

2019-2264, -2265, -2266, -2267

**United States Court of Appeals
for the Federal Circuit**

ANACOR PHARMACEUTICALS, INC.,

Appellant,

v.

FLATWING PHARMACEUTICALS, LLC,

Appellee.

*Appeals from the United States Patent and Trademark Office, Patent Trial
and Appeal Board in Nos. IPR2018-00168, IPR2018-00169, IPR2018-00170,
IPR2018-00171, IPR2018-01358, IPR2018-01359, IPR2018-01360,
and IPR2018-01361*

**APPELLANT ANACOR PHARMACEUTICALS, INC.'S
CORRECTED MOTION TO REINSTATE ORAL ARGUMENT**

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Appellant Anacor Pharmaceuticals, Inc. respectfully moves the Court to reinstate the telephonic oral argument previously scheduled for August 5, 2020. This oral argument was recently canceled *sua sponte* by the Court in its order dated July 13, 2020. Anacor has discussed this motion with Appellee FlatWing Pharmaceuticals, LLC; FlatWing has indicated that it opposes Anacor's request and will object and file a response.

Anacor and its corporate parent, Pfizer Inc., together with their outside counsel, Williams & Connolly LLP, strongly support the advancement of diversity in the legal profession and recognize the importance of providing oral argument experience to junior attorneys, particularly in appellate matters. In this case, Pfizer asked Mr. Sheh, a 2015 law school graduate, to argue this appeal prior to the Court's July 13, 2020 order cancelling oral argument. Should oral argument occur in this case, it will be Mr. Sheh's first appellate oral argument. *See Order, In re Publicover*, No. 19-1883 (Fed. Cir. Apr. 20, 2020), ECF No. 38 (reinstating oral argument). Additionally, Anacor believes that the Court would benefit from hearing oral argument in this case, which involves a lengthy administrative record and several distinct issues disputed by the parties on appeal. Finally, permitting oral argument would prejudice neither party, and Anacor does not believe that oral argument would cause any delay in the Court's decision.

The ongoing COVID-19 pandemic has posed unprecedented challenges throughout the country. Anacor, Pfizer, and its counsel recognize the Court's need to modify its ordinary practice of granting oral argument in counseled cases to address these extraordinary times. *See* U.S. Court of Appeals for the Federal Circuit Clerk's Office, Guide to Oral Argument at 2 (July 2020), *available at* <http://www.cafc.uscourts.gov/sites/default/files/arguments/OralArgumentGuide.pdf>. However, because oral argument in this case would advance important values in the legal profession and potentially benefit the Court in resolving the matter, Anacor respectfully requests that the Court reconsider its decision to cancel oral argument and reinstate the hearing previously scheduled for August 5, 2020, on that date or another date convenient to the Court.

Dated: July 29, 2020

Respectfully submitted,

/s/ Aaron P. Maurer

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CERTIFICATE OF COMPLIANCE

I hereby certify, pursuant to Federal Rules of Appellate Procedure 27 and 32(g)(1), and Federal Circuit Rule 27, that the foregoing Corrected Motion to Reinstate Oral Argument is proportionately spaced, has a typeface of 14-point or larger, was prepared using Microsoft Word 2016, and contains 338 words.

Dated: July 29, 2020

/s/ Aaron P. Maurer

Aaron P. Maurer

FORM 9. Certificate of Interest

Form 9 (p. 1)
July 2020

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF INTEREST

Case Number 2019-2264, -2265, 2266, -2267
Short Case Caption Anacor Pharmaceuticals, Inc. v. FlatWing Pharmaceuticals, LLC
Filing Party/Entity Anacor Pharmaceuticals, Inc.

Instructions: Complete each section of the form. In answering items 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance. **Please enter only one item per box; attach additional pages as needed and check the relevant box.** Counsel must immediately file an amended Certificate of Interest if information changes. Fed. Cir. R. 47.4(b).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: 07/28/2020

Signature: /s/ Aaron P. Maurer

Name: Aaron P. Maurer

FORM 9. Certificate of Interest

Form 9 (p. 2)
July 2020

[illegible]

☐ Additional pages attached

FORM 9. Certificate of Interest

Form 9 (p. 3)
July 2020

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

☒ None/Not Applicable ☐ Additional pages attached

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5. Related Cases. Provide the case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. Do not include the originating case number(s) for this case. Fed. Cir. R. 47.4(a)(5). See also Fed. Cir. R. 47.5(b).

☐ None/Not Applicable ☐ Additional pages attached

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|---|---|---|
| In re Kerydin (Tavaborole) Topical Solution 5% Patent Litig., No. 19-md-2884-RGA (D. Del.) | Anacor Pharms., Inc. v. Lupin Ltd., No. 18-cv-1606-RGA (D. Del.) | Anacor Pharms., Inc. v. Ascent Pharms., Inc., No. 18-cv-1673-RGA (D. Del.) |
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6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

☒ None/Not Applicable ☐ Additional pages attached

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PROOF OF SERVICE

I hereby certify that on July 29, 2020, a copy of the foregoing Corrected Motion to Reinstate Oral Argument was filed with the Clerk and served on the parties through the Court's electronic filing system (CM/ECF). I further certify that all parties required to be served have been served.

Dated: July 29, 2020

/s/ Aaron P. Maurer

Aaron P. Maurer