

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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JDS UNIPHASE CORPORATION  
Petitioner

v.

CAPELLA PHOTONICS, INC.  
Patent Owner

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Case IPR2015-00731  
Patent RE42,368

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**AFFIDAVIT OF NICHOLAS J. NOWAK IN SUPPORT OF  
*PRO HAC VICE* ADMISSION UNDER 37 C.F.R. § 42.10(c)**

***Mail Stop "PATENT BOARD"***  
Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-145

Capella 2015

1. I, Nicholas J. Nowak, am more than twenty-one years of age, am competent to present this affidavit, and have personal knowledge of the facts set forth herein.

2. This affidavit is given in support of the Patent Owner Capella Photonics, Inc.'s Motion for *Pro Hac Vice* Admission.

3. I am Of Counsel at the law firm of Sterne, Kessler, Goldstein and Fox P.L.L.C.

4. I have been a patent litigation attorney for approximately 13 years, and I've been litigating patent cases during that entire time period. I have litigated numerous patent infringement actions involving a variety of technologies and have significant experience in all aspects of patent litigation, including depositions, claim construction proceedings, and various stages of trial.

5. I am a member in good standing of the Bars of: Massachusetts, New York, the District of Columbia, the United States Court of Appeals for the Federal Circuit, and the United States District Court for the Southern District of New York. I have never been suspended or disbarred from practice before any court or administrative body.

6. I have never been denied admission to practice before any court or administrative body.

7. No court or administrative body has ever imposed sanctions or contempt citations on me.

8. I have 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 37 C.F.R.

9. I understand that I will be subject to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a).

10. I have an established familiarity with the subject matter at issue in this proceeding. I have reviewed in detail U.S. Patent No. RE42,368 ("the '368 patent"), which is the patent challenged in this proceeding. I have also reviewed Exhibits by Petitioner in this proceeding.

11. I have an established familiarity with the subject matter at issue in this proceeding. I have read and understand the pleadings submitted by Petitioner and Patent Owner in this proceeding. I have engaged in numerous hours of strategic and substantive discussions regarding this proceeding with counsel for Patent Owner in this proceeding. Through my 13 years of patent litigation and infringement experience, I am very familiar with the legal theories advanced in this case.

12. Through my direct participation in the development of this case on behalf of Patent Owner, I have an established familiarity with the subject matter at issue in this proceeding.

13. I have previously been admitted to appear *pro hac vice* in three proceedings before the Patent Trial and Appeal Board: Cases IPR2014-01166, IPR2014-01276, and IPR2014-01546. I have not applied to appear *pro hac vice* in any other proceedings before the Office in the last three (3) years.

  
Nicholas J. Nowak

Sworn to and subscribed before me  
this 16<sup>th</sup> day of September, 2015.



Notary Public

My Commission Expires 10/14/2019

JOY L. CLAY  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires October 14, 2019

