

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TEVA PHARMACEUTICALS USA, INC. AND WATSON
LABORATORIES, INC.

Petitioners,

v.

MERCK SHARP & DOHME CORP.

Patent Owner.

Case IPR2020-01045

Patent 7,326,708

PETITIONERS' MOTION FOR PRO HAC VICE ADMISSION OF EMILY L.
RAPALINO UNDER 37 C.F.R. § 42.10(c)

Mail Stop "PATENT BOARD"

Patent Trial and Appeal Board

United States Patent and Trademark Office

P.O. Box 1450

Alexandria, VA 22313-1450

Pursuant to 37 C.F.R. § 42.10(c), Petitioners Teva Pharmaceuticals USA, Inc. and Watson Laboratories, Inc. (“Petitioners”) respectfully request *pro hac vice* admission of Emily L. Rapalino in this proceeding, IPR2020-01045, regarding U.S. Patent No. 7,326,708 (“the ’708 patent”).

I. THE REQUEST IS TIMELY

Pursuant to the Board’s “Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response,” dated June 22,2020 (Paper No. 6), authorizing the parties to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c), Petitioners Teva Pharmaceuticals USA, Inc. and Watson Laboratories, Inc. respectfully request that the Board allow Emily L. Rapalino to appear *pro hac vice* on their behalf in this proceeding. Patent Owner consents to this motion.

II. REASONS THE REQUESTED RELIEF SHOULD BE GRANTED

As set forth in the Statement of Material Facts below, and as required by 37 C.F.R. § 42.10(c), Petitioners have demonstrated good cause to admit Ms. Rapalino *pro hac vice* in this proceeding. In particular, Petitioners’ lead counsel is a registered practitioner, and Ms. Rapalino is an experienced litigating attorney having an established familiarity with the subject matter at issue in this proceeding.

Furthermore, this motion is being filed more than twenty one days after service of the petition; includes a statement of facts showing good cause for the

Board to recognize Ms. Rapalino *pro hac vice*; and is being filed concurrently with Exhibit 1018, the Declaration of Emily L. Rapalino in Support of Petitioners' Motion for *Pro Hac Vice* Admission of Emily L. Rapalino ("Rapalino Decl."), all in accordance with the "Order Authorizing Motion for *Pro Hac Vice* Admission" in *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 at 3 (P.T.A.B. Oct. 15, 2013).

III. 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. Keith A. Zullo, lead counsel for Petitioners Teva Pharmaceuticals USA, Inc. and Watson Laboratories, Inc. in this proceeding, is a registered practitioner holding Registration No. 37,975.

3. As set forth in the Rapalino Decl., Ms. Rapalino is an experienced litigating attorney. Specifically, Ms. Rapalino has 18 years of experience

representing clients in patent litigations, primarily in the chemical arts, in United States district courts and the Court of Appeals for the Federal Circuit. (Rapalino Decl., ¶¶ 2-4).

4. Ms. Rapalino also has an established familiarity with the precise subject matter at issue in this proceeding. In the course of this representation, she has developed a strong familiarity with the '708 patent, its prosecution history, the general subject matter to which the '708 patent is directed, and the prior art references relied upon by Petitioner and Patent Owner in support of their respective pleadings. (Rapalino Decl., ¶ 5). Additionally, Ms. Rapalino has thoroughly reviewed the Petition, the Patent Owner's Response, and accompanying Exhibits submitted in this proceeding. (*Id.*).

5. Ms. Rapalino has attested to each of the requirements set forth in paragraph 2(b)(i)-(viii) of the "Order Authorizing Motion for Pro Hac Vice Admission" in Case IPR2013-00639, Paper 7 at 3. (Rapalino Decl., ¶¶ 6-10).

IV. CONCLUSION

In view of the foregoing, Petitioners respectfully submit that the requirements of 37 C.F.R. § 42.10(c) have been satisfied, and request an Order permitting Emily L. Rapalino to appear *pro hac vice* on their behalf in this proceeding.

Dated: July 27, 2020

Respectfully submitted,

/ Keith A. Zullo /

Keith A. Zullo

(Reg. No. 37,975)

Goodwin Procter LLP

The New York Times Building

620 Eighth Avenue

New York, NY 10018-1405

Tel: 212-813--8800

Fax: 212-355-3333

kzullo@goodwinlaw.com

Counsel for Petitioners Teva

Pharmaceuticals USA, Inc. and Watson

Laboratories, Inc.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.