

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TWI PHARMACEUTICALS INC.,

Petitioner,

v.

MERCK SERONO SA,

Patent Owner.

IPR2023-00049 (Patent 7,713,947 B2)

IPR2023-00050 (Patent 8,377,903 B2)¹

Before ULRIKE W. JENKS, ZHENYU YANG and TINA HULSE,
Administrative Patent Judges.

JENKS, *Administrative Patent Judge.*

**DECLARATION OF DON J. MIZERK IN SUPPORT OF
PRO HAC VICE MOTION**

¹ The identical document is filed in each proceeding identified in the caption.

I, Don J. Mizerk, declare as follows:

1. I am a lawyer at the law firm of Husch Blackwell LLP, attorneys for Petitioner in the above-captioned proceeding. I am over the age of eighteen, competent to make this declaration, and do so based on personal knowledge. I provide this declaration in support of Petitioner's Motion for my *pro hac vice* admission. My testimony in this declaration is based on personal knowledge and, if called as a witness, could competently testify to the facts below.

2. I am an experienced litigating attorney and have approximately 26 years of experience in litigating patent infringement suits. My practice has been predominantly patent infringement litigation before district courts around the country and the Federal Circuit Court of Appeals.

3. I am a member in good standing of the Bars of the States of Illinois and California, and am admitted to practice before the U.S. District Court for the Northern District of Illinois, the United States Bankruptcy Court for the Northern District of Illinois, the U.S. District Court for the Northern District of California, the U.S. District Court for the Central District of California, the U.S. District Court for the Southern District of California, the Third Circuit Court of Appeals, the Sixth Circuit Court of Appeals, the Seventh Circuit Court of Appeals, the U.S. Court of Appeals for the Federal Circuit, and the United States Supreme Court.

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

5. I have never been denied an application for admission to practice before any court or administrative body.

6. I have never been sanctioned or cited for contempt by any court or administrative body.

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

8. I agree to be subject to the USPTO 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 not previously been granted permission to appear *pro hac vice* in an IPR proceeding.

10. I have established familiarity with the subject matter at issue in these proceedings. I am familiar with the patents-at-issue, the relevant prosecution histories, and prior art references relied upon in the IPR Petitions.

11. Additionally, I have been familiar with the general subject matter at issue in these proceedings as I have engaged extensively in counseling with Petitioner concerning issues relating to this patent, including consideration relating to this *inter partes* review.

* * * * *

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the above statements are true and correct.

EXECUTED this 27th day of February 2024.



Don J. Mizerk