

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

Before LORA M. GREEN, JACQUELINE WRIGHT BONILLA, and
SHERIDAN K. SNEDDEN, *Administrative Patent Judges*.

GREEN, *Administrative Patent Judge*.

ORDER

Petitioner's Motion for the *Pro Hac Vice* Admission of
Leslie M. Schmidt
37 C.F.R. § 42.10

Petitioner, Aker BioMarine AS (“Petitioner”), timely filed a Motion for the *Pro Hac Vice* Admission of Leslie M. Schmidt¹ pursuant to 37 C.F.R. § 42.10(c) (Paper 39), accompanied by the Declaration of Leslie M. Schmidt in Support of the Motion (Ex. 1081). Patent Owner has not filed an opposition to the Motion. For the reasons provided below, Petitioner’s Motion is *granted*.

As set forth in § 42.10(c), we 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. For example, where the lead counsel is a registered practitioner, a non-registered practitioner may be permitted to appear *pro hac vice* “upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.” 37 C.F.R. § 42.10(c). In authorizing motions for *pro hac vice* admission, we also require a statement of facts showing there is good cause for us to recognize counsel *pro hac vice* and an affidavit or declaration of the individual seeking to appear in this proceeding. *See* Paper 7 (referencing the “Order – Authorizing Motion for *Pro Hac Vice* Admission” in *Motorola Mobility LLC v. Arnouse*, Case IPR2013-00010 (PTAB October 15, 2012) (Paper 7 at 3-4) (expanded panel)).

In its Motion, Petitioner asserts that there is good cause for Ms. Schmidt’s *pro hac vice* admission because: (1) Ms. Schmidt is an experienced patent litigation attorney; and (2) Ms. Schmidt is familiar with the subject matter at issue in the instant proceeding. Ms. Schmidt experience as a patent litigation attorney includes “several matters in the chemical and mechanical engineering arts.” Ms.

1. The Motion is captioned as a combined Motion for the *Pro Hac Vice* Admission of Michael W. De Vries and Leslie M. Schmidt. This Order addresses the Motion as it pertains to the *pro hac vice* admission of Ms. Schmidt.

Schmidt is also “very familiar with U.S. Patent No. 8,278,351, and with the legal subject matter, technical subject matter, and prior art discussed in AKBM’s Request for *Inter Partes* Review of U.S. Patent No. 8,278,351, which forms the basis for this proceeding.” Ex. 1081, ¶ 4. She has also represented Petitioner in an ITC investigation and district court actions related to the patent at issue and been involved with factual and technical developments in those matters. *Id.* In support of the Motion, Ms. Schmidt attests to these facts in her Declaration. Ex. 1081. In addition to the foregoing, Petitioner’s lead counsel J. Mitchell Jones, and back-up counsel, Amanda J. Hollis, are registered practitioners. Ex. 1081, ¶ 1.

Based on the facts set forth above, we conclude that Ms. Schmidt has sufficient legal and technical qualifications to represent Petitioner in this proceeding and that the criteria for *pro hac vice* admission are satisfied. *See Unified Patents, Inc. v. Parallel Iron, LLC*, Case IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7) (expanded panel), (superseding IPR2013-00010, Paper 7, dated October 15, 2012, and setting forth the requirements for *pro hac vice* admission) (copy available on the Board Web site under “Representative Orders, Decisions, and Notices”). Accordingly, Petitioner has established good cause for Ms. Schmidt’s *pro hac vice* admission. Ms. Schmidt will be permitted to appear *pro hac vice* in the instant proceeding as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

For the foregoing reasons, it is

ORDERED that Petitioner’s Motion for the Pro Hac Vice Admission of Leslie M. Schmidt for the instant proceeding is granted; Ms. Schmidt is authorized to represent Petitioner as back-up counsel in the instant proceeding;

FURTHER ORDERED that Petitioner is to continue to have a registered practitioner as lead counsel in the instant proceeding;

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

FURTHER ORDERED that Ms. Schmidt is to be 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. §§ 11.101-11.901.

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