UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INARI AGRICULTURE, INC.,

Petitioner,

v.

PIONEER HI-BRED INTERNATIONAL, INC.,
Patent Owner

Case PGR2024-00019
U.S. Patent 11,659,803

DECLARATION OF JONATHAN SINGER IN SUPPORT OF PATENT OWNER'S MOTION FOR *PRO HAC VICE* ADMISSION

I, Jonathan Singer, hereby declare to the following:

1. I am a member in good standing of the State Bar of California, The Supreme Court of the United States, the U.S. Court of Appeals for the Federal Circuit, and various U.S. District Courts around the country.

2. I have not been suspended or disbarred from practice before any court or administrative body.

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

4. No sanction or contempt citation has been imposed against me by any court or administrative body.

5. 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 Part 42 of Title 37 of the Code of Federal Regulations.

6. I will 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).

7. In the past three years, I have not applied for admission *pro hac vice* in any proceeding before the U.S. Patent and Trademark Office.

8. I am a litigation attorney with 30 years of experience representing clients in intellectual property cases in the life sciences industry, including the

technology at issue in this proceeding I regularly litigate intellectual property cases in various forums around the country, including before the U.S. District Courts and the Court of Appeals for the Federal Circuit. Through my experience in these matters, I have represented clients in all phases of litigation, all the way through trial, as well as and working on all stages of IPRs and PGRs. I have also been substantively involved in developing technical and legal arguments. My biography is attached hereto as Exhibit A.

9. I am intimately familiar with the issues and subject matter presented in this above-captioned post-grant review proceeding. For example, I have extensively reviewed the above identified patent, its prosecution history, the Petition for PGR (including the invalidity grounds therein, and the cited references) and all exhibits filed in this case.

10. 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 were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Respectfully submitted,

Date: May 24, 2024

/Jonathan Singer/

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EXHIBIT A



Jonathan E. Singer

Principal
San Diego
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singer@fr.com

Overview

Jon Singer, a renowned life sciences industry leader and decorated trial attorney, is a senior principal in Fish & Richardson's life sciences litigation practice.

Jon founded Fish & Richardson's acclaimed Life Sciences Litigation Group in 2001, which has since grown to become one of the most respected practices in the country. Known as a meticulous tactician and a compelling oral advocate, Jon introduces impeccable planning and strategy into every case he manages.

Throughout his 30-year career, Jon has headed some of the firm's most complex pharmaceutical matters. In many of these matters, he successfully reversed negative verdicts on appeal, earning him a reputation for turning challenging circumstances into wins for clients. For example, in *Prometheus Laboratories v. Mayo Collaborative Services*, Jon and the Fish team took a pharmaceutical patent dispute all the way to the U.S. Supreme Court, achieving a reversal of a Federal Circuit Court of Appeals decision in what was recognized as the most important patent decision of the year. In *Gilead Sciences, Inc. v. Merck & Co.,* Jon was trial counsel for Gilead in a case that initially resulted in a $200 million jury verdict against the client. He then led the bench trial that resulted in the District Court setting aside the jury verdict due to unclean hands.

Today, Jon mainly serves as a trusted advisor for the next generation of litigators in Fish's Life Sciences Group, while still doing courtroom work for select clients. He frequently assists up-and-coming principals with trial preparation, strategic planning, witness preparation, and other practices to ensure they have the help and support they need to succeed in the complex and challenging practice of life sciences patent litigation. Jon also puts his experience to work as an expert witness in drug-related trials, applying his extensive knowledge of pharmaceuticals to patent and antitrust cases across the country.

Jon's record of success has earned him substantial recognition throughout his career. He is a three-time *Law360* "Life Sciences MVP," a *Daily Journal* "California Lawyer of the Year," and a *National Law Journal* "Winning Litigator," among other awards.

In his free time, Jon enjoys writing fiction and completing cryptic crosswords.

Experience

Exela Pharma Sciences, LLC v. Eton Pharmaceuticals, Inc.: Fish filed a high-profile Hatch-Waxman lawsuit for client Exela Pharma Sciences against Eton Pharmaceuticals over its intent to produce a generic version of Exela's patented Elcys® drug. Elcys® is the only FDA-approved cysteine hydrochloride injection on the market for use as an additive to amino acid solutions to meet the nutritional requirements of newborn infants requiring total parenteral nutrition (TPN). The Fish team successfully stopped the institution of three PGRs at the Patent Trial and Appeals Board. Then, following a March 2022 bench trial, the court found all

of Exela's asserted patent claims infringed and valid, and ordered FDA to withhold final approval of Eton's ANDA until expiration of Exela's patents.

GlaxoSmithKlein, LLC v. Teva Pharmaceuticals USA, Inc.: Won two high-profile, precedential decisions at the Federal Circuit for client GlaxoSmithKline. In both wins, Fish convinced the court to reinstate the $235 million jury verdict Fish obtained for GSK against Teva Pharmaceuticals in June 2017 in the District of Delaware. for induced infringement of GSK's heart disease drug Coreg®.

Athena Diagnostics, et al v. Mayo Collaborative Services, et al (D. Mass.): District Court and appellate counsel for Mayo defendants in action over Mayo's test for Myasthenia Gravis. Judgment on the pleadings under Section 101 granted for Mayo. Affirmed on appeal.

Coherus Biosciences, Inc. v. AbbVie Biotechnology Ltd.(PTAB): PTAB counsel for petitioner Coherus. Argued and obtained first-ever invalidity ruling on patents covering AbbVie's blockbuster drug Humira®. Case settled on appeal.

Gilead Sciences, Inc. v. Merck & Co, Inc., et al., (N.D. Cal.): Trial counsel for Gilead against Merck in action over Gilead's revolutionary hepatitis C drugs Harvoni® and Sovaldi®. After jury found liability against Gilead and awarded $200 million to Merck, led bench trial and hearings that resulted in District Court setting aside the judgment for unclean hands. Affirmed on appeal. Read about this historic win here and here.

Idenix Corp. v. Gilead Sciences, Inc.(D. Del.): Trial counsel for Gilead in further action over Gilead's hepatitis C drugs Harvoni® and Sovaldi® by Merck subsidiary Idenix. After jury found liability against Gilead and awarded damages in excess of $2 billion, argued judgment as a matter of law proceedings that resulted in District Court setting aside the judgment for lack of enablement of the patent-in-suit. Affirmed on appeal.

Gilead Sciences, Inc. v. AbbVie Biotechnology Ltd.(D. Del.): District Court counsel for Gilead in action over Gilead's hepatitis C drugs Harvoni® and Sovaldi®. After favorable *Markman* ruling, case settled with business arrangement.

Aptalis Pharmatech, Inc., et al v. Apotex, Inc. et al. (D. Del.): Trial counsel for plaintiffs in action over skeletal muscle relaxant drug AMRIX. Injunction secured against generic entry. After remand from Federal Circuit on infringement issues, case settled with business arrangement.

Cephalon, Inc., et al v. Mylan Labs, et al. (D. Del.): Trial counsel for plaintiffs in Hatch-Waxman action over ANDA for breakthrough pain drug FENTORA®. Injunction entered against generic entry in July 2013. Case resolved on appeal with business arrangement.

Roche Palo Alto, et al v. Lupin, Ltd., et al. (D.N.J.): Trial counsel for plaintiffs in Hatch-Waxman action over abbreviated new drug application for angina drug Ranexa®; after three-week bench trial in May 2013, case settled with Lupin agreeing to forestall entry until three months before patent expiry.

Prometheus Laboratories v. Mayo Collaborative Services, et al. (S.D. Cal.): District Court and appellate counsel for defendants in patent infringement action over metabolite assays for thiopurine drugs. Argued and secured summary judgment of invalidity under 35 U.S.C. § 101. After reversal at Federal Circuit Court of Appeals, Supreme Court of the United States reversed appellate court at __ U.S. __, 132 S.Ct. 1289 (2012). Widely recognized as most important patent case of 2012.

Mayo Clinic, et al v. Peter Elkin (D. Minn.): Trial counsel for Mayo Clinic in trade secret case regarding natural language processing software. Jury verdict in favor of Mayo on willful trade secret misappropriation, intentional interference with contractual relations and other claims. Verdict affirmed at 2013 WL 4516191 (8th Cir. 2013).

Eurand, Inc. v. Impax Labs (In re Cyclobenzaprine)(D. Del.): District Court and appellate counsel for plaintiffs in action for enforcement of settlement of Hatch-Waxman litigation. Secured judgment in favor of plaintiffs restraining defendant from launching product in February 2012. Affirmed at 504 Fed. Appx. 900 (Fed. Circ. 2013).

In re Cyclobenzaprine Hydrochloride Extended Release Litigation(D. Del.): Trial and appellate counsel for plaintiffs in Hatch-Waxman actions over ANDAs for skeletal muscle relaxant Amrix®. After verdict of obviousness, secured temporary restraining order against "launch at risk" by defendant Mylan. Secured reversal at Federal Circuit Court of Appeals at 676 F.3d 1063 (Fed. Cir.

2012).

Cephalon, Inc., et al v. Watson Pharmaceuticals, Inc., et al. (D. Del.): Trial counsel for plaintiffs in Hatch-Waxman action over ANDAs for breakthrough pain drug Fentora®. Injunction entered against generic entry at 769 F.Supp.2d 761 (D. Del.) in April 2011. Affirmed on appeal.

Recognitions & awards

Best Lawyers in America

Best Lawyers 2016-2024

Top Intellectual Property Lawyers in California

Daily Journal 2017-2018, 2020-2021, 2023

IAM Patent 1000

IAM 2013, 2016-2023

IP Star

Managing IP 2013-2023

Life Sciences Star

LMG Life Sciences 2012-2013, 2017-2023

Finalist for General Patent Litigator of the Year - California

LMG Life Sciences 2021

Super Lawyer

Super Lawyers 2006, 2010-2014, 2018-2021

San Diego Lawyer of the Year for Patent Litigation

Best Lawyers 2020

Top 100 Lawyers in California

Daily Journal 2019

Life Sciences MVP

Law360 2013, 2015, 2018

Litigator of the Week

American Lawyer (AmLaw) 2011-2012, 2016, 2018

Winning Litigator

National Law Journal (NLJ) 2018

General Patent Litigator of the Year - California

LMG Life Sciences 2018

California Lawyer of the Year

Daily Journal 2018

Game Changer

Recorder, The 2017

Significant Victories

National Law Journal (NLJ) 2016

Trailblazer

National Law Journal (NLJ) 2015

Leading Lawyer in America

Law Dragon 2013

Appellate MVP

Law360 2012

Attorney of the Year

Minnesota Lawyer 2007, 2009, 2012

Best in Bar

Minneapolis St. Paul Business Journal 2012

IAM Life Sciences 250

IAM 2010

Client Service All-Star

BTI Consulting Group Inc. 2006

Teaching experience

Course faculty member, "Biotechnology: Patent Prosecution, Licensing, Litigation, and Hatch-Waxman," Patent Resources Group, Inc.

Insights

Blog | April 2, 2020
Section 101: Cert. Denied ... Now What?

Webinar | February 20, 2020
Section 101: Cert. Denied...Now What?

Q&A | July 10, 2019
Q&A with Jon Singer for *Corporate Counsel Business Journal*

Webinar | March 18, 2015
Recent Developments Impacting Hatch-Waxman Litigation

Article | January 8, 2015
USPTO Guidance on Natural Product Development

Article | April 22, 2014
Understanding Legal Trends in the Life Sciences Industry

News

October 5, 2023
Fish & Richardson Ranked Highly by *Managing IP*, Attorneys Named IP Stars

September 25, 2023
Fish & Richardson Receives Top Rankings from *LMG Life Sciences*; 14 Principals Named 2023 "Life Sciences Stars"

August 17, 2023
101 Fish Attorneys Included in the 2024 Edition of *The Best Lawyers in America*

June 27, 2023
Fish & Richardson Receives Top Rankings in 2023 Edition of *IAM Patent 1000: The World's Leading Patent Professionals*

May 17, 2023
Three Fish Principals Named to *Daily Journal*'s 2023 "Top Intellectual Property Lawyers" List

September 29, 2022
LMG Life Sciences Awards Top Rankings to Fish & Richardson; 16 Principals Named 2022 "Life Sciences Stars"

September 8, 2022
Fish & Richardson Receives Top Rankings in 2022 Edition of *IAM Patent 1000: The World's Leading Patent Professionals*

August 22, 2022
96 Fish Attorneys Included in the 2023 Edition of *The Best Lawyers in America*

June 2, 2022
Fish & Richardson Named a Top ITC and Life Sciences Firm by *Managing IP*; Attorneys Named IP Stars

October 5, 2021
LMG Life Sciences Awards Top Rankings to Fish & Richardson; 13 Principals Named 2021 "Life Sciences Stars"

September 23, 2021
Fish Named "Intellectual Property Boutique Firm of the Year" by *LMG Life Sciences*

August 19, 2021
Fish Attorneys Recognized in 2022 Edition of *The Best Lawyers in America*

April 21, 2021
Daily Journal Recognizes Fish & Richardson Principals Juanita Brooks and Jonathan Singer as 2021 "Top Intellectual Property Lawyers"

January 7, 2021
Fish & Richardson Receives 2020 "Attorney of the Year" Group Award from *Minnesota Lawyer*

September 29, 2020
Fish & Richardson Receives Top Firm Rankings and 14 Principals Named 2020 "Life Sciences Stars" by *LMG Life Sciences*

August 12, 2020
Fish & Richardson Receives Top "Gold" Ranking from *IAM Patent 1000* for National Litigation Practice; National Rankings in the Plaintiff Firm and Prosecution...

August 4, 2020
32 Fish & Richardson Attorneys Named 2020 "IP Stars" by *Managing Intellectual Property* Magazine

February 11, 2020
Fish Named *Law360* Life Sciences Practice Group of the Year

October 2, 2019
Fish & Richardson Receives Top Firm Rankings from *LMG Life Sciences* in Four Practice Areas

August 15, 2019
Fish & Richardson Attorneys Receive Five "Lawyer of the Year" Awards from *The Best Lawyers in America®* 2020

June 20, 2019
Fish & Richardson Receives Top “Gold” Ranking from *IAM Patent 1000* for National Patent Litigation Practice

May 22, 2019
Fish & Richardson Announces 32 Attorneys Named "IP Stars" by *Managing Intellectual Property* Magazine

January 10, 2019
Fish & Richardson Obtains Denial of Cert at U.S. Supreme Court for Gilead Sciences in Long-Running Patent Battle with Merck Over Hepatitis C Drugs

November 27, 2018
Fish & Richardson Principal Jonathan Singer Named 2018 Life Sciences MVP of the Year by *Law360*

September 27, 2018
Fish & Richardson Announces 13 Principals Named 2018 "Life Sciences Stars" by LMG Life Sciences

September 14, 2018
Fish & Richardson Principals Chad Shear and Jonathan Singer Named "2018 Winning Litigators" by *The National Law Journal*

September 13, 2018
Fish & Richardson Named 2018 General Patent Litigation Firm of the Year and Intellectual Property Firm of the Year by *LMG Life Sciences*

August 15, 2018
47 Fish Attorneys Named to The Best Lawyers in America 2019 List

June 14, 2018
Fish Receives Top "Gold" Ranking from *IAM Patent 1000* for National Patent Litigation Practice

May 21, 2018
Fish & Richardson Announces 39 Attorneys Named "IP Stars" by *Managing Intellectual Property* Magazine

May 3, 2018
Fish & Richardson Principals Juanita Brooks and Jon Singer Named Among California's Top IP Lawyers

April 25, 2018
Fish & Richardson Wins Federal Circuit Affirmance of Reversal of $200 Million Damages Against Gilead After Merck's "Unclean Hands"

February 23, 2018
Fish & Richardson Wipes Out $2.5 Billion Patent Verdict Against Gilead Sciences on JMOL

October 13, 2017
11 Fish & Richardson Principals Named 2017 "Life Sciences Stars" by *LMG Life Sciences*

October 3, 2017
High-Stakes Gilead Case Lands Fish & Richardson Principals Juanita Brooks and Jon Singer on *The Recorder*'s List of Litigation Game Changers

September 12, 2017
Daily Journal Names Fish & Richardson Principals Juanita Brooks and Jon Singer Among California's Top IP Lawyers

July 24, 2017
Fish & Richardson Receives Top "Gold" Ranking from *IAM Patent 1000* for National Patent Litigation Practice

June 23, 2017
Fish & Richardson Announces 36 Attorneys Named "IP Stars" by *Managing Intellectual Property* Magazine

June 13, 2017
PTAB Rules in Favor of Fish Client Coherus BioSciences in Two More IPR Decisions

May 17, 2017
Fish Client Coherus BioSciences Prevails in '135 IPR Decision

May 3, 2017
Two Fish & Richardson Attorneys Named to "2017 Best Attorneys" List

March 29, 2017
Fish & Richardson Wins "Case of the Year" Award and "U.S. Specialty IP Firm of the Year" Award by *Managing Intellectual Property*

December 5, 2016
Juanita Brooks and Jon Singer profiled in *National Law Journal's* special report "High Stakes, Significant Victories"

November 21, 2016
Fish & Richardson Announces Six Principals Named 2016 "Life Science Stars" by *LMG Life Sciences*

July 1, 2016
Fish & Richardson Named One of 24 Most Loved Law Firms by General Counsel; One of 10 Firms GCs Love for Pharma Work

June 29, 2016
Fish Receives Top Tier 1 National Rankings in Patent Prosecution and Patent Litigation from *The Legal 500*

June 15, 2016
Fish & Richardson Named to IAM Patent 1000 for National Patent Litigation and Prosecution Practices

June 8, 2016
Fish Receives Top "Band 1" National Rankings for Intellectual Property and ITC Practices in *Chambers USA* 2016

March 23, 2016
Fish & Richardson Awarded "Milestone Case of the Year" at *Managing Intellectual Property*'s North America Awards 2016

November 19, 2015
Fish & Richardson Named to NLJ 2015 Appellate Hot List; Marks Fifth Year on Prestigious List

November 18, 2015
Principal Jon Singer named 2015 Life Sciences MVP by *Law360*

November 10, 2015
Fish & Richardson Announces Five Attorneys Named 2015 "Life Sciences Stars" by LMG Life Sciences

December 17, 2013
Law360 Names Fish Principal Jonathan Singer 2013 Life Sciences MVP

January 29, 2013
Fish Principal Jonathan E. Singer Named *Minnesota Lawyer* 2012 "Attorney of Year" and Law360 "2012 MVP"

August 24, 2011
Eastern District of Texas deals blow to generic pharmaceutical companies

April 27, 2011
Minneapolis Attorneys Win Jury Verdict in Trade Secrets Case

March 16, 2011
Fish's Jonathan Singer quoted in *Inside Counsel*'s article "Federal Circuit Rules That Diagnostic Methods Are Patentable"

December 15, 2009
Attorney Jonathan Singer named Attorney of the Year by Minnesota Lawyer

Events

June 13, 2023
Kisaco Global Biologics Cell and Gene Legal Summit 2023

January 24, 2023
Kisaco European Summit on Pharma and Biotech Patent Litigation

October 11, 2022
Life Sciences Strategy Summit on IP & Exclusivity

February 23, 2021
C5 13th Annual Pharma & Biotech Patent Litigation in Europe

February 24, 2020
C5's Annual Pharma and Biotech Patent Litigation Conference

October 14, 2019
C5 Life Sciences IP Summit 2019

February 26, 2019
C5 11th Annual Pharma & Biotech Litigation

October 17, 2018
C5 Life Sciences IP Summit

February 27, 2018
C5 Pharma & Biotech Patent Litigation

October 11, 2017
C5 Life Sciences IP Summit 2017

April 25, 2017
Fish to Sponsor & Speak at C5 Pharma & Biotech Patent Litigation Conference

November 3, 2016
Life Sciences Summit 2016

October 22, 2015
C5 Life Sciences IP Summit

March 12, 2014
New Jersey Intellectual Property Law Association Patent Litigation Seminar

March 13, 2013
NJIPLA Patent Litigation Seminar

Additional insights

Speaking engagements

- "Virtual Opposition Proceedings Before the EPO, the Appeal Court of the Hague and in the PTAB," *C5's Pharma & Biotech Patent Litigation in Europe Conference*(February 23, 2021)
- "Pharma and Biotech Cases, Costs and Procedures in Arbitration and Mediation,"*C5's 10th Pharma & Biotech Patent Litigation Conference*, Amsterdam, Netherlands (February 2018)

- "The Patent Trial Appeal Board and Alternatives to Litigation," *C5's Life Sciences IP Summit*, Munich, Germany (October 2017)
- "Litigating Biosimilars," *C5's Life Sciences IP Summit*, Munich, Germany (October 2017)

Media mentions

- "Counsel Reveal How Pharma Can Benefit from Patent Arbitration," *Managing IP* (March 8, 2021)
- "Trends in Life Sciences Patent Litigation," *Corporate Counsel Business Journal* (July 2019)

Services

Litigation
Patent Litigation

Industries

Life Sciences

Admissions

California (1997)
Supreme Court of the United States
U.S. Court of Appeals for the Federal Circuit

Education

J.D. with honors, University of Chicago Law School (1992)
A.B., Chemistry, Dartmouth College (1986) Daniel Webster Scholar

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