

Filed on behalf of LifeScan Scotland Ltd.

Paper No. _____

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PHARMATECH SOLUTIONS, INC.
Petitioner

v.

LIFESCAN SCOTLAND LTD.
Patent Owner

Case IPR2013-00247
Patent 7,250,105

**MOTION FOR *PRO HAC VICE* ADMISSION
OF GREGORY L. DISKANT, ESQ. PURSUANT TO 37 C.F.R. § 42.10**

I. Relief Requested

The Patent Owner respectfully requests that the Board admit Mr. Gregory L. Diskant as counsel *pro hac vice* for the above-captioned proceeding in accordance with 37 C.F.R. § 42.10.

II. Timing of Motion

This Motion for *pro hac vice* admission is being filed no sooner than twenty one (21) days after service of the petition as required by the Order Authorizing Motion for *Pro Hac Vice* entered April 17, 2013.

III. Statement of Facts

Both lead counsel and back-up counsel in the above-captioned proceeding, Dianne B. Elderkin and Steven D. Maslowski, are registered practitioners before the USPTO.

The facts, supported by the attached Declaration of Gregory L. Diskant in Support of Motion for Admission *Pro Hac Vice* (Exhibit A), establish good cause to admit Mr. Diskant *pro hac vice* in this proceeding.

Mr. Diskant is an experienced litigating attorney. Mr. Diskant has been a litigating attorney for more than 30 years. He is currently a senior litigation partner at Patterson Belknap, where he served as chair from 1997 – 2007. Mr.

Diskant has represented a wide range of clients in complex commercial, securities, and intellectual property litigation matters in both federal and state courts. He has successfully tried numerous patent cases involving medical device and pharmaceutical technology. *See Exhibit A.*

Mr. Diskant graduated from Columbia Law School in 1974 and served as Assistant United States Attorney for the Southern District of New York from 1976 – 1980 and Chief Appellate Attorney in 1980. Prior to joining Patterson Belknap, he clerked for the Hon. Thurgood Marshall of the United States Supreme Court and the Hon. J. Skelly Wright of the U.S. Court of Appeals for the District of Columbia. *See Exhibit A.*

Mr. Diskant has familiarity with the subject matter at issue in this proceeding based on his work as lead counsel in the co-pending district court case, *Lifescan, Inc. v. Shasta Techs., LLC*, 5:11-CV-04494-EJD (N.D. Cal), which involves the same patent at issue in this proceeding. *See Exhibit A.* Mr. Diskant has been actively involved in all aspects of the co-pending district court case, including on issues related to validity of the patents-in-suit. *See Exhibit A.* As such, he is very familiar with the subject matter at issue in this proceeding. The Patent Owner has expended significant financial resources conducting the co-pending district court litigation with Mr. Diskant as lead counsel and, therefore, wishes to continue using him in this proceeding.

IV. Affidavit or Declaration of Individuals Seeking to Appear

This motion for *Pro Hac Vice* Admission is accompanied by the attached Declaration of Gregory L. Diskant (Exhibit A) as required by the Notice of Filing Date Accorded to Petition entered April 17, 2013. In this Declaration, he states compliance with the general requirements for *pro hac vice* admission including that he is a member in good standing of the Bar of the State of New York; he has never been suspended or disbarred from practice before any court or administrative body; he has never had a court or administrative body deny his application for admission to practice; he has never had sanctions or contempt citations imposed on him by any court or administrative body; he has 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 the C.F.R.; he agrees to be subject to the USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§ 10.20 *et seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a); and he has not applied to appear *pro hac vice* before the USPTO in the last three (3) years. *See* Exhibit A.

V. Conclusion

In light of the foregoing, the Patent Owner respectfully requests that the Board admit Gregory L. Diskant *pro hac vice* in this proceeding.

Respectfully submitted,

Date: July 1, 2013

/Dianne B. Elderkin/
Dianne B. Elderkin
Registration No. 28,598
Counsel for Patent Owner

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