

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT CLARKSBURG**

MERCK SHARP & DOHME CORP.,

Plaintiff,

v.

MYLAN PHARMACEUTICALS INC.,

Defendant.

C.A. No. 1:19-cv-00101 (IMK)

**STIPULATION AND ORDER FOR ENTRY OF LETTER OF REQUEST FOR
JUDICIAL ASSISTANCE TO FACILITATE REMOTE TRIAL TESTIMONY OF DR.
FABIA GOZZO IN SWITZERLAND**

WHEREAS, the above-captioned matters are scheduled to go to trial on the infringement of U.S. Patent No. 7,326,708 (“the ’708 patent”) on December 13, 2021, and trial is scheduled to be conducted remotely

WHEREAS, Plaintiff Merck Sharp & Dohme Corp. (“Merck”) intends to call Dr. Fabia Gozzo as a witness to support its infringement case;

WHEREAS, in light of the COVID-19 pandemic and the Delta variant, travel from foreign countries, including Switzerland, where Dr. Gozzo resides, is difficult given restrictions and quarantine mandates that are in place, and the recent rise of COVID-19 cases due to the Delta variant has cast further uncertainty on the quarantine rules of each country;

WHEREAS, in light of the health risks related to COVID-19 and the Delta variant, it is Merck’s and Dr. Gozzo’s strong preference that Dr. Gozzo testify live at trial via remote means from Switzerland, facilitated by a Court-approved vendor;

WHEREAS, in order for Merck’s foreign witness to participate in the upcoming trial, Merck requests entry of the Appointment of Commissions Under the Hague Convention and

Request for Judicial Assistance – Permission of Taking Evidence By A Commissioner Under Article 17 Hague Convention 1970 to the High Court of the Canton of Zurich, Court Administration, International Judicial Assistance, for the Request for Judicial Assistance in Civil Matters with Copy to the Federal Office of justice (FOJ), Central Authority for the Request for Judicial Assistance in Civil and Commercial Matters (the “Appointment of Commissions”), attached hereto as **Exhibit A**; and

WHEREAS, Defendants do not oppose Merck’s request;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by the parties, and subject to the approval of the Court, that the Court shall execute and issue the attached Appointment of Commissions to facilitate testimony of a witness located in Switzerland for trial.

Dated: September XX, 2021

Respectfully submitted,

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IT IS SO ORDERED, this 12th day of October, 2021.



UNITED STATES DISTRICT JUDGE