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Paper 19
Date: February 25, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NUVASIVE, INC.
Petitioner

v.

WARSAW ORTHOPEDIC, INC.
Patent Owner

Case IPR2013-00395
Case IPR2013-00396[1]
Patent 8,444,696

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

SIU, *Administrative Patent Judge*.

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

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[1] This decision addresses an issue that is identical in each case. We, therefore, exercise our discretion to issue one Order to be filed in each case. Unless otherwise authorized, the parties, however, are not authorized to use this style heading for any subsequent papers. Citations and page references in the Order correspond to IPR2013-00395.

I. BACKGROUND

Warsaw Orthopedic, Inc. ("Warsaw") filed a motion for *pro hac vice* admission of Mr. Luke L. Dauchot, and a motion for *pro hac vice* admission of Mrs. Nimalka R. Wickramasekera. Paper 15, 16. The motions are unopposed. The motions are *granted*.

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 6.

In its motions, Warsaw states that there is good cause for the Board to recognize Mr. Dauchot and Mrs. Wickramasekera *pro hac vice* during this proceeding, because Mr. Dauchot and Mrs. Wickramasekera are experienced litigating attorneys with an established familiarity with the subject matter at issue in the proceeding. In addition, the motions state that Mr. Dauchot and Mrs. Wickramasekera are counsel for Warsaw in related litigation between Warsaw and NuVasive. Mr. Dauchot and Mrs. Wickramasekera each made an affidavit attesting to, and explaining, these facts. Exhibits 2001, 2002. The affidavits comply with the requirements set forth in the Notice.

Upon consideration, Warsaw has demonstrated that Mr. Dauchot and Mrs. Wickramasekera have sufficient legal and technical qualifications to represent Warsaw in this proceeding. Moreover, the Board recognizes that there is a need for Warsaw to have related litigation counsel involved in this proceeding.

Accordingly, Warsaw has also established that there is good cause for admitting Mr. Dauchot and 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 (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, Mr. Dauchot and Mrs. Wickramasekera are subject to the USPTO's rules of Professional Conduct that took effect May 3, 2013.

It is

ORDERED that the Warsaw motions for *pro hac vice* admission of Mr. Dauchot and Mrs. Nimalka R. Wickramasekera for this proceeding are *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 Mr. Dauchot and Mrs. Wickramasekera are to comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials, as set forth is Part 42 of Title 37, Code of Federal Regulations, and

FURTHER ORDERED that Mr. Dauchot and Mrs. Wickramasekera are 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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