

GIBSON DUNN

Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, DC 20036-5306
Tel 202.955.8500
www.gibsondunn.com

Theodore B. Olson
Direct: +1 202.955.8668
Fax: +1 202.530.9575
TOlson@gibsondunn.com

March 11, 2016

Daniel E. O'Toole
Circuit Executive & Clerk of Court
United States Court of Appeals for the Federal Circuit
717 Madison Place, N.W.
Washington, D.C. 20439

Re: *Acorda Therapeutics Inc. v. Mylan Pharmaceuticals Inc.*, No. 15-1456

Dear Mr. O'Toole:

Plaintiffs respectfully submit this response to the 28(j) letter filed by Mylan Pharmaceuticals Inc. (“Mylan”) regarding *Hazout v. Tsang Mun Ting* (Del. Feb. 26, 2016). That decision reaffirms that consent is a valid basis for establishing personal jurisdiction.

In *Tsang*, the Delaware Supreme Court held that the president of a Delaware corporation had consented to personal jurisdiction under a statute providing that nonresidents who serve as officers of Delaware corporations shall “be deemed thereby to have consented to the appointment of the registered agent of such corporation . . . as an agent upon whom service of process may be made in all civil actions . . . against such corporation, in which such officer is a necessary or proper party.” Del. Code tit. 10, § 3114(b). The court concluded that the defendant was a “proper party” because the defendant, and the corporation of which he was president, allegedly defrauded the plaintiff. Op. 31. The court further held that this consent-based exercise of personal jurisdiction was consistent with due process because the defendant “was on notice that he had consented to suit in Delaware for certain classes of suits by virtue of his service as an officer and director of a Delaware corporation” and because, “[b]y becoming a director and officer of a Delaware corporation, [the defendant] purposefully availed himself of certain duties and protections under our law.” Op. 17, 32.

Mylan likewise was on notice when it chose to register to do business in Delaware—and thereby availed itself of the rights and protections of Delaware law—that registration and appointment of an agent constituted “[e]xpress consent” to general jurisdiction. *Sternberg v. O’Neil*, 550 A.2d 1105, 1116 (Del. 1988). That consent satisfied due process. *See Pa. Fire Ins. Co. v. Gold Issue Mining & Milling Co.*, 243 U.S. 93 (1917).

Mylan’s discussion of *Genuine Parts Co. v. Cepec* is nothing more than speculation about the outcome of a pending case. In any event, the issues in that case have no bearing on the existence of specific personal jurisdiction over Mylan, which is an independent ground for affirmance.

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Respectfully submitted,

/s/ Theodore B. Olson

Theodore B. Olson

*Counsel for Plaintiff-Appellee
Acorda Therapeutics, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2016, I electronically filed the foregoing with the Clerk of the Court of the United States Court of Appeals for the Federal Circuit by using the CM/ECF system. I certify that all participants in this case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Theodore B. Olson
Theodore B. Olson