

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MYLAN PHARMACEUTICALS INC.,
Petitioner

v.

QUALICAPS CO., LTD,
Patent Owner

Case IPR2017-00203
Patent 6,649,180

**PATENT OWNER'S UNOPPOSED MOTION FOR ADMISSION
PRO HAC VICE OF MICHAEL N. KENNEDY UNDER 37 C.F.R. § 42.10**

DC: 6428554-3

I. Relief Requested

Pursuant to 37 C.F.R. § 42.10, and in accordance with the Board's Order, Paper No. 7 in Case IPR2013-00639, and the Notice of Filing Date Accorded to Petition (Paper No. 3), Patent Owner requests that the Board admit Michael N. Kennedy *pro hac vice* in this proceeding. Counsel for Petitioner has informed the undersigned that Petitioner does not oppose this motion.

II. Statement of Facts

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.” The facts, supported by the attached Declaration of Michael N. Kennedy in Support of Patent Owner's Motion for Admission *Pro Hac Vice* (“Kennedy Declaration”), establish good cause to admit Mr. Kennedy *pro hac vice* in this proceeding.

1. Lead counsel, Jessica L. Parezo, is a registered practitioner.

2. Counsel, Michael N. Kennedy, is an experienced litigating attorney with over ten years in private law practice. Kennedy Decl. at ¶ 9. Mr. Kennedy has substantial experience with bench trials, jury trials, and *Markman* hearings and has been counsel in over twenty patent infringement matters. *Id.* Mr. Kennedy is a member in good standing of the New York State Bar and the District of Columbia Bar. *Id.* at ¶ 2. He is also admitted to practice in the United States District Court for the Southern District of New York, United States Court of Appeals for the Federal Circuit, and United States Court of Appeals for the Eleventh Circuit. *Id.* He has no suspensions or disbarments from practice, nor any application for admission to practice denied, nor any sanctions or contempt citations. *Id.* at ¶¶ 3-5.

3. Mr. Kennedy was admitted to practice before this Board *pro hac vice* in IPR2015-01776, IPR2015-01780, and IPR2015-01785. *See Coalition for Affordable Drugs X, LLC v. Anacor Pharms., Inc.*, IPR2015-01776, IPR2015-01780, and IPR2015-01785, Paper No. 42 (P.T.A.B. June 29, 2016); Kennedy Decl. at ¶ 8. Mr. Kennedy was also admitted to practice before this Board *pro hac vice* in IPR2016-00458. *See Eli Lilly and Company v. The Trustees of The University of Pennsylvania*, IPR2016-00458, Paper No. 28 (P.T.A.B. Nov. 8, 2016); Kennedy Decl. at ¶ 8.

4. Mr. Kennedy has familiarity with the subject matter and patent at issue in this proceeding, U.S. Patent No. 6,649,180 (“the ’180 Patent”), including

its prosecution history and the scientific field to which the '180 Patent is addressed. Kennedy Decl. at ¶ 10. Mr. Kennedy is one of the counsel of record for Patent Owner in co-pending district court litigation concerning the '180 Patent. His extensive involvement in the co-pending litigation required developing a thorough understanding of the patent at issue in this proceeding, the prior art, and the relevant scientific field. *Id.* In August 2016, he presented argument for Patent Owner at the *Markman* hearing in the district court litigation. *Id.*

5. Mr. Kennedy has read and will comply with the Office Patent Trial Guide and the Board's Rules for Practices for Trials set forth in Part 42 of the C.F.R., and he agrees 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). *Id.* at ¶¶ 6-7.

III. Analysis

The facts contained in the Statement of Facts above, and contained in the Kennedy Declaration, establish that there is good cause to admit Mr. Kennedy *pro hac vice* in this proceeding, under 37 C.F.R. § 42.10. Lead counsel is a registered practitioner, Mr. Kennedy is an experienced litigating attorney, and Mr. Kennedy has an established familiarity with the subject matter at issue in this proceeding.

IV. Conclusion

For the foregoing reasons, Patent Owner respectfully requests that the Board admit Michael N. Kennedy *pro hac vice* in this proceeding.

Date: May 31, 2017

Respectfully submitted,

By

Jessica L. Parezo

Registration No.: 50,286

Andrea G. Reister

Registration No.: 36,253

Scott E. Kamholz

Registration No.: 48,543

COVINGTON & BURLING LLP

One CityCenter, 850 Tenth Street, NW

Washington, DC 20001

(202) 662-6000

MaryAnne Armstrong

Registration No.: 40,069

Lynde F. Herzbach

Registration No.: 74,886

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road, Suite 100 East

Falls Church, VA 22042

(703) 205-8000

Attorneys for Patent Owner

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