

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FAMY CARE LIMITED,

Petitioner,

v.

ALLERGAN, INC.,

Patent Owner.

Case IPR2017-00569

Patent 9,248,191

**PETITIONER'S MOTION FOR *PRO HAC VICE*
ADMISSION OF PETER J. CURTIN AS BACK-UP COUNSEL**

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 3 at 2, Petitioner Famy Care Limited (“Famy Care”) hereby respectfully requests that the Board grant admission *pro hac vice* to Mr. Peter J. Curtin to act as back-up counsel in this proceeding.

I. GOVERNING LAW, RULES, AND PRECEDENT

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 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,

II. STATEMENT OF FACTS

As explained and attested to in the accompanying Declaration of Peter J. Curtin (attached as Exhibit 1034), Mr. Curtin is a Member in good standing with the Bar of the District of Columbia and is admitted to practice in the District of Columbia Court of Appeals, the U.S. Court of Appeals for the Federal Circuit, the U.S. Court of Appeals for the Fourth Circuit, the U.S. District Court for the District of Columbia, the U.S. District Court for the District of Maryland, and the U.S. District Court for the Eastern District of Wisconsin. (Ex. 1034 at ¶ 3).

Mr. Curtin has never been disbarred or suspended from practice before any court or administrative body. (*Id.* at ¶ 4). Mr. Curtin has never had any sanctions or contempt citations imposed on him from any court or administrative body. (*Id.*). Mr. Curtin has never been denied any application for admission to practice before any court or administrative body. (*Id.*).

Famy Care's lead counsel for this proceeding, Ms. Deanne M. Mazzochi, is a registered patent practitioner. (*Id.* at ¶ 5). Famy Care seeks the admission of Mr. Curtin as back-up counsel.

Mr. Curtin has established deep familiarity with the specific subject matter at issue in this proceeding. (*Id.* ¶ 6). Mr. Curtin is counsel for Famy Care in *Allergan, Inc. v. Teva Pharms. USA, Inc.*, Case No. 2: 15-cv-1455 WCB (E.D. Tex.), the

litigation relating to the patent at issue here. (*Id.*). Mr. Curtin has reviewed and analyzed the Petition and supporting materials, has reviewed and analyzed U.S. Patent No. 9,248,191 ('191 Patent) and its prosecution history, and has reviewed related IPR petitions, including those filed by Famy Care on related patents and those filed by other parties on the '191 Patent. (*Id.* at ¶ 7). Mr. Curtin has an established familiarity of the subject matter at issue in this *inter partes* review. (*Id.* at ¶¶ 6-7). Mr. Curtin is an experienced patent litigation attorney with specific experience serving as counsel in cases related to pharmaceutical patents. (*Id.* at ¶ 6). As a result of his work in those cases, Mr. Curtin has gained expertise with regard to inventions in the field of pharmaceuticals.

Finally, Mr. Curtin 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 *et. seq.*, and has agreed to be subject to the USPTO Rules 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). (*Id.* at ¶¶ 8-9).

III. STATEMENT OF RELIEF REQUESTED

For the foregoing reasons, Petitioner respectfully requests that the Board grant admission *pro hac vice* to Mr. Curtin as back-up counsel.

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