

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

**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)**

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IPR2018-01550
Petitioner's Motion to Accept Filing of Petition for
Inter Partes Review of U.S. Patent No. 9,561,197 on August 16, 2017

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I. INTRODUCTION

Petitioner Par Pharmaceutical, Inc. (“Par”) respectfully requests a filing date of August 16, 2018, for its Petition for *Inter Partes* Review of U.S. Patent No. 9,561,197 (“the ’197 patent”) (Case No. IPR2018-01550). As laid out below, Par filed its Petition on August 16, 2018 using alternate means directed by the Patent Trial and Appeal Board (“PTAB”), because the PTAB’s End to End (“E2E”) system was offline that entire day.

Par herewith submits along with this motion the Petition¹ and accompanying exhibits, along with Par’s Power of Attorney, that it served on Patent Owner Horizon Therapeutics, LLC (“Horizon”) on August 16, 2018 following the instructions provided in 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>).

¹ As instructed by the Board, Par has filed on E2E versions of its Petition and EX1002 that correct “μ” symbols that became corrupted during finalizing of those documents, which came to Par’s attention on August 20, 2018. (EX1033, ¶¶ 12-14; EX1038.)

II. STATEMENT OF MATERIAL FACTS

On August 16, 2018, Par filed its Petition for *Inter Partes* Review of the '197 patent using alternate means directed by the PTAB, because the E2E system was offline that entire day. (EX1033, ¶ 4.) 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>). (*Id.*, ¶ 5.)

Following these instructions, Par served by email its Petition and accompanying exhibits, along with Par's Power of Attorney on counsel for 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). (*Id.*, ¶ 6; EX1034.) Par also served these 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. (EX1033, ¶ 7; EX1036.) Par also notified the Board by email, with Horizon's counsel copied, that it had served Horizon with those documents. (EX1033, ¶ 8; EX1035.) 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

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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. (EX1033, ¶ 9; EX1035.)

The Board notified the parties by email on August 21, 2018 that the E2E system's functionality was restored. (EX1033, ¶ 10; EX1037.) In the Board's e-mail, the Board authorized Par to submit its Petition² and instant motion using the E2E system. (EX1033, ¶11; EX1037.) Par now concurrently submits herewith to the E2E system the current motion under 37 C.F.R. § 42.6(b), the requested Petition, the exhibits to Par's Petition, Par's Power of Attorney, Par's Updated Exhibit List, and an affidavit (EX1033) attesting to the facts outlined above.

III. RELIEF REQUESTED

Par requests that the Board deem filed and accepted, as of August 16, 2018, Par's Petition being submitted herewith to the E2E system.

IV. STATEMENT OF THE REASONS FOR RELIEF REQUESTED

Per the instructions provided at Question A2, “[i]f PTAB E2E is unavailable during normal business hours or other unscheduled outage periods, petitions . . . may be served on opposing counsel via email, and the Board notified of the service by email copying opposing counsel.” (*see* <https://www.uspto.gov/patents->

² *See supra* n.1

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