

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WALMART INC.; Z-SHADE CO., LTD.;
COSTCO WHOLESALE CORPORATION;
LOWE'S HOME CENTERS, LLC; and
SHELTERLOGIC CORP.

Petitioner

v.

CARAVAN CANOPY INTERNATIONAL, INC.

Patent Owner

Case IPR2020-01026

Patent No. 5,944,040

UNOPPOSED MOTION FOR KATHLEEN R. GEYER TO APPEAR *PRO HAC VICE* ON BEHALF OF PETITIONER WALMART INC.

I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Pursuant to the Board's June 18, 2021 Notice of Filing Date Accorded (Paper 3) and 37 C.F.R. §§ 42.10(c) and 42.22, Petitioner Walmart Inc. ("Walmart") hereby moves for an Order allowing Kathleen R. Geyer of Kilpatrick Townsend & Stockton LLP to appear *pro hac vice* on behalf of Walmart in the above-captioned case. Counsel for Petitioner Walmart has conferred with counsel for Patent Owner Caravan Canopy International, Inc. ("Caravan Canopy"), and Caravan Canopy does not oppose Walmart's motion to allow Ms. Geyer to appear *pro hac vice* in this matter.

II. LIST OF EXHIBITS RELIED UPON FOR THIS MOTION

Exhibit 1051 - Declaration of Kathleen R. Geyer in Support of Motion to Appear *Pro Hac Vice* on Behalf of Petitioner Walmart Inc.

III. REASONS THE REQUESTED RELIEF SHOULD BE GRANTED

As set forth below in the Statement of Material Facts, Walmart has made all of the showings required under 37 C.F.R. § 42.10(c) for recognizing Ms. Geyer *pro hac vice*. In particular, Ms. Geyer is an experienced litigation attorney who has represented clients in numerous patent litigation cases in various United States District Courts, including technically and legally complex matters such as will be present in this proceeding. Accordingly, allowing Ms. Geyer to appear *pro hac vice* on behalf of Walmart is appropriate in this proceeding.

IV. STATEMENT OF MATERIAL FACTS

1. 37 C.F.R. § 42.10(c) provides that “[t]he 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.”

2. Lead counsel for Petitioner in this *inter partes* review proceeding is David A. Reed. Mr. Reed is registered to practice before the United State Patent and Trademark Office and holds Registration No. 61,226.

3. As set forth in Exhibit 1051 (“Geyer Decl.”), Ms. Geyer is an experienced litigating attorney and has an established familiarity with the subject matter at issue in this proceeding. Geyer Decl., ¶2. In particular, Ms. Geyer has approximately 2 years of experience as a patent litigator and has represented clients in numerous patent litigation cases in various United States District Courts, the United States International Trade Commission, including for example:

- *Dr. Mark A. Barry v. DePuy Synthes Products Inc., et al.*, No. 17-cv-03003 (E.D. Pa.)

- *Dr. Mark A. Barry v. Stryker Corp.*, No. 20-cv-01787-RGA (D. Del.)
- *Dr. Mark A. Barry v. Alphatec Holdings, Inc., et al.*, No. 21-cv-00805-RGA (D. Del.)
- *Dr. Mark A. Barry v. Orthopediatrics Corp.*, No. 1:20-cv-01786-RGA (D. Del.)
- *Dr. Mark A. Barry v. SeaSpine Holdings Corp., et al.*, No. 21-cv-00806-RGA (D. Del.)
- *Low Temp Industries, Inc. v. Duke Manufacturing Co.*, No. 4:20-cv-00686-MTS (E.D. Mo.)
- *Nevro Corp. v. Nalu Medical, Inc.*, No. 20-cv-00291-CFC (D. Del.)
- *Droplets, Inc. v. Nordstrom, Inc.*, No. 5:12-cv-4049-RMW (N.D. Cal.)
- *Echologics, LLC et al. v. Orbis Intelligent Systems, Inc., et al.*, No. 19-cv-02036-RGA (D. Del.)
- *Caravan Canopy Int'l, Inc. v. Walmart Inc., et al.*, No. 2:19-cv-06978-ADS-PSG (C.D. Cal.)
- *Prolitec Inc. v. ScentAir Technologies, LLC*, No. 20-cv-00984-RGA (D. Del.)
- *Certain Vacuum Insulated Flasks and Components Thereof*, Inv. No. 337-TA-1216 (USITC)

4. With regard to U.S. Patent 5,944,040 (“the ’040 patent”), the patent at issue in this proceeding, Ms. Geyer is very familiar with the ’040 patent, and with the legal subject matter, technical subject matter, and prior art discussed in Walmart’s request for *inter partes* review of the ’040 patent. *Id.*, ¶3. Under the supervision of lead counsel, Ms. Geyer has been substantively involved in the preparation of Petitioner Walmart’s papers in this proceeding. *Id.* Ms. Geyer also is counsel for Walmart in the patent infringement civil action, *Caravan Canopy Int’l, Inc. v. Walmart Inc., et al.*, No. 2:19-cv-06978-ADS-PSG (C.D. Cal. Aug. 9, 2019), where the same patent that is the subject of this *inter partes* review proceeding, the ’040 patent, is asserted against Walmart. *Id.* Walmart desires that Ms. Geyer appear to represent Walmart in this proceeding.

5. Ms. Geyer 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 Title 37 of the Code of Federal Regulations. *Id.*, ¶ 9. Ms. Geyer also agrees to be subject to the United States Patent and Trademark Office 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.*, ¶ 10. Ms. Geyer has not previously appeared before the Patent Trial and Appeal Board. *Id.*, ¶11.

6. Finally, Ms. Geyer has attested to the remaining elements of Paragraph 2(b) of the representative “Order – Authorizing Motion *for Pro Hac*

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