

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PFIZER, INC.,
Petitioner,

v.

GENENTECH, INC.,
Patent Owner.

Case IPR2017-01489
U.S. Patent 6,407,213

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

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.); *Anascape 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 was admitted *pro hac vice* in IPR2016-00710 on October 11, 2016 and represented Patent Owners Genentech, Inc. and City of Hope in that matter, which was terminated due to settlement. I was admitted *pro hac vice* in IPR2016-01373 on December 13, 2016 and represented Patent Owners Genentech, Inc. and City of Hope in that matter, which was not instituted. 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 IPR2017-00047, which was joined with IPR2016-00710 (which was terminated due to settlement). I also represented Patent Owner Genentech, Inc. in IPR2016-01693 (challenging U.S. Patent No. 6,407,213, that patent at issue in this case) and IPR2016-001694 (challenging U.S. Patent No. 6,407,213, that patent at issue in this case), which were terminated due to settlement. I also represent Patent Owner Genentech, Inc. in a number of pending IPR proceedings, including: IPR2017-00731 (*pro hac vice* filed June 8, 2017; institution denied July 27, 2017, request for rehearing filed August 25, 2017); IPR2017-00737 (*pro hac vice* granted June 21, 2017; trial instituted July 27, 2017); IPR2017-00739 (*pro hac vice* granted June 21, 2017; institution denied July 27, 2017); IPR2017-00804 (*pro hac vice* filed June 8,

2017; trial instituted July 27, 2017); IPR2017-00805 (*pro hac vice* filed June 8, 2017; trial instituted July 27, 2017); IPR2017-01121 (*pro hac vice* motion to be filed; pending); IPR2017-01122 (*pro hac vice* motion to be filed; pending); IPR2017-01139 (*pro hac vice* motion to be filed; pending); IPR2017-01140 (*pro hac vice* motion to be filed; pending); IPR2017-01373 (*pro hac vice* motion to be filed; pending); IPR2017-01374 (*pro hac vice* motion to be filed; pending); IPR2017-01488 (*pro hac vice* motion to be filed; pending); IPR2017-01726 (*pro hac vice* motion to be filed; pending); IPR2017-01727 (*pro hac vice* motion to be filed; pending); IPR2017-01958 (*pro hac vice* motion to be filed; pending); IPR2017-01959 (*pro hac vice* motion to be filed; pending); IPR2017-01960 (*pro hac vice* motion to be filed; pending).

11. 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

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.