

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TWI PHARMACEUTICALS, INC.,
Petitioner,

v.

MERCK SERONO SA,
Patent Owner.

Case IPR2023-00050
U.S. Patent No. 8,377,903

**DECLARATION OF MARY PHENG
IN SUPPORT OF MOTION FOR ADMISSION *PRO HAC VICE***

Merck 2003
TWi v Merck

I, Mary Pheng, declare as follows:

1. I was admitted to the Minnesota Bar in 2016 and the New York Bar in 2023. I have been practicing law for over seven years, with an emphasis on patent litigation in a variety of jurisdictions. I have had significant involvement in patent disputes in *inter partes* review proceedings, district court litigation, and international trade commission investigations. As part of my patent litigation experience, I have knowledge and experience with litigating invalidity/validity, defending and deposing fact and expert witnesses, handling evidentiary issues, and claim construction.

2. I am a member in good standing of the Bars of Minnesota and New York and am admitted to practice before the U.S. District Court for the District of Minnesota.

3. My Minnesota Bar membership number is 0398500. My New York Bar membership number is 6039788.

4. I have never been suspended or disbarred from practice before any court or administrative body.

5. I have never had a court or administrative body deny my application for admission to practice.

6. I have never had any sanctions or contempt citations imposed on me

by any court or administrative body.

7. I have read and will comply with the Patent Office Trial Practice Guide and the Board's Rules for Practice for Trials, as set forth in 37 C.F.R. Part 42.

8. I agree to be subject to the United States Patent and Trademark Office Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a).

9. I have assisted and worked on proceedings before the Board dating back to 2016 and have previously appeared *pro hac vice* in proceedings before the United States Patent and Trademark Office. I have not appeared *pro hac vice* before the United States Patent and Trademark Office in the last three years.

10. I am intimately familiar with the subject matter at issue in this proceeding. I have reviewed the papers and exhibits filed in this proceeding. In addition to this proceeding, I participated in reviewing and drafting papers in the related *inter partes* review matters challenging U.S. Patent No. 7,713,947 (the "947 patent") and U.S. Patent No. 8,377,903 (the "903 patent"), which were filed as *Hopewell Pharma Ventures, Inc., v. Merck Serono SA*, IPR2023-00480, and *Hopewell Pharma Ventures, Inc., v. Merck Serono SA*, IPR2023-00481, respectively. Moreover, I am currently representing Merck KGaA, Merck Serono

SA, and Ares Trading SA (collectively, “Merck”) in the following consolidated district court litigation, in which the ’903 patent is a patent-in-suit: *Merck KGaA, Merck Serono SA, and Ares Trading SA v. Hopewell Pharma Ventures, Inc., et al.*, No. 1:22-cv-01365-GBW (consolidated)¹ (D. Del.).

11. I will work in coordination and association with the designated lead counsel, Emily R. Whelan, for the duration of my involvement in this proceeding.

12. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like are punishable by fine, imprisonment, or

¹ The following cases have been consolidated as *Merck KGaA, Merck Serono SA, and Ares Trading SA v. Hopewell Pharma Ventures, Inc., et al.*, No. 1:22-cv-01365-GBW (D. Del.); *Merck KGaA, Merck Serono SA, and Ares Trading SA v. Hopewell Pharma Ventures, Inc.*, No. 1:22-cv-01365-GBW (D. Del.); *Merck KGaA, Merck Serono SA, and Ares Trading SA v. Aurobindo Pharma USA, Inc. and Aurobindo Pharma Limited*, No. 1:23-cv-00039-GBW (D. Del.); and *Merck KGaA, Merck Serono SA, and Ares Trading SA v. Apotex Inc. and Apotex Corp.*, No. 1:23-cv-00655-GBW (D. Del.).

Case No. IPR2023-00050
Declaration of Mary Pheng in Support of
Motion for Admission *Pro Hac Vice*

both under Section 1001 of Title 18 of the United States Code.

Dated: February 8, 2024

Respectfully Submitted,

/Mary Pheng/

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