

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD**

MYLAN PHARMACEUTICALS INC., TEVA PHARMACEUTICALS USA,
INC., and AKORN INC.,¹
Petitioners,

v.

ALLERGAN, INC.,
Patent Owner.

Case IPR2016-01127 (8,685,930 B2)
Case IPR2016-01128 (8,629,111 B2)
Case IPR2016-01129 (8,642,556 B2)
Case IPR2016-01130 (8,633,162 B2)
Case IPR2016-01131 (8,648,048 B2)
Case IPR2016-01132 (9,248,191 B2)

**PATENT OWNER SAINT REGIS MOHAWK TRIBE'S
MOTION FOR *PRO HAC VICE* ADMISSION OF
MARSHA K. SCHMIDT UNDER 37 C.F.R. § 42.10(c)**

¹ Cases IPR2017-00576 and IPR2017-00594, IPR2017-00578 and IPR2017- 00596, IPR2017-00579 and IPR2017-00598, IPR2017-00583 and IPR2017- 00599, IPR2017-00585 and IPR2017-00600, and IPR2017-00586 and IPR2017-00601, have respectively been joined with the captioned proceedings. The word-for-word identical paper is filed in each proceeding identified in the caption pursuant to the Board's Scheduling Order (Paper 10).

I. RELIEF REQUESTED

Under 37 C.F.R. § 42.10(c), Patent Owner, Saint Regis Mohawk Tribe, respectfully request the *pro hac vice* admission of Marsha K. Schmidt in these proceedings.

II. GOVERNING LAWS, RULES, AND PRECEDENT

Section 42.10(c) states as follows:

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 stated in the "Order Authorizing Motion for Pro Hac Vice Admission" entered in Case IPR2013-00010 (MPT) (Paper 6) ("Motorola Order"), any motion for *pro hac vice* admission under 37 C.F.R. § 42.10(c) must be filed "no sooner than (21) days after service of the petition.

III. STATEMENT OF FACTS

Based on the following facts, and supported by the Declaration of Marsha K. Schmidt submitted herewith, Saint Regis Mohawk Tribe requests the *pro hac vice* admission of Marsha K. Schmidt in this proceeding.

1. Patent Owner Saint Regis Mohawk Tribe's lead counsel, Alfonso Chan, is a registered practitioner (Reg. No. 45,964).
2. In addition, Allergan, Inc.'s lead counsel, Dorothy Whelan, is a registered practitioner (Reg. No. 33,814).
3. Marsha Schmidt is an attorney with expertise in Indian law, practicing in Washington, D.C. Declaration of M. Schmidt, ¶ 3.
4. Ms. Schmidt is an experienced attorney who has been litigating Indian law cases for over 30 years. Declaration of M. Schmidt, ¶ 3
5. Ms. Schmidt is an expert in tribal sovereign immunity which is the subject matter at issue in this proceeding. Ms. Schmidt has represented the Saint Regis Mohawk Tribe and many other tribes in the course of her career on Indian law issues including sovereign immunity. *Id.* at ¶¶ 11-12.
6. Ms. Schmidt is a member in good standing of the District of Columbia Bar. *Id.* at ¶ 4.
7. Ms. Schmidt has never been suspended or disbarred from practice before any court or administrative body. *Id.* at ¶ 5.
8. No application of Ms. Schmidt for admission to practice before any court or administrative body has ever been denied. *Id.* at ¶ 6.
9. No sanctions or contempt citations have ever been imposed against Ms. Schmidt by any court or administrative body. *Id.* at ¶ 7.

10. Ms. Schmidt has read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in 37 C.F.R. § 42. *Id.* at ¶ 8.

11. Ms. Schmidt understands that she will be subject to the USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§ 10.20 *et seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a). *Id.* at ¶ 9.

12. Ms. Schmidt has not applied to appear *pro hac vice* in any other proceedings before the Office in the last three years. *Id.* at ¶ 10.

13. This motion was filed more than 21 days after service of the Petition in this proceeding.

IV. GOOD CAUSE EXISTS FOR THE *PRO HAC VICE* ADMISSION OF MS SCHMIDT 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, Alfonso Chan, is a registered practitioner. Based on the facts contained herein, as supported by Ms. Schmidt's Declaration, good cause exists to admit Ms. Schmidt *pro hac vice* in this proceeding.

Ms. Schmidt has unique knowledge of the law on tribal sovereign immunity. Ms. Schmidt has represented the Patent Owner Saint Regis Mohawk Tribe for over 20 years in various proceedings and the Patent Owner, Saint Regis Mohawk Tribe,

has a substantial need for Mr. Evans's *pro hac vice* admission and her involvement in the briefing and oral arguments concerning that issue.

V. CONCLUSION

For the foregoing reasons as well as the reasons contained in the attached affidavit, Patent Owner Saint Regis Mohawk Tribe respectfully requests admission of Marsha K. Schmidt as counsel *pro hac vice* in this proceeding.

Dated: September 22, 2017

Respectfully submitted,

/Alfonso Chan/

Alfonso Chan, Reg. No. 45,964

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