

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EDWARDS LIFESCIENCES CORPORATION AND
EDWARDS LIFESCIENCES LLC,
Petitioner,

v.

COLIBRI HEART VALVE LLC,
Patent Owner.

IPR2020-01649
Patent 9,125,739 B2

Before ERICA A. FRANKLIN, JAMES A. TARTAL, and
ERIC C. JESCHKE, *Administrative Patent Judges*.

TARTAL, *Administrative Patent Judge*.

DECISION
Granting Petitioner's Motion for *Pro Hac Vice* Admission of
Megan E. Dellinger
37 C.F.R. § 42.10

DISCUSSION

Edwards Lifesciences Corporation and Edwards Lifesciences LLC (“Petitioner”) filed a motion for *pro hac vice* admission of Megan E. Dellinger. Paper 12 (“Motion”). The Motion is accompanied by a Declaration of Ms. Dellinger. Ex. 1033 (“Declaration”). Petitioner indicates the Motion is unopposed. Motion, 3.

In accordance with 37 C.F.R. § 42.10(c), we may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause. In authorizing a motion for *pro hac vice* admission, the Board requires the moving party to provide a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* and an affidavit or declaration of the individual seeking to appear in the proceeding. *See* Paper 3, 2 (citing *Unified Patents, Inc. v. Parallel Iron, LLC*, Case IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7) (representative “Order – Authorizing Motion for *Pro Hac Vice* Admission”)) (“Notice”).

In the Motion, Petitioner states that there is good cause for the Board to recognize Ms. Dellinger *pro hac vice* during this proceeding. Motion, 4. Petitioner states that Ms. Dellinger is an experienced litigation attorney with “an established familiarity with the subject matter at issue in this proceeding.” *Id.* at 2. The Declaration supports the Motion and complies with the requirements set forth in the Notice. *See* Ex. 1033 ¶¶ 1–10.

Having reviewed the Motion and declaration, we conclude that Ms. Dellinger has sufficient qualifications and familiarity with the subject matter at issue in this proceeding, and that there is a need for Petitioner to have counsel with that experience. *See, e.g.*, Motion, 1–3. Petitioner therefore has established good cause for admitting Ms. Dellinger *pro hac vice* in the above-captioned proceeding.

ORDER

It is:

ORDERED that Petitioner's motion for *pro hac vice* admission of Megan E. Dellinger is *granted*, and Ms. Dellinger is authorized to represent Petitioner only as back-up counsel in this proceeding;

FURTHER ORDERED that Petitioner must file, within ten (10) business days, updated mandatory notices identifying Ms. Dellinger as back-up counsel in this proceeding in accordance with 37 C.F.R. § 42.8(b)(3);

FURTHER ORDERED that Petitioner must file, within ten (10) business days, a power of attorney for Ms. Dellinger in this proceeding in accordance with 37 C.F.R. § 42.10(b);

FURTHER ORDERED that Petitioner is to continue to have a registered practitioner as lead counsel in this proceeding;

FURTHER ORDERED that Ms. Dellinger shall comply with the Board's Consolidated Trial Practice Guide¹ (84 Fed. Reg. 64,280 (Nov. 21, 2019)), and the Board's Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations; and

FURTHER ORDERED that Ms. Dellinger shall be subject to the USPTO's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and the USPTO's Rules of Professional Conduct set forth at 37 C.F.R. §§ 11.101–11.901.²

¹ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

² Ms. Dellinger declares she will be “subject to the USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§ 10.20 *et seq.*,” rather than the *USPTO Rules of Professional Conduct* set forth in 37 C.F.R. §§ 11.101 *et seq.* Ex. 1033 ¶ 8. We deem this to be harmless error.

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