

UNITED STATES PATENT AND TRADEMARK OFFICE

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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HOPEWELL PHARMA VENTURES, INC.,  
Petitioner,

v.

MERCK SERONO SA,  
Patent Owner.

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Case IPR2023-00480  
U.S. Patent No. 7,713,947

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**PATENT OWNER'S MOTION FOR  
ADMISSION *PRO HAC VICE* OF  
DAVID MLAYER**

**I. Statement of Precise Relief Requested**

Pursuant to 37 C.F.R. § 42.10(c) and Paper No. 7 authorizing the parties to file motions for *pro hac vice* admissions under 37 C.F.R. § 42.10(c), Patent Owner Merck Serono SA requests that the Patent Trial and Appeal Board (the “Board”) admit David Mlaver *pro hac vice* in this proceeding, IPR2023-00480. The parties have met and conferred, and Petitioner does not oppose this motion.

**II. Statement of Facts Showing Good Cause for the Board to Recognize Counsel *Pro Hac Vice* During the Proceeding**

In accordance with 37 C.F.R. § 42.10(c), the Board may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause, subject to the condition that lead counsel be a registered practitioner and to any other conditions as the Board may impose. Section 42.10(c) indicates that “where lead counsel is a registered practitioner, a motion to appear *pro hac vice* by counsel who is not a registered practitioner may be granted upon a showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.” The facts here establish good cause for the Board to recognize Mr. Mlaver *pro hac vice* in this proceeding.

Lead counsel, Emily R. Whelan, is a registered practitioner. Backup

counsel, Deric Geng and Cindy Kan, are also registered practitioners. Mr. Mlaver is an experienced litigator and has established familiarity with the subject matter at issue in the proceeding. Accompanying this motion as Exhibit 2075 is the February 7, 2024, Declaration of David Mlaver in Support of this Motion for Admission *Pro Hac Vice* (“Mlaver Decl.”). In his declaration, Mr. Mlaver asserts: “I am a member in good standing of the Bars of the District of Columbia, Maryland, and Massachusetts.” Mlaver Decl. ¶ 2 (Ex. 2075).

Mr. Mlaver demonstrates that he has a detailed working knowledge of the relevant subject matter through his participation in the *inter partes review* matters challenging U.S. Patent No. 8,377,903 and U.S. Patent No. 7,713,947 and in consolidated district court litigations. *Id.* ¶ 10 (Ex. 2075). Mr. Mlaver also has significant experience with litigation involving pharmaceuticals, methods of treatment, and small molecule therapeutics. *Id.* ¶ 11 (Ex. 2075)

In his declaration, Mr. Mlaver also attests to each of the listed items required by the “Order – Authorizing Motion for *Pro Hac Vice* Admission” in Case IPR2013-00639, Paper 7. *See* Mlaver Decl. ¶¶ 1-12 (Ex. 2075). Mr. Mlaver attests that he has read and will comply with the Office Patent Trial

Patent Owner's Motion for Admission *Pro Hac Vice* of David Mlaver

Practice Guide and the Board's Rules of Practice for Trials set forth in 37 C.F.R. § 42. *See id.* ¶ 7 (Ex. 2075). Mr. Mlaver further attests that he agrees to be subject to the United States Patent and Trademark Office's Rules of Professional Conduct as set forth in 37 C.F.R. §§ 11.101 *et seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a). *See id.* ¶ 8 (Ex. 2075).

### III. Conclusion

For the foregoing reasons, Patent Owner respectfully requests that the Board admit Mr. Mlaver *pro hac vice* in this proceeding. The undersigned authorizes the Office to charge \$250 to Deposit Account No.08-0219 for the fees set forth in 37 C.F.R. § 42.15(e) for this *pro hac vice* motion. Please charge any shortage of fees or credit any overpayments to the above Deposit Account.

Dated: February 9, 2024

Respectfully Submitted,

/Emily R. Whelan/

Emily R. Whelan, Reg. No. 50,391

*Counsel for Patent Owner*

**PATENT OWNER'S UPDATED EXHIBIT LIST**

<b>Exhibit No.</b>	<b>Description</b>
2001	MAVENCLAD <sup>®</sup> (cladribine) Package Insert (2022)
2002	Declaration of David B. Bassett in Support of Motion for Admission <i>Pro Hac Vice</i>
2003	Declaration of Vinita Ferrera in Support of Motion for Admission <i>Pro Hac Vice</i>
2004	H. El-Moslimany et al., <i>Escape Therapies and Management of Multiple Sclerosis</i> in C. S. Raine MULTIPLE SCLEROSIS A COMPREHENSIVE TEXT 333 (2008) (Excerpt)
2005	A. E. Miller et al., <i>Treatment Issues</i> in R. C. Kalb MULTIPLE SCLEROSIS: THE QUESTION YOU HAVE – THE ANSWERS YOU NEED 43 (2d ed. 2000) (Excerpt)
2006	M. J. Tullman et al., <i>Immunotherapy of Multiple Sclerosis – Current Practice and Future Directions</i> , 39 J. REHAB. RES. DEV. 273 (2002)
2007	Video: A. Miller, <i>What You Need to Know About Mavenclad<sup>®</sup></i> ( <a href="https://www.nationalmssociety.org/Treating-MS/Medications/Mavenclad">https://www.nationalmssociety.org/Treating-MS/Medications/Mavenclad</a> ) (2019); image of USB Drive containing video
2008	Transcript of Video, A. Miller, <i>What You Need to Know About Mavenclad<sup>®</sup></i> (2019)
2009	Deposition Transcript of Dr. Aaron Miller (December 12, 2023)
2010	J. E. Joy et al., <i>Multiple Sclerosis: Current Status and Strategies for the Future</i> , 17 (2001) (Excerpt)

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