

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE PATENT TRIAL AND APPEAL BOARD

MODERNA THERAPEUTICS, INC., )

)

Petitioner, )

)

vs. )

No. IPR 2018-0739

)

PROTIVA BIOTHERAPEUTICS, )

INC., )

)

Patent Owner. )

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TRANSCRIPT OF CONFERENCE CALL  
BEFORE JUDGE SUSAN L.C. MITCHELL

Seattle, Washington  
Tuesday, April 30, 2019

Reported by:

DIANE RUGH, RMR, RPR, CRR, CCR No. 2399

JOB NO. 160091

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April 30, 2019  
11:00 a.m. PST

Conference call held at the offices of  
Wilson Sonsini Goodrich & Rosati, 701 Fifth  
Avenue, Suite 5100, Seattle, Washington, before  
Diane Rugh, a Registered Professional Reporter,  
Registered Merit Reporter, Certified Realtime  
Reporter of the State of Washington.

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A P P E A R A N C E S :

IRELL & MANELLA

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BY: MACLAIN WELLS, ESQ. (Via telephone)

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Counsel for Patent Owner

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BY: MICHAEL ROSATO, ESQ.

SONJA GERRARD, ESQ.

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THE COURT: This is Judge Mitchell, and with me on the line are Judge Smith and Judge Snedden. We're here for a conference call in IPR 2018-00739.

And if I could start by getting a roll call. First, who is here for Petitioner?

MR. WELLS: Maclain Wells of Irell & Manella who is here for Petitioner; and with me is Mike Fleming. And we also have a court reporter.

THE COURT: Oh, great, thank you. Just, you know, I'm sure you plan on doing this, but as soon as you get the transcript, if you could file it in the record, that would be fantastic.

MR. WELLS: Yes, Your Honor.

THE COURT: Thank you.

And who is on the line for Patent Owner?

MR. ROSATO: Good morning, Your Honor. At least on the West Coast good morning. Good afternoon.

1           Mike Rosato on behalf of Patent  
2           Owner. I have Sonja Gerrard here with me,  
3           both of Wilson Sonsini. And we -- I guess  
4           underscoring the benefits of communication  
5           between counsel, we also have a court  
6           reporter.

7           THE COURT: Oh, great. If you would  
8           also, when you get that transcript, if you  
9           would get that one on file too. That  
10          would be fantastic.

11          MR. ROSATO: Of course.

12          THE COURT: Well, let's get started.  
13          I know that Petitioner originally sought  
14          the call so let me start with Petitioner.

15          MR. WELLS: Yes, Your Honor.

16          We've asked for authorization to file  
17          a Motion to Strike regarding new evidence  
18          and new arguments that the Patent Owner  
19          submitted with their surreply brief. The  
20          Trial Practice Guide is clear that, and  
21          this is a quote, "The surreply may not be  
22          accompanied by new evidence other than  
23          deposition transcripts of the  
24          cross-examination of any reply witness."

25          By submitting new evidence and new

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