

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AKER BIOMARINE AS
Petitioner

v.

NEPTUNE TECHNOLOGIES AND BIORESSOURCES INC.
Patent Owner

Case IPR2014-00003
Patent 8,278,351 B1

**PETITIONER'S MOTION FOR THE *PRO HAC VICE* ADMISSION OF
MICHAEL W. DE VRIES and LESLIE M. SCHMIDT**

**Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450**

I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c) and Petitioner Aker BioMarine AS (“AKBM”) respectfully move the Patent Trial & Appeal Board (“Board”) for the *pro hac vice* admission of Michael W. De Vries and Leslie M. Schmidt in this proceeding.

II. GOVERNING LAW, RULES, AND PRECEDENT

The Board is authorized to recognize counsel *pro hac vice* pursuant to 37 C.F.R. § 42.10(c), which provides that:

The Board may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause, subject to the condition that lead counsel be a registered practitioner and to any other conditions as the Board may impose. For example, where the lead counsel is a registered practitioner, a motion to appear *pro hac vice* by counsel who is not a registered practitioner may be granted upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.

In this proceeding, the Board has permitted the filing of motions for *pro hac vice* admission in accordance with the Order Authorizing Motion for *Pro Hac Vice* in IPR2013-00010. (Paper 7 at 2.) In that order, the Board stated that a motion for admission *pro hac vice* should include a “statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding” and “[b]e accompanied by an affidavit or declaration of the individual seeking to appear attesting to the following

i. Membership in good standing of the Bar of at least one State or the District of Columbia; ii. No suspensions or disbarments from practice before any court or administrative body; iii. No application for admission to practice before any court or administrative body ever denied; iv. No sanctions or contempt citations imposed by any court or administrative body; v. The individual seeking to appear 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.; vi. The individual will 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); vii. All other proceedings before the Office for which the individual has applied to appear *pro hac vice* in the last three (3) years; and viii. Familiarity with the subject matter at issue in the proceeding.

Motorola Mobility LLC v. Arnouse, IPR 2013-00010 (MPT) (Paper 6 at 3-4).

III. STATEMENT OF FACTS

Based on the following facts, supported by their respective declarations, AKBM requests that Mr. De Vries and Ms. Schmidt be admitted *pro hac vice* in this proceeding. As an initial matter, AKBM's lead and back-up counsel, J. Mitchell Jones (No. 44,174) and Amanda J. Hollis (No. 55,629) are registered practitioners.

A. Mr. De Vries Meets The Requirements For Admission *Pro Hac Vice*

1. Mr. De Vries has nearly fourteen years of experience as a litigation attorney who specializes in patent litigation, representing clients in patent litigation matters in various United States District Courts, the Court of Appeals for the Federal Circuit, and before the International Trade Commission.
2. Mr. De Vries is very familiar with U.S. Patent No. 8,278,351, and with the legal subject matter, technical subject matter, and prior art discussed in Petitioner's Request for *Inter Partes* Review of U.S. Patent No. 8,278,351, which forms the basis for this proceeding.
3. Mr. De Vries is a member in good standing of the Bar of the State of California. He is admitted to practice before the United States District Court for the Eastern District of Texas, the United States District Court for the Eastern District of California, the United States District Court for the Northern District of California, the United States District Court for the Central District of California, the United States District Court for the Southern District of California, the United States Court of Appeals for the Federal Circuit, and the United States Court of Appeals for the Eleventh Circuit.

4. Mr. De Vries has never been suspended or disbarred from practice before any court or administrative body.
5. Mr. De Vries has never had a court or administrative body deny my application for admission to practice.
6. Mr. De Vries has never been sanctioned or cited for contempt by any court or administrative body.
7. Mr. De Vries 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.
8. Mr. De Vries agrees to be subject to the United States Patent and Trademark Office 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).
9. In the past three (3) years, Mr. De Vries was admitted *pro hac vice* as counsel for Oracle Corporation before the Patent Trial and Appeal Board in a Post-Grant Review Petition concerning Method and Apparatus For A Cryptographically-Assisted Commercial Network System Designed to Facilitate and Support Expert-Based Commerce, CBM No. 2013-00015

B. Ms. Schmidt Meets The Requirements For Admission *Pro Hac Vice*

1. Ms. Schmidt has nearly six years of experience as a litigation attorney who specializes in patent litigation, representing clients in patent litigation matters in various United States District Courts, the Court of Appeals for the Federal Circuit, and before the International Trade Commission.

2. Ms. Schmidt is very familiar with U.S. Patent No. 8,278,351, and with the legal subject matter, technical subject matter, and prior art discussed in Petitioner's Request for *Inter Partes* Review of U.S. Patent No. 8,278,351, which forms the basis for this proceeding. She was counsel for AKBM in the ITC investigation and district court actions related to this patent and was involved with factual and technical developments in that matter.

3. Ms. Schmidt is a member in good standing of the Bar of the State of New York, the Bar of the Commonwealth of Massachusetts, and the Bar of the District of Columbia. She is admitted to practice before the United States District Court for the Northern District of Florida, the United States Court of Appeals for the Federal Circuit, and the United States Court of Appeals for the Seventh Circuit.

4. Ms. Schmidt has never been suspended or disbarred from practice before any court or administrative body.

5. Ms. Schmidt has never had a court or administrative body deny my application for admission to practice.

6. Ms. Schmidt has never been sanctioned or cited for contempt by any court or administrative body.

7. Ms. Schmidt 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.

8. Ms. Schmidt agrees to be subject to the United States Patent and Trademark Office 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).

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