

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.

Petitioner

v.

YEDA RESEARCH AND DEVELOPMENT CO. LTD.

Patent Owner

Case No. IPR2015-00644

Patent No. 8,399,413

**PATENT OWNER'S MOTION FOR *PRO HAC VICE* ADMISSION OF
NICHOLAS K. MITROKOSTAS UNDER 37 C.F.R. § 42.10(c)**

I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Pursuant to the Board’s “Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response,” dated February 25, 2015 (Paper No. 5), authorizing the parties to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c), Patent Owner Yeda Research and Development Co. Ltd. respectfully requests that the Board allow Nicholas K. Mitrokostas to appear *pro hac vice* on its behalf in this proceeding. Petitioner has stated that it will not oppose this motion.

II. REASONS THE REQUESTED RELIEF SHOULD BE GRANTED

As set forth in the Statement of Material Facts below, and as required by 37 C.F.R. § 42.10(c), Patent Owner has demonstrated good cause to admit Mr. Mitrokostas *pro hac vice* in this proceeding. In particular, Patent Owner’s lead counsel is a registered practitioner, and Mr. Mitrokostas is an experienced litigating attorney having an established familiarity with the subject matter at issue in this proceeding.

Furthermore, this motion is being filed more than twenty one days after service of the petition; includes a statement of facts showing good cause for the Board to recognize Mr. Mitrokostas *pro hac vice*; and is being filed concurrently with Exhibit 2138, the Declaration of Nicholas K. Mitrokostas in Support of Patent Owner’s Motion for *Pro Hac Vice* Admission of Nicholas K. Mitrokostas

(“Mitrokostas Decl.”), all in accordance with the “Order Authorizing Motion for *Pro Hac Vice* Admission” in *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 at 3 (P.T.A.B. Oct. 15, 2013).

III. STATEMENT OF MATERIAL FACTS

1. 37 C.F.R. § 42.10(c) provides that “[t]he 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.”
2. Elizabeth J. Holland, lead counsel for Patent Owner Yeda Research and Development Co. Ltd. in this proceeding, is a registered practitioner holding Registration No. 47,657.
3. As set forth in the Mitrokostas Decl., Mr. Mitrokostas is an experienced litigating attorney. Specifically, Mr. Mitrokostas has over a decade of experience representing clients in patent litigations, primarily in the chemical arts, in United States district courts and the Court of Appeals for the Federal Circuit.

(Mitrokostas Decl., ¶¶ 2-3). Mr. Mitrokostas also has over a decade of

experience litigating cases on behalf of the Patent Owner and Teva entities, both generally and in litigations related to GA and Copolymer 1. (Mitrokostas Decl., ¶¶ 5-7).

4. Mr. Mitrokostas also has an established familiarity with the precise subject matter at issue in this proceeding. Petitioner and Patent Owner are currently involved in district court litigation involving U.S. Patent No. 8,399,413 (“the ’413 patent”), the patent at issue in this proceeding, against Petitioner and several other defendants in *Teva Pharmaceuticals USA, Inc. et al. v. Mylan Pharmaceuticals Inc. et al.*, Civil Action No. 1:14-cv-01278-GMS (D.Del.) (consolidated as *In re Copaxone 40 MG Consolidated Cases*, Case No. 1:14-cv-01171-GMS (D. Del.)), as well as in *Teva Pharmaceuticals USA, Inc. et al. v. Mylan Pharmaceuticals Inc. et al.*, Case No. 1:14-cv-00167-IMK (N.D.W.Va). Mr. Mitrokostas is litigation counsel for Teva Pharmaceuticals USA, Inc., Teva Pharmaceutical Industries Ltd., Teva Neuroscience, Inc. and Yeda Research and Development Co., Ltd., in these litigations. In the course of this representation, he has developed a strong familiarity with the ’413 patent, its prosecution history, the general subject matter to which the ’413 patent is directed, and the prior art references relied upon by Petitioner in support of its invalidity grounds in this proceeding. (Mitrokostas Decl., ¶ 8). Additionally, Mr. Mitrokostas has

thoroughly reviewed the Petition and accompanying Exhibits submitted in this proceeding. (*Id.*).

5. Mr. Mitrokostas has attested to each of the requirements set forth in paragraph 2(b)(i)-(viii) of the “Order Authorizing Motion for *Pro Hac Vice* Admission” in Case IPR2013-00639, Paper 7 at 3. (Mitrokostas Decl., ¶¶ 3, 4, 6-8, 9-13).

IV. CONCLUSION

In view of the foregoing, Patent Owner respectfully submits that the requirements of 37 C.F.R. § 42.10(c) have been satisfied, and requests an Order permitting Nicholas K. Mitrokostas to appear *pro hac vice* on its behalf in this proceeding.

Dated: December 21, 2015

Respectfully submitted,

/Elizabeth J. Holland/

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