

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

Patent Owner's Motion for the *Pro Hac Vice* Admission of
Jonathan G. Graves
37 C.F.R. § 42.10

Patent Owner, Neptune Technologies and Bioresources Inc., (“Patent Owner”), timely filed a Motion for Jonathan G. Graves to Appear *Pro Hac Vice* on Behalf of Patent Owner pursuant to 37 C.F.R. § 42.10(c) (Paper 44), accompanied by the Declaration of Jonathan G. Graves in support of the Motion (Ex. 2019). Petitioner has not filed an opposition. For the reasons provided below, Patent Owner’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, Patent Owner asserts that there is good cause for Mr. Graves’ *pro hac vice* admission because: (1) Mr. Graves is an experienced litigating attorney; and (2) Mr. Graves has an established familiarity with the subject matter at issue in the instant proceeding. Mr. Graves is a partner at the law firm of Cooley LLP, the same firm at which Patent Owner’s lead counsel is also an associate. Mr. Graves has over 23 years’ experience as a litigating attorney which “includes several litigation matters in the chemical arts.” He is familiar with the patent-at-issue and the legal and technical subject matter and prior art discussed in

the Petition. In support of the Motion, Mr. Graves attests to these facts in his Declaration. Ex. 2019, ¶¶ 1-4. In addition to the foregoing, Patent Owner's lead counsel, Stephen L. Altieri, is a registered practitioner. Ex. 2019, ¶ 1.

Based on the facts set forth above, we conclude that Mr. Graves has sufficient legal and technical qualifications to represent Patent Owner 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, Patent Owner has established good cause for Mr. Graves' *pro hac vice* admission. Mr. Graves 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 Patent Owner's Motion for Jonathan G. Graves to Appear *Pro Hac Vice* for the instant proceeding is granted; Mr. Graves is authorized to represent Patent Owner as back-up counsel in the instant proceeding;

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

FURTHER ORDERED that Mr. Graves 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 Mr. Graves 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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