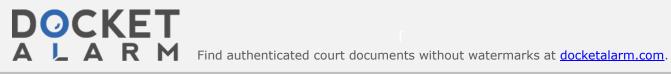
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Page 1
1
               UNITED STATES PATENT AND TRADEMARK OFFICE
 2
               BEFORE THE PATENT TRIAL AND APPEAL BOARD
 3
     MODERNA THERAPEUTICS, INC.,
                                       ) Case No. IPR2018-00680
5
                   Petitioner,
                                       ) Case No. IPR2018-00739
                                       ) Patent No. 9,404,127
 6
                                       ) Patent No. 9,364,435
     v.
 7
     PROTIVA BIOTHERAPEUTICS,
     INC.,
 8
                   Patent Owner.
 9
10
11
                TELEPHONIC VERBATIM REPORT OF PROCEEDINGS
                             October 2, 2018
12
                           Seattle, Washington
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22
        Job Number: 148826
23
        Taken Before:
24
        Laura A. Gjuka, CCR #2057
25
        Certified Shorthand Reporter
```



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Page 2
1
                          APPEARANCES
        For the Petitioner:
            MICHAEL FLEMING, ESQ. (By Phone)
            MACLAIN WELLS, ESQ. (By Phone)
4
            Irell & Manella
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        For the Patent Owner:
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10
            SONJA GERRARD, ESQ.
            Wilson Sonsini Goodrich & Rosati
11
            701 Fifth Avenue
            Seattle, WA 98104
12
13
14
        Also Present:
15
            RICHARD J. SMITH (By Phone)
16
17
18
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|    | Page   |
|----|--|
| 1  | PROCEEDINGS  |
| 2  | BE IT REMEMBERED that on the 2nd of October,             |
| 3  | 2018, 11:00 a.m., at 701 Fifth Avenue, Seattle,          |
| 4  | Washington, before LAURA A. GJUKA, CCR# 2057, Washington |
| 5  | State Certified Court Reporter residing at University    |
| 6  | Place, authorized to administer oaths and affirmations   |
| 7  | pursuant to RCW 5.28.010.                                |
| 8  | WHEREUPON the following proceedings were had,            |
| 9  | to wit:  |
| 10 | * * * * *  |
| 11 |  |
| 12 | APJ SMITH: Is there a court reporter?                    |
| 13 | MR. ROSATO: Hi, this is Mike Rosato that                 |
| 14 | just joined on behalf of patent owner.                   |
| 15 | APJ SMITH: Okay. My question was: Do we                  |
| 16 | have a court reporter?                                   |
| 17 | MR. ROSATO: We do. Who is on the line                    |
| 18 | right now?   |
| 19 | APJ SMITH: Well, let's start with the                    |
| 20 | introductions. I just wanted to confirm that we have a   |
| 21 | court reporter first.                                    |
| 22 | So, Petitioner, please introduce yourself and all        |
| 23 | persons that are with you.                               |
| 24 | MR. FLEMING: Yes, Your Honor. This is                    |
| 25 | Mike Fleming. I represent the Petitioner. I don't        |



### 1 PROCEEDINGS

- believe there is anybody else on with me.
- MR. WELLS: Mike, it's Maclain Wells. I
- $^4$  am on the line as well.
- MR. FLEMING: Okay, great.
- 6 APJ SMITH: Okay. Patent owner
- introductions.
- MR. ROSATO: Good afternoon, Your Honor.
- This is Mike Rosato on behalf of patent owner, and I
- have with me Sonja Gerrard and, as I stated, a court
- reporter, and apologies if I wasn't recognizing voices
- there.
- APJ SMITH: Oh, that's fine.
- So just a few matters first, and then I'll open it
- up to the parties for any questions or issues that they
- would like to raise.
- 17 I'm assuming that all parties are familiar with or
- are aware of the August trial practice guide update and
- also a recent update to the SOP 1 and 2?
- MR. FLEMING: Your Honor, this is
- Petitioner, and we are very well aware of those changes.
- 22 APJ SMITH: Okay.
- MR. ROSATO: Yes, Your Honor. We are
- aware of those as well.
- APJ SMITH: Okay. Next question: Have



## 1 **PROCEEDINGS** there been any settlement discussions between the parties? MR. ROSATO: Not that I'm aware of, This is Mike Rosato. Your Honor. APJ SMITH: Okay. So I'll open it up to the parties. I'll ask the petitioner first whether you have any procedural questions, changes to the scheduling order, or any other matter that you would like to raise 10 at this time? 11 MR. FLEMING: Your Honor, we don't have 12 any proposed changes to the schedule or have any 13 questions, although we do reserve to do so in this -- in 14 the future if it comes a time to arise. And of course 15 we will follow the procedures that call for a conference 16 call before doing so. 17 APJ SMITH: Okay. Patent owner. 18 MR. ROSATO: No specific motions. 19 a couple of procedural issues of concern I would like to 20 raise. 21 APJ SMITH: Okay. 2.2 MR. ROSATO: And I will start with the 23 case, as we all know and are familiar with, the



24

25

US Supreme Court recently issued its decision in the

SAS Institute vs. Iancu case. And we're all coming up

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