

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NEPTUNE GENERICS, LLC  
Petitioner,

v.

CORCEPT THERAPEUTICS, INC.  
Patent Owner.

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Case IPR2018-01494  
Patent No. 8,921,348 B2

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**NEPTUNE GENERICS, LLC'S MOTION FOR  
*PRO HAC VICE* ADMISSION OF LEONARD A. GAIL  
UNDER 37 C.F.R. §42.10(c)**

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Pursuant to 37 C.F.R. § 42.10(c) and the Board's notice of filing date in the present case (see Paper No. 3), Petitioner Neptune Generics, LLC ("Neptune") respectfully moves for the *pro hac vice* admission of attorney Leonard A. Gail, Esq. of Massey & Gail LLP in the present case.

### **A. Applicable Law**

37 C.F.R. § 42.10(c) provides:

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 Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response (Paper No. 3) in this case further instructs:

The parties are advised that under 37 C.F.R. § 42.10(c), recognition of counsel *pro hac vice* requires a showing of good cause. The parties are authorized to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c). Such motions shall be filed in accordance with the “Order -- Authorizing Motion for *Pro Hac Vice* Admission” in Case IPR2013-00639, Paper 7 [“Order”], a copy of which is available on the Board Web site under “Representative Orders, Decisions, and Notices.”

The Order requires that a motion for *pro hac vice* admission must:

- a. Contain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding.
- b. Be accompanied by an affidavit or declaration 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 at 2–3.

**B. Statement of Facts Showing Good Cause for *Pro Hac Vice* Admission of Leonard A. Gail**

*Pro hac vice* admission of Mr. Gail is warranted under section 42.10(c) and the principles set forth in the Order. Pursuant to the Order, the Declaration of Leonard A. Gail (Ex. 1035, “Gail Decl.”) is filed herewith.

There is good cause for recognizing Mr. Gail *pro hac vice* in this case. Mr. Gail is an experienced litigation attorney admitted to practice in Illinois (Illinois State Bar No. 6199745). Gail Decl. ¶ 2.

Mr. Gail has never been suspended or disbarred from practice before any court or administrative body. *Id.* ¶ 3. No application of Mr. Gail for admission to practice before any court or administrative body has ever been denied. *Id.* No court or administrative body has ever imposed a sanction or contempt citation on Mr. Gail. *Id.*

Mr. Gail has read and will comply with the Office Patent Trial Practice Guide and Board's Rules of Practice for Trials set forth in part 42 of 37 C.F.R. *Id.* ¶ 4. Mr. Gail acknowledges and agrees that he 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). *Id.*

Mr. Gail received his Bachelor of Arts Degree from Dartmouth College in 1985, and his law degree from Harvard University in 1988. *Id.* ¶ 5. He is a founding partner of Massey & Gail LLP (founded in 2008), with three decades of experience in civil and criminal trials and litigation. *Id.* ¶ 6. He has also been involved in litigation, trials, and counseling related to patent disputes throughout much of his legal career. *Id.*

Mr. Gail also has a familiarity with the subject matter at issue in this proceeding. He has been actively involved in analyzing and assisting with the Petition for *Inter Partes* Review submitted in this proceeding. *Id.* ¶ 7.

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