

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NEPTUNE GENERICS, LLC,  
APOTEX INC., APOTEX CORP.,  
TEVA PHARMACEUTICALS USA, INC.,  
and FRESENIUS KABI USA, LLC,

PETITIONERS,

V.

ELI LILLY & COMPANY,

PATENT OWNER.

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Case IPR2016-00237<sup>1</sup>  
Patent 7,772,209

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**PETITIONER'S UNOPPOSED MOTION FOR *PRO HAC VICE*  
ADMISSION OF PAUL J. SKIERMONT AS BACK-UP COUNSEL**

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<sup>1</sup> Cases IPR2016-01190 and IPR2016-01341 have been joined with the instant proceeding.

Pursuant to 37 C.F.R. § 42.10(c), Neptune Generics, LLC (“Neptune”) hereby respectfully requests that the Board grant admission *pro hac vice* to Mr. Paul J. Skiermont to act as back-up counsel in this proceeding.

## **I. INTRODUCTION AND BACKGROUND**

Counsel for Neptune consulted with counsel for Patent Owner, Eli Lilly & Company (“Lilly”), and Lilly agreed it would not oppose the present motion for *pro hac vice* admission of Mr. Skiermont.

On June 3, 2016, the Patent Trial and Appeal Board (the “Board”) instituted *inter partes* review of Lilly’s U.S. Patent No. 7,772,209. (*See* Paper 13.) The Board had previously authorized the parties to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c). (*See* Paper 3 at 2.) Therefore, the present motion is proper at this time.

## **II. STATEMENT OF FACTS SHOWING GOOD CAUSE FOR THE PRESENT MOTION**

37 C.F.R. § 42.10(c) states 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.”

As explained and attested to in the accompanying Declaration of Paul J. Skiermont, Mr. Skiermont has an established familiarity of the subject matter at issue in this *inter partes* review. (Ex. 1041 ¶¶ 11-18.) Mr. Skiermont is an experienced patent litigation attorney with specific experience serving as lead or co-lead trial counsel in cases related to pharmaceutical patents, and has received awards and recognition related to this work. (*Id.* ¶¶ 9–10.)

Mr. Skiermont is a Member in good standing with the Texas (2001) and Illinois (2002) State Bars and is admitted to practice in numerous Federal Courts, including the U.S. Courts of Appeals for the Federal and Eighth Circuits; the U.S. District Courts for the Northern, Eastern, and Western District of Texas; the U.S. District Court for the Northern District of Illinois; the U.S. District Court for the District of Nebraska; the U.S. District Court for the District of Colorado; the U.S. District Court for the Eastern District of Michigan; the U.S. District Court for the Southern District of Ohio; and the U.S. District Court for the Northern District of New York. (*Id.* ¶ 1.)

Mr. Skiermont has applied to appear *pro hac vice* before the Office in ten other proceedings within the last three years (eight of which arose from applying for admission in two different proceedings containing four related petitions). (*Id.* ¶

2.) On March 3, 2015, Mr. Skiermont applied to appear *pro hac vice* in IPR2015-00720, and that application was granted on August 21, 2015 (*see* IPR2015-00720, Paper 13); however, the Board denied institution in that proceeding. (Ex. 1041 ¶ 2.) On November 30, 2015, Mr. Skiermont applied to appear *pro hac vice* in *Coalition for Affordable Drugs VI LLC v. Celgene Corporation*, IPR2015-01092; IPR2015-01096; IPR2015-01102; and IPR2015-01103, and those four related applications were granted on December 2, 2015 (*see* IPR2015-01092, Paper 31; IPR2015-01096, Paper 32; IPR2015-01102, Paper 32; and IPR2015-01103, Paper 33). (*Id.* ¶ 2.) On February 19, 2016, Mr. Skiermont applied to appear *pro hac vice* in *Coalition for Affordable Drugs II LLC v. Cosmo Technologies LTD.*, IPR2015-00988, and that application was granted on March 1, 2016 (*see* IPR2015-00988, Paper 26). (*Id.* ¶ 2.) On May 3, 2016, Mr. Skiermont applied to appear *pro hac vice* in *Coalition for Affordable Drugs (Adroca) LLC v. Acorda Therapeutics, Inc.*, IPR2015-01850; IPR2015-01853; IPR2015-01857; and IPR2015-01858, and those four related applications were granted on May 16, 2016 (*see* IPR2015-01850, Paper 24; IPR2015-01853, Paper 24; IPR2015-01857, Paper 25; and IPR2015-01858, Paper 23). (*Id.* ¶ 2.) Concurrently with this motion, Petitioner is also filing a motion for *pro hac vice* admission for Mr. Skiermont in IPR2016-00240.

Mr. Skiermont has never been disbarred or suspended from practice before any court or administrative body. (*Id.* ¶ 3.)

Mr. Skiermont has never had any sanctions or contempt citations imposed on him from any court or administrative body. (Ex. 1041 ¶ 4.)

Mr. Skiermont has never been denied any application for admission to practice before any court or administrative body. (*Id.* ¶ 5.)

Neptune's lead counsel for this proceeding, Ms. Sarah Spires, is a registered patent practitioner. (*Id.* ¶ 8.) Neptune seeks the admission of Mr. Skiermont as back-up counsel.

Mr. Skiermont has established deep familiarity with the subject matter at issue in this proceeding. (*Id.* ¶¶ 11–18.) Mr. Skiermont has read and analyzed the Petition and supporting materials, and has read and analyzed U.S. Patent No. 7,772,209 ('209 Patent) as well as its prosecution history. (*Id.* ¶¶ 12–13.) Mr. Skiermont is the attorney from Skiermont Derby LLP that led and attended all meetings between his firm and Neptune related to the Petition at issue in this proceeding (*Id.* ¶ 14), is the attorney from Skiermont Derby LLP that conducted his firm's analysis of the Grounds for invalidity for the Petition (*Id.* ¶ 15), is the attorney from Skiermont Derby LLP that directs and supervises the work conducted by the lead and back-up counsel to the Petition, all of whom are registered patent practitioners (*Id.* ¶ 17), and is lead counsel representing Canda NK-2 in ANDA litigation concerning the same patent at issue here. (*Id.* ¶ 18).

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