

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EDWARDS LIFESCIENCES CORP., EDWARDS LIFESCIENCES LLC, AND
EDWARDS LIFESCIENCES AG,

Petitioners,

v.

BOSTON SCIENTIFIC SCIMED, INC.,

Patent Owner.

Case IPR2017-00060

Patent 8,992,608

Before the Honorable NEIL T. POWELL, JAMES A. TARTAL, and ROBERT L.
KINDER, *Administrative Patent Judges.*

**DECLARATION OF MARC A. COHN IN SUPPORT OF
MOTION FOR *PRO HAC VICE* ADMISSION**

I, Marc A. Cohn, declare:

1. I am a partner at the law firm of Arnold & Porter Kaye Scholer LLP.

I make this declaration in support of Patent Owner's Motion for *Pro Hac Vice* Admission of Marc A. Cohn. I have personal knowledge of the facts set forth below.

2. I am a member in good standing of the District of Columbia Bar.

3. I am also admitted to practice and in good standing in the following

United States courts:

- United States Court of Appeals for the First Circuit
- United States Court of Appeals for the Seventh Circuit
- United States Court of Appeals for the Federal Circuit

4. I have never been suspended or disbarred from practice before any court or administrative body.

5. I have never had an application for admission to practice before any court or administrative body denied.

6. No sanctions or contempt citations have ever been imposed against me by any court or administrative body.

7. 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 title 37 of the Code of Federal Regulations.

8. I agree to 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).

9. I have applied to appear *pro hac vice* in one other proceeding before the USPTO in the last three years: IPR2016-00868. The USPTO granted my *pro hac vice* application in IPR2016-00868.

10. I am an experienced litigation attorney. I have been practicing law since 2000 and have extensive experience litigating patent infringement cases in United States District Courts and the United States Court of Appeals for the Federal Circuit. I have participated in numerous patent infringement cases, wherein I have presented claim construction arguments during *Markman* hearings, argued motions for summary judgment and motions *in limine*, conducted depositions of expert witnesses regarding validity and infringement, and participated in multiple jury trials. I am well versed in the law regarding claim construction and obviousness.

11. I have represented Boston Scientific Scimed, Inc. (“Patent Owner”) and its parent entity, Boston Scientific Corporation, in many of their patent litigation matters over the years, including with respect to medical devices. I have an established familiarity with Patent Owner and its business, medical devices, patent portfolio, in-house counsel, and litigation preferences and objectives.

12. I have an established familiarity with the subject matter at issue in this proceeding. I am counsel and technical lead for Patent Owner in the related district court litigation against Petitioner Edward Lifesciences Corporation, captioned *Boston Scientific Corp. et al. v. Edwards Lifesciences Corp.*, Case No. 1:16-cv-00275-SLR-SRF (D. Del.). That litigation also involves U.S. Patent No. 8,992,608 (the “608 patent”) and overlaps with this proceeding on a number of significant issues, including the technology disclosed and claimed in the ‘608 patent, the interpretation of the ‘608 patent’s claims, and the validity of the ‘608 patent. As counsel and technical lead, I have been heavily involved in all substantive decisions, including forming Patent Owner’s claim construction, infringement, and validity positions. As such, I have a substantial familiarity with the subject matter of this proceeding, including, *inter alia*, the ‘608 patent, its prior art, and the field of transcatheter aortic heart valves.

13. If admitted *pro hac vice* in this proceeding, I expect to participate in depositions and potentially present part of the oral argument before the Board, if requested by either party.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 9, 2017.

/Marc A. Cohn/
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