).

5. I have never been suspended or disbarred from practice before any court or administrative body.
6. I have never had a court or administrative body deny my application for admission to practice.
7. I have never had any sanctions or contempt citations imposed on me by any court or administrative body.
8. I have read and will comply with Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials, as set forth in 37 C.F.R. Part 42.
9. I agree to be subject to the United States Patent and Trademark Office 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 was admitted *pro hac vice* in IPR2014-01093 before the United States Patent Trial and Appeal Board on May 28, 2015 and presented the argument for Petitioner at the oral hearing on August 24, 2015. I was admitted *pro hac vice* in IPR2015-01624 on February 17, 2016 and represented Patent Owners Genentech, Inc. and City of Hope in that matter, which was

terminated due to settlement. I also represented Genentech, Inc. and City of Hope in IPR2016-00460 (*pro hac vice* motion filed), which was joined with IPR2015-01624 (which was terminated due to settlement); IPR2016-00383 (*pro hac vice* motion filed), which was not instituted; and IPR2016-01373 (*pro hac vice* motion filed and pending), which is pending. I also represent Genentech, Inc. in IPR2016-01693 and IPR2016-01694 (*pro hac vice* motions to be filed).

11. In addition to this matter, I represent Genentech in certain matters related to biosimilars, including IPR2016-01693 and IPR2016-01694, which are pending. I have also represented Genentech in *Inter Partes* Review IPR2016-01624 (joined with IPR2016-00460) involving U.S. Patent No. 6,331,415 (the “415 Patent”), which was terminated due to settlement; IPR2016-00460, which was joined with IPR2015-01624 (which is now terminated); IPR2016-00383, which was not instituted; and IPR2016-01373, which is pending. I have also represented Genentech’s corporate parent, Roche, in many patent litigation matters since 2004. Patent and patent related cases in which I represent or have represented Roche Molecular Systems, Inc. or its affiliates include: *Roche Diagnostics GmbH et al. v. Enzo Biochem, Inc. et al.*, Civ. No. 1:04 Civ. 4046 (RJS) (S.D.N.Y.); *Enzo Life Sciences, Inc. v. Roche Molecular Systems, Inc.*, Civ. No. 1:2012-cv-

00106 (D. Del.); *Digene Corp. v. F. Hoffmann-La Roche Ltd. and Roche Molecular Systems, Inc.*, Case No. 50 181 T00502 06 (International Centre for Dispute Resolution, American Arbitration Association, NY, NY); *Roche Molecular Systems, Inc., et al. v. One Lambda Inc.*, ICC Case No. 17613/FM (International Chamber of Commerce, Zurich, Switzerland); *Roche Molecular Systems, Inc., et al. v. Cepheid*, ICC Case No. 18130/FM/MHM/EMT (International Chamber of Commerce, Zurich, Switzerland).

12. I am intimately familiar with the subject matter of the '415 Patent and the prior art at issue in this proceeding. While at a prior firm, I was one of the attorneys who litigated on behalf of Genentech against Medimmune with respect to validity and infringement issues relating to the '415 patent. I am also intimately familiar with antibody technology as a result of my participation as counsel in prior antibody-related patent cases such as *Abbott GMBH & Co., et al. v. Centocor Ortho Biotech, Inc.*, Civ. No. 09-11340-FDS (D. Mass.) In addition, I have represented life sciences and pharmaceutical companies, including AbbVie, Cephalon, Chugai Pharmaceuticals, GSK, Genentech, Novartis and Roche in many patent litigation matters before federal district courts and arbitration tribunals. The technology involved in these disputes includes fully human and humanized

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