

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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MODERNA THERAPEUTICS, INC.,  
Petitioner,

v.

PROTIVA BIOTHERAPEUTICS, INC.,  
Patent Owner.

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Case No. IPR2018-00739  
Patent No. 9,364,435

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**PETITIONER'S REQUEST FOR ORAL ARGUMENT**

Mail Stop: PATENT BOARD  
Patent Trial and Appeal Board  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Pursuant to 37 C.F.R. § 42.70(a) and Scheduling Order, Paper 16, Moderna Therapeutics, Inc. (“Petitioner”) respectfully requests an oral hearing in this matter. Petitioner requests that this hearing be consolidated and held concurrently with the oral hearing in IPR2018-00680. Petitioner further requests (without any intent to waive consideration of any issue not requested) 60 minutes of total argument time per side to address the following issues (and that separate time be allotted for IPR2018-00680), with the opportunity to reserve a portion of that time for rebuttal:

1. The proper construction of claim elements in U.S. Patent No. 9,364,435;
2. The unpatentability of claims 1-20 of U.S. Patent No. 9,364,435 under §103 in view of the WO2005/007196 (“’196 PCT”) and US2006/0134189 (“’189 publication”);
3. The unpatentability of claims 1-20 of U.S. Patent No. 9,364,435 under §103 in view of each of the ’196 PCT and the ’189 publication in view of Lin and/or Ahmad;
4. The unpatentability of claims 1-20 of U.S. Patent No. 9,364,435 under §102/§103 in view of US2006/0240554 (’544 publication);
5. The unpatentability of the substitute claim in Patent Owner’s contingent motion to amend in light of the foregoing, and issues raised in the briefing relating thereto;

6. Respond to any issues specified by Patent Owner in its request for oral argument or otherwise presented by the Patent Owner; and,
7. Any additional issues on which the Board seeks clarification.

Petitioner understands that oral argument in IPR2018-00739 (Scheduling Order, Paper 16) and IPR2018-00680 (Scheduling Order, Paper 14) will be held on June 6, 2019.

Petitioner requests the ability to use audio/visual equipment to display demonstrative exhibits, including the use of a computer, projector, and screen for a PowerPoint display. In accordance with the Trial Practice Guide (77 Fed. Reg. at 48768) and Section II.M of the Trial Practice Guide Update (2018), Petitioner will contact the Board Trial Division paralegal to discuss this request.

Dated: May 10, 2019

Respectfully submitted,

/Michael R. Fleming/

Michael R. Fleming, Reg. No. 67,933  
Maclain Wells, Reg. No. 48,991

**IRELL & MANELLA LLP**  
1800 Avenue of the Stars, Suite 900  
Los Angeles, CA 90067-4276  
Telephone: (310) 277-1010  
Fax: (310) 203-7199

*Attorney for Petitioner*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that, pursuant to 37 CFR § 42.6(e), a copy of the foregoing **PETITIONER'S REQUEST FOR ORAL ARGUMENT** was served electronically via electronic mail on counsel for the Patent Owner as follows:

**WILSON SONSINI GOODRICH & ROSATI**

Michael T. Rosato, Reg. No. 52,182  
[mrosato@wsgr.com](mailto:mrosato@wsgr.com)

Steven W. Parmelee, Reg. No. 31,990  
[sparmelee@wsgr.com](mailto:sparmelee@wsgr.com)

Sonja R. Gerrard, Reg. No. 72,802  
[sgerrard@wsgr.com](mailto:sgerrard@wsgr.com)

Edward R. Reines  
[Edward.reines@weil.com](mailto:Edward.reines@weil.com)

Derek C. Walter  
[Derek.Walter@weil.com](mailto:Derek.Walter@weil.com)

May 10, 2019

By: Susan M. Langworthy  
Susan M. Langworthy