

Filed on behalf of Ancestry.com DNA, LLC

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ANCESTRY.COM DNA, LLC,  
Petitioner

v.

DNA GENOTEK INC.,  
Patent Owner.

*Inter Partes* Review No. IPR 2016-01152  
Patent 8,221,381 B2

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**DECLARATION OF MICHAEL J. SACKSTEDER IN SUPPORT OF  
PETITIONER'S MOTION FOR *PRO HAC VICE* ADMISSION OF  
MICHAEL J. SACKSTEDER PURSUANT TO 37 C.F.R. § 42.10(c)**

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I, Michael J. Sacksteder, declare as follows:

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

2. This declaration is made in support of Petitioner Ancestry.com DNA LLC's Motion for *Pro Hac Vice* Admission of Michael J. Sacksteder Pursuant to 37 C.F.R. § 42.10(c).

3. I am a Partner at the law firm Fenwick & West LLP.

4. I have been a litigating attorney for more than 18 years. I have been litigating patent cases during that entire time period.

5. I am a member in good standing of the Bar of the State of California. I have never been suspended or disbarred from practice before any court or administrative body.

6. No court or administrative body has ever denied my application for admission to practice before it.

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 the C.F.R.

9. I understand that I will be subject to the USPTO Code of Professional Responsibility 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 served as counsel for an *inter partes* review proceeding before, and I have been admitted to appear *pro hac vice* in six other *inter partes* review proceedings before the Office within the last three years. One of those proceedings is IPR2016-00060, which has been instituted and is directed to the same patent at issue in the instant *inter partes* review petition — U.S. Patent No. 8,221,381.

11. I have an established familiarity with the subject matter at issue in this proceeding. I was previously serving as a supervising attorney in two of the co-pending district court litigations identified as Related Matters pursuant to 37 C.F.R. § 42.8(b)(2) by Petitioner (Paper No. 1) and by Patent Owner (Paper No. 5): (i) *DNA Genotek, Inc. v. Ancestry.com DNA LLC*, Case No. 15-cv-00355-SLR (D. Del.) (the “Ancestry litigation”); and (ii) *DNA Genotek, Inc. v. Spectrum DNA, Spectrum Solutions LLC, and Spectrum Packaging, LLC*, Case No. 15-cv-00661-SLR (D. Del.) (the “Spectrum litigation”). Both of these district court litigations involve the same patent at issue in this proceeding, U.S. Patent No. 8,221,381 (“the ’381 patent”). As trial counsel for Petitioner in the Ancestry litigation and for the Spectrum defendants in the Spectrum litigation, I was actively involved in all

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Sacksteder Declaration ISO Motion for *Pro Hac Vice* Admission

aspects of the district court litigations, including factual investigation and development of non-infringement and invalidity positions regarding the claims of the '381 patent challenged in this proceeding. In addition, I am admitted *pro hac vice* in IPR2016-00060, which has been instituted and is also directed to the '381 patent.

12. I have also reviewed in detail the '381 patent, which is the patent involved in this proceeding, as well as the Petition and prior art upon which the Petitioner bases its challenge. I am thus very familiar with the '381 patent and the issues in this case.

13. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

EXECUTED at San Francisco, California this 20th day of September, 2016.

/Michael J. Sacksteder/

Michael J. Sacksteder