

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ARGENTUM PHARMACEUTICALS LLC  
Petitioner

v.

ALCON RESEARCH, LTD  
Patent Owner

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Patent No. 8,791,154  
Issue Date: July 29, 2014  
Title: HIGH CONCENTRATION OLOPATADINE  
OPHTHALMIC COMPOSITION

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*Inter Partes* Review No. 2016-00544

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**MOTION FOR *PRO HAC VICE* ADMISSION  
PURSUANT TO 37 C.F.R § 42.10(c)**

## I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c) and the Board's Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response, which authorizes the parties to file motions for *pro hac vice* admission, Paper 4 at 2, Patent Owner Alcon Research, Ltd., submits the following motion for admission *pro hac vice* of Thomas H. L. Selby of Williams & Connolly LLP, 725 Twelfth Street, N.W., Washington, DC 20005 in the above-captioned matter.

## II. GOVERNING LAW, RULES, AND PRECEDENT

The Board is authorized to recognize counsel *pro hac vice* pursuant to 37 C.F.R. § 42.10(c), which provides 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.

The Unified Patents Order requires that a *pro hac vice* motion “[c]ontain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding.” Order – Authorizing Motion for *Pro Hac*

Vice Admission – 37 C.F.R. § 42.10, IPR2013-00639, Paper 7 at 3. A motion for *pro hac vice* admission should also be accompanied by an affidavit of the individual seeking to appear attesting to the following:

- i. Membership in good standing of the Bar of at least one State or the District of Columbia;
- ii. No suspensions or disbarments from practice before any court or administrative body;
- iii. No application for admission to practice before any court or administrative body ever denied;
- iv. No sanctions or contempt citations imposed by any court or administrative body;
- v. The individual seeking to appear has 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.;
- vi. The individual 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);
- vii. All other proceedings before the Office for which the individual has applied to appear *pro hac vice* in the last three (3) years; and
- viii. Familiarity with the subject matter at issue in the proceeding.

Order – Authorizing Motion for *Pro Hac Vice* Admission – 37 C.F.R. § 42.10, IPR2013-00639, Paper 7 at 3.

### III. STATEMENT OF FACTS

Based on the following facts, and supported by the Affidavit of Mr. Selby (Ex. 2003) submitted herewith, Patent Owner requests the *pro hac vice* admission of Thomas H. L. Selby in this proceeding:

1. Patent Owner's lead counsel, David M. Krinsky (Reg. No. 72,339), and back-up counsel, Thomas S. Fletcher (Reg. No. 72,383), are registered practitioners before the Board.
2. Mr. Selby is an experienced litigation attorney. Mr. Selby has more than sixteen (16) years of patent litigation experience. Ex. 2003 ¶ 1.
3. Mr. Selby has established familiarity with the subject matter at issue in this proceeding. As detailed below, Mr. Selby is trial counsel to Patent Owner's related proceeding in which the '154 patent is at issue. Ex. 2003 ¶ 10.
4. Mr. Selby is a member in good standing of the bars of the State of Texas and the District of Columbia. Ex. 2003 ¶ 3.
5. Mr. Selby has never been suspended or disbarred from practice before any court or administrative body. Ex. 2003 ¶ 4.
6. No court or administrative body has ever denied Mr. Selby's application for admission to practice before it. Ex. 2003 ¶ 5.

7. No court or administrative body has ever imposed sanctions or contempt citations on Mr. Selby. Ex. 2003 ¶ 6.
8. Mr. Selby has 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. Ex. 2003 ¶ 7.
9. Mr. Selby understands that he will be subject to the USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§ 11.101 et seq. and will be subject to disciplinary jurisdiction under 37 C.F.R. § 11.19(a). Ex. 2003 ¶ 8.
10. Mr. Selby has applied to appear *pro hac vice* in two other proceedings before the Office in the last three (3) years: (1) Patent Interference No. 105,838; and (2) *Apotex, Inc. v. Wyeth LLC*, IPR2014-00115, challenging U.S. Patent No. 7,879,828. Ex. 2003 ¶ 9.

**IV. GOOD CAUSE EXISTS FOR THE *PRO HAC VICE* ADMISSION OF MR. SELBY IN THIS PROCEEDING**

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. 37 C.F.R. § 42.10(c). Patent Owner's lead counsel, David M. Krinsky, and back-up counsel, Thomas S. Fletcher, are registered practitioners before the Board. Based on the

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