

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.

Petitioner

v.

POZEN INC. and HORIZON PHARMA USA, INC.

Patent Owner

Case No. IPR2017-01995
U.S. Patent No. 9,220,698

DECLARATION OF ROBERT D. SWANSON
IN SUPPORT OF MOTION FOR *PRO HAC VICE* ADMISSION OF
ROBERT D. SWANSON

MYLAN PHARMACEUTICALS INC. EXHIBIT 1040 PAGE 1

I, Robert D. Swanson, declare as follows:

1. I am an associate in the patent litigation group at Perkins Coie LLP.
2. I am a member in good standing of the Bar of the State of California.

I am also admitted to practice before the United States Courts of Appeals for the Federal Circuit.

3. My State of California Bar membership number is CA 295159.
4. I have been practicing law for more than two years, not including clerkships with Judge Whyte and Judge Koh on the United States District Court for the Northern District of California and Chief Judge Prost of the United States Court of Appeals for the Federal Circuit. During my time in practice, I have focused on litigating patent cases, specifically pharmaceutical patent cases.

5. More generally, I have represented the Petitioner and/or its various related entities in litigating significant pharmaceutical patent cases, such as the following infringement cases:

- *Teva Pharmaceuticals USA Inc. v. Mylan Pharmaceuticals Inc.*, Civil Action No. 1:14-cv-01278 (U.S. District Court for the District of Delaware);
- *Teva Pharmaceuticals USA Inc. v. Sandoz Inc.*, Civil Action No. 17-1575 (U.S. Court of Appeals for the Federal Circuit);

- *Yeda Research and Development Co. v. Mylan Pharmaceuticals Inc.*, Civil Action Nos. 17-1594, 17-1595, 17-1596 (U.S. Court of Appeals for the Federal Circuit);
- *Horizon Pharma, Inc. v. Mylan Pharms. Inc.*, No. 13-cv-04022-MLC-DEA (U.S. District Court for the District of New Jersey);
- *Horizon Pharma, Inc. v. Mylan Pharms. Inc.*, No. 15-cv-03327-SRC-CLW (U.S. District Court for the District of New Jersey);
- *BTG Int’l Ltd. v. Actavis Labs. FL, Inc.*, Civil Action No. 2:15-cv-05909-KM-JBC (U.S. District Court for the District of New Jersey);
- *Horizon Pharma, Inc. v. Mylan Pharms. Inc.*, No. 16-cv-04921-SRC-CLW (U.S. District Court for the District of New Jersey); and
- *Pozen Inc. v. Dr. Reddy’s Labs. Inc.*, No. 17-2473 (consolidated) (U.S. Court of Appeals for the Federal Circuit).

6. I have never been disbarred, sanctioned or cited for contempt by any court or administrative body. I am not currently suspended in any bar or by any court or administrative body.

7. I have never had a court deny my application for admission to practice.

8. I am familiar with the subject matter of this proceeding. In addition to U.S. Patent No. 9,220,698 (“the ’698 patent”) and its prosecution history, I am

familiar with the technology at issue and Vimovo, the pharmaceutical product for which the '698 patent is listed by Horizon Pharma USA, Inc. in FDA's publication, *Approved Drug Products with Therapeutic Equivalence Evaluations*, commonly referred to as the "Orange Book." I have been litigating issues surrounding Vimovo for more than one year in *Horizon Pharma, Inc. v. Mylan Pharms. Inc.*, Civil Action No. 13-cv-04022-MLC-DEA (D.N.J.), *Horizon Pharma, Inc. v. Mylan Pharms. Inc.*, No. 15-cv-03327-SRC-CLW (D.N.J.), *Horizon Pharma, Inc. v. Mylan Pharms. Inc.*, No. 16-cv-04921-SRC-CLW (D.N.J.), and *Pozen Inc. v. Dr. Reddy's Labs. Inc.*, No. 17-2473 (consolidated) (Fed. Cir.), on behalf of Mylan Pharmaceuticals Inc., Mylan Laboratories Ltd., and Mylan Inc.

9. In connection with my work on the Vimovo litigation, I have become familiar with the prior art references that are the subject of this proceeding.

10. Given my familiarity with the underlying facts and my litigation experience with the Federal Rules of Evidence, I have experience and expertise important to representing Mylan's interests in this matter.

11. 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 Part 42 of 37 C.F.R.

12. I agree to be subject to the United States Patent and Trademark Office Code of Professional Responsibility set forth in 37 C.F.R. §§ 11.101 *et. seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a).

13. I have previously applied for, and been granted, admission *pro hac vice* before the United States Patent and Trademark Office in IPR2016-01332.

14. I hereby declare 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 are made with the knowledge that willful false statements and the like are punishable by fine, imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Dated: April 2, 2018

/s/ Robert D. Swanson
Robert D. Swanson