

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PAR PHARMACEUTICAL, INC.,
Petitioner,

v.

HORIZON THERAPEUTICS, LLC,
Patent Owner.

Case No.: IPR2018-01550
U.S. Patent No. 9,561,197

**AFFIDAVIT OF CHRISTOPHER M. GALLO IN SUPPORT OF
PETITIONER'S MOTION TO ACCEPT FILING OF PETITION
FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 9,561,197
ON AUGUST 16, 2018 UNDER 37 C.F.R. § 42.6(b)**

IPR2018-01550
Affidavit Christopher M. Gallo (Exhibit 1033)

1. I, Christopher M. Gallo, am more than eighteen years of age, am competent to present this affidavit, and have personal knowledge of the facts set forth herein. Further, I make these statements with the knowledge that willfully false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code.

2. This affidavit is given in support of Petitioner Par Pharmaceutical, Inc.'s ("Par") Motion to Accept Filing of Petition For *Inter Partes* Review Of U.S. Patent No. 9,561,197 on August 16, 2018 Under 37 C.F.R. § 42.6(b) ("Par's Motion").

3. I am an Associate at the law firm of Axinn, Veltrop & Harkrider LLP and Back-Up Counsel for Petitioner Par. My United States Patent and Trademark Registration Number is No. 70,291.

4. On August 16, 2018, Par attempted to file its Petition for *Inter Partes* Review of the '197 patent using the E2E system but was unable to do so because the E2E system was offline that entire day. Therefore, Par filed its Petition on August 16, 2018 using alternative means as directed by the Board.

5. Par contacted the Board for guidance in how to proceed and confirmed that it should follow the instructions provided at Question A2 of the PTAB E2E Frequently Asked Questions (*available at* <https://www.uspto.gov/patents-application-process/patent-trial-and-appeal->

board/ptab-e2e-frequently-asked-questions).

6. Following these instructions, Par served by email its Petition and accompanying exhibits, along with Par's Power of Attorney, on counsel for Patent Owner Horizon Therapeutics, LLC ("Horizon") in the related federal district court litigation involving the '197 patent and in *Inter Partes* Review proceedings involving patents directed to related subject matter (IPR2017-01767, -01768, -01769). (EX1034.)

7. Par also served those documents by FedEx on Horizon's counsel and the correspondence address of record for the '197 patent, as noted on the certificates of service for Par's Petition and Par's Power of Attorney. (EX1036.)

8. Par notified the Board by email, with Horizon's counsel copied, that it had served Horizon with those documents. (EX1035.)

9. Par's email to the Board provided the following information in accordance with Question A2's instructions: (1) name of point of contact; (2) email address of point of contact; (3) patent number to which the petition corresponds; (4) application number of the patent; (5) number of claims challenged; (6) type of trial proceeding; (7) a copy of Par's Power of Attorney; and (8) a deposit account authorization. (*Id.*)

10. The Board notified the parties by email on August 21, 2018 that the E2E system's functionality was restored. (EX1037.)

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11. In the Board's e-mail, the Board authorized Par to submit its Petition and Par's Motion via the E2E system. (*Id.*)

12. On August 20, 2018, it came to Par's attention that in the process of finalizing Par's Petition and Declaration of Dr. Neal Sondheimer (EX1002) that were served on Horizon on August 16, 2018 that some of the "μ" symbols in the documents were corrupted. (EX1038.)

13. Par contacted the Board to inquire if the Board would prefer Par to file its Petition with the corrupted "μ" symbols corrected or to file the served version of the Petition with a motion to file a corrected Petition under 37 C.F.R. § 42.104(c). The Board stated that it preferred that Par file a Petition with the corrupted "μ" symbols corrected. (*Id.*)

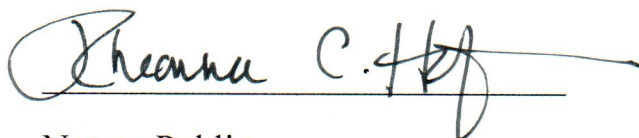
14. Par notified Horizon of the Board's request by email on August 20, 2018 and provided Horizon with a redlined version of Par's Petition indicating where the corrupted "μ" symbols have been corrected. (*Id.*)

RHEANNA C. HAFNER
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires November 30, 2019



Christopher M. Gallo

Sworn to and subscribed before me
this 24th day of August, 2018.



Notary Public

