

UNITED STATES INTERNATIONAL TRADE COMMISSION

Washington, D.C.

In the Matter of

CERTAIN PRE-FILLED SYRINGES FOR
INTRAVITREAL INJECTION AND
COMPONENTS THEREOF

INV. NO. 337-TA-1207

**ORDER NO. 16: GRANTING UNOPPOSED MOTION FOR APPOINTMENT OF
COMMISSIONERS AND DIRECTION OF SUBMISSION OF
HAGUE CONVENTION APPLICATION**

(November 13, 2020)

On November 12, 2020, complainants Novartis Pharma AG, Novartis Pharmaceuticals Corporation, and Novartis Technology LLC (collectively, “Novartis”) filed an unopposed motion seeking entry of an order appointing certain U.S. attorneys as commissioners to take the voluntary oral depositions under oath via video conference in Switzerland of certain Novartis witnesses. Motion Docket No. 1207-014. Neither respondent Regeneron Pharmaceuticals, Inc. (“Regeneron”) nor the Commission Investigative Staff (“Staff”) oppose the requested relief. *See* Mot. at 1.

Novartis seeks authorization from a competent Swiss authority to conduct voluntary depositions under oath via videoconference of seven witnesses, whom Regeneron has noticed for deposition, and who either live or work in Switzerland. *See* Mot. at 1-2. I understand that some or all of these seven witnesses may also be called to testify during the evidentiary hearing currently scheduled for April 19-23, 2021. *See id.* at 1 n.1. Novartis represents that the Swiss Penal Code provides that attorneys attempting to take a deposition or carry out other activities on behalf of a

foreign state in Switzerland outside of authorized methods are subject to arrest on criminal charges. *Id.* at 2-3 (citing Article 271 of the Swiss Penal Code). Thus, Novartis represents it must comply with the Hague Convention in seeking testimony in this investigation in order to comply with Swiss law. *See id.* at 3.

I find that the evidence Novartis seeks is reasonably necessary to fully investigate Novartis's claims of patent infringement in this investigation. I also find that the evidence Novartis seeks is reasonably necessary to fully investigate Regeneron's defenses in this investigation. Accordingly, Motion No. 1207-014 is granted.

The following listed counsel for Novartis, Regeneron, and the Staff are duly appointed as commissioners under Article 17 of the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters:

Counsel at Weil, Gotshal & Manges LLP (located at 767 Fifth Avenue New York, New York 10153; and 2001 M Street, Suite 600 Washington, DC 20036) for respondent (Regeneron Pharmaceuticals, Inc., located at 77 Old Saw Mill River Road, Tarrytown, New York 10591, USA): Anish Desai; Elizabeth Weiswasser; Brian Ferguson; Robert Vlasits; Christopher Pepe; Sutton Ansley; Christopher Marando; Priyata Patel; Natalie Kennedy; Matthew Sieger; Andrew Gesior; and Saif Askar;

Counsel at Goodwin Procter LLP (located at The New York Times Building 620 Eighth Avenue New York, NY 10018-1405; and 1900 N Street, N.W. Washington, D.C. 20036-1612) for complainants (Novartis Pharma AG, Forum 1, Novartis Campus, 4056 Basel, Switzerland; Novartis Pharmaceuticals Corporation, One Health Plaza, East Hanover, New Jersey, 07936, USA and Novartis Technology LLC, One Health Plaza, East Hanover, New Jersey, 07936, USA): Sean Anderson; James Breen; Brian Burgess; Linnea Cipriano; Myomi Coad; Nicole Corey; Tova Dardashty; Mark Davis; Gina Faldetta; Denise Go; Molly Grammel; Christopher

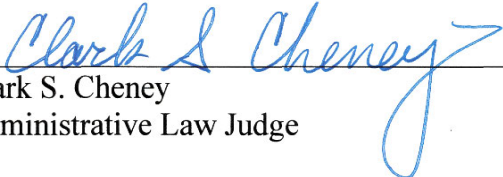
Holding; Elizabeth Holland; William James; Daniel Margolis; Patrick McCarthy; Christine Sama; Alison Siedor; Grace Truong; Joshua Weinger; and Calvin Wingfield;

Counsel at Bär & Karrer AG (located at Brandschenkestrasse 90, 8027 Zurich, Switzerland) for complainants (Novartis Pharma AG, Forum 1, Novartis Campus, 4056 Basel, Switzerland; Novartis Pharmaceuticals Corporation, One Health Plaza, East Hanover, New Jersey, 07936, USA and Novartis Technology LLC, One Health Plaza, East Hanover, New Jersey, 07936, USA): Dr. Andreas Länzlinger; and Martina Athanas; and

Counsel at the Office of Unfair Import Investigations of the United States International Trade Commission: W. Peter Guarnieri; and Anne Goalwin.

This Order shall be given to counsel at Bär & Karrer AG who will file it together with the necessary application for authorization from the relevant Swiss authorities.

SO ORDERED.


Clark S. Cheney
Administrative Law Judge

I, Lisa R. Barton, hereby certify that the attached **ORDER** has been served via EDIS upon the Commission Investigative Attorney, **W. Peter Guarnieri, Esq.**, and the following parties as indicated, on **November 13, 2020**.



Lisa R. Barton, Secretary
U.S. International Trade Commission
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Washington, DC 20436

On Behalf of Complainants Novartis Pharma AG, Novartis Pharmaceuticals Corporation, and Novartis Technology LLC:

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