

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NUVASIVE, INC.  
Petitioner

v.

WARSAW ORTHOPEDIC, INC.  
Patent Owner

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Case IPR2013-00208  
Patent 8,251,997 B2

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Before SALLY C. MEDLEY, LORA M. GREEN, and STEPHEN C. SIU,  
*Administrative Patent Judges.*

MEDLEY, *Administrative Patent Judge.*

DECISION  
Motion for *Pro Hac Vice* Admission  
*37 C.F.R. § 42.10*

Warsaw Orthopedic, Inc. (“Warsaw”) filed a motion for *pro hac vice* admission of Mrs. Nimalka R. Wickramasekera. Paper 38. The motion is unopposed. The motion is *granted*.

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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. In authorizing motions for *pro hac vice*, the Board requires the moving party to provide a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* and an affidavit or declaration of the individual seeking to appear in this proceeding. “Notice”; Paper 3.

In its motion, Warsaw states that there is good cause for the Board to recognize Mrs. Wickramasekera *pro hac vice* during this proceeding, because Mrs. Wickramasekera is an experienced litigating attorney with an established familiarity with the subject matter at issue in the proceeding. In addition, the motion states that Mrs. Wickramasekera is counsel for Warsaw in related litigation between Warsaw and NuVasive. Mrs. Wickramasekera made an affidavit attesting to, and explaining, these facts. Exhibit 2063. The affidavit complies with the requirements set forth in the Notice.

Upon consideration, Warsaw has demonstrated that Mrs. Wickramasekera has sufficient legal and technical qualifications to represent Warsaw in this proceeding. Moreover, the Board recognizes that there is a need for Warsaw to have its related litigation counsel involved in this proceeding. Accordingly, Warsaw has also established that there is good cause for admitting Mrs. Wickramasekera.

Attention is directed to the Office’s Final Rule adopting new Rules of Professional Conduct. *See Changes to Representation of Others Before the United States Patent and Trademark Office*; Final Rule, 78 Fed. Reg. 20180

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(Apr. 3, 2013). The Final Rule also removes Part 10 of Title 37, Code of Federal Regulations. The changes set forth in that Final Rule including the USPTO's Rules of Professional Conduct took effect on May 3, 2013. Therefore, Mrs. Wickramasekera is subject to the USPTO's Rules of Professional Conduct that took effect May 3, 2013.

It is

ORDERED that the Warsaw motion for *pro hac vice* admission of Nimalka R. Wickramasekera for this proceeding is *granted*;

FURTHER ORDERED that Warsaw is to continue to have a registered practitioner represent it as lead counsel for this proceeding; and

FURTHER ORDERED that Mrs. Wickramasekera is to comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations; and

FURTHER ORDERED that Mrs. Wickramasekera is subject to the Office's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.*

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PETITIONER:

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