UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMNEAL PHARMACEUTICALS, INC.,
Petitioner

v.

NIVAGEN PHARMACEUTICALS, INC.,
Patent Owner

IPR2025-00779
Patent No. 11,813,291

PATENT OWNER'S UNOPPOSED MOTION FOR *PRO HAC VICE* ADMISSION OF YIXIN H. TANG PURSUANT TO 37 C.F.R. § 42.10(c)

I. RELIEF REQUESTED.

1. Pursuant to 37 C.F.R. § 42.10(c), and the Board's "Order Authorizing Motion for *Pro Hac Vice* Admission," (*see Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, 2013 WL 8700556, Paper 7 (P.T.A.B. Oct. 15, 2013)), Patent Owner, Nivagen Pharmaceuticals, Inc. ("Nivagen") requests that the Board admit Yixin H. Tang *pro hac vice* in this proceeding. Counsel for Nivagen have met and conferred with counsel for Petitioner and Petitioner does not oppose this motion.

II. STATEMENT OF FACTS.

2. Pursuant to 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. For example, where the 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 showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.

The facts, supported by the attached Declaration of Yixin H. Tang In Support of Nivagen Pharmaceuticals Inc.'s Unopposed Motion for *Pro Hac Vice* Admission (Ex. A; "Tang Decl."), establish good cause to admit Mr. Tang *pro hac vice* in this proceeding.

3. Lead counsel Shashank Upadhye is a registered practitioner before

the United States Patent and Trademark Office ("USPTO").

4. Backup counsel Brent Batzer is a registered practitioner before the USPTO.

5. Mr. Tang is an experienced litigating attorney. Mr. Tang has been a litigating attorney for more than 17 years. (Ex. A, Tang Decl. ¶ 1). Mr. Tang has actively litigated patent infringement cases for more than 17 years. (*Id.* ¶¶ 2-3). Mr. Tang is a member in good standing in the following state bars: Illinois, New York, and Massachusetts; and the following federal courts: U.S. Court of Appeals for the Federal Circuit, U.S. District Court for the District of Massachusetts, and U.S. District Court for the Northern District of Illinois. (*Id.* ¶ 5). Mr. Tang has never been subject to suspensions or disbarments from practice, nor had applications for admission to practice denied, nor been subject to any sanctions or contempt citations by any court or administrative body. (*Id.* ¶¶ 6-8).

6. Mr. Tang has familiarity with the subject matter at issue in this proceeding and, more specifically, he is familiar with the patent at issue in this proceeding: U.S. Patent No. 11,813,291 ("the '291 patent"). (Ex. A, Tang Decl. ¶ 9). Mr. Tang is also litigation counsel in the co-pending federal court lawsuit involving the '291 patent, docketed as: Nivagen Pharma. Inc. v. Amneal Pharma. Inc., C.A. No. 24-846-GBW (D. Del.)("the Litigation"). (*See* Ex. A, Tang Decl. ¶ 3). In the Litigation, Mr. Tang represented Nivagen in the preliminary injunction and temporary restraining order proceeding, including in the oral argument on Sept. 5, 2024. As a

result, Mr. Tang has become intimately familiar with the subject matter of the ’291 patent and all prior art raised in the Petition. (*Id.*).

7. Mr. Tang has read and will comply with the Office Patent Trial Practice Guide and the Board’s Rules of Practice for Trials set forth in 37 C.F.R. Part 42 – Trial Practice Before the Patent Trial and Appeal Board, and he agrees to be subject to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.* and to disciplinary jurisdiction under 37 C.F.R. § 11.19(a). (Ex. A, Tang Decl. ¶¶ 10-11).

8. Mr. Tang also appeared on behalf of the patent owner in IPR 2016-00102, in which the Board determined that Mr. Tang possessed the requisite legal and technical qualifications to represent the Patent Owner and that there is a need for the Patent Owner to have counsel with experience as a litigation attorney in patent matters. See Paper 21, March 23, 2016, IPR2016-00102).

9. The facts contained in the Statement of Facts above and the attached Tang Declaration (Ex. A) establish that there is good cause to admit Mr. Tang *pro hac vice* in this proceeding under 37 C.F.R. § 42.10(c). Lead and backup counsel are registered practitioners, Mr. Tang is an experienced litigating attorney and Mr. Tang has an established familiarity with the subject matter at issue in this proceeding.

CONCLUSION.

For the foregoing reasons, Nivagen respectfully requests that the Board admit Yixin H. Tang *pro hac vice* in this proceeding.

Respectfully submitted,

Dated: 23 May 2025

Shashank Upadhye, 48,209
Upadhye Tang LLP
Attorney for Patent Owner

CERTIFICATE OF SERVICE

The undersigned certifies that on 23 May 2025, a complete and entire copy of this Patent Owner's Motion for Yixin Tang Pro Hac Vice and supplements were provided by email to the Petitioner by serving the correspondence address of record as follows:

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Exhibit A

(Declaration of Yixin Tang)

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IPR2025-00779
Patent No. 11,813,291

Declaration of Yixin H. Tang in Support of Patent Owner's Motion for Pro Hac Vice Admission

I, Yixin H. Tang, declare as follows:

1. I am an experienced litigating attorney with more than 17 years of experience.
2. I have been actively litigating patent cases for more than 17 years.
3. In the last five years, I have obtained *pro hac vice* admission and appeared on behalf of clients to litigate a number of cases in which a patent on pharmaceutical formulations or a dosage form was at issue, including:

    - *In re Selenious Acid Litigation*, 24-7791 (D.N.J.)
    - *American Regent, Inc. v. RK Pharma, Inc.*, 24-1022 (D.N.J.)
    - *Nivagen Pharma v. Amneal Pharm*, 24-846 (D. Del.)
    - *Nivagen Pharma v. Sun Pharma*, 24-36 (E.D. Tx)
    - *Jazz Pharma v. MSN Labs et al.*, 23-18 (D.N.J.)
    - *Galderma Labs v. Prinston Pharma*, 22-1166 (D. Del.)
    - *Arbor Pharma v. Saba Ilac Sanayii ve Ticaret AS*, 22-353 (D. Del.)
    - *Pfizer Inc. v. Sinotherapeutics Inc.*, 21-1427 and 22-1484 (D. Del.)
    - *Acadia Pharma v. MSN Labs*, 20-1029 and 22-1388 (D. Del.)

4. My education includes holding a Ph.D. from Tufts University (molecular biology and microbiology) and J.D. from Harvard Law School.
5. I am a member in good standing of the following state bars and federal courts: the Commonwealth of Massachusetts, the States of New York and Illinois, United States Court of Appeals for the Federal Circuit, United States

District Court for the District of Massachusetts, United States District Court for the Northern District of Illinois.

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

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

8. I have had no sanctions or contempt citations imposed against me by any court or administrative body.

9. I am familiar with the subject matter at issue in this proceeding. More specifically, I am familiar with the patent at issue in this proceeding—U.S. Patent No. 11,813,291 ("the '291 patent"). I am currently lead counsel representing Nivagen Pharmaceuticals, Inc. in the co-pending federal court case involving the same patent.

10. 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 37 C.F.R. Part 42 – Trial Practice Before the Patent Trial and Appeal Board.

11. 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 to disciplinary jurisdiction under 37 C.F.R. § 11.19(a).

I hereby declare that all statements made herein of my own knowledge are true; and further that these statements are made with the knowledge that willful false statements

and the like so made are punishable by fine or imprisonment, or both, pursuant to 18 U.S.C. § 1001.

Dated: May 22, 2025

Respectfully Submitted,

Yixin Tang