

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FUSION ORTHOPEDICS, LLC,
Petitioner,

v.

EXTREMITY MEDICAL, LLC,
Patent Owner.

Case IPR2023-00894
U.S. Patent No. 11,298,166

**PATENT OWNER'S MOTION FOR *PRO HAC VICE*
ADMISSION PURSUANT TO 37 C.F.R. § 42.10(C)**

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.10(c), Patent Owner Extremity Medical, LLC (“Extremity Medical”) respectfully requests that the Board recognize Michael J. Zinna as counsel *pro hac vice* in this proceeding. Patent Owner’s lead counsel in this proceeding is a registered practitioner and, as illustrated below, Mr. Zinna is an experienced litigator with an established familiarity with this proceeding’s subject matter. Thus, there is good cause for the Board to recognize Mr. Zinna *pro hac vice* in this proceeding.

II. TIME FOR FILING

This Motion for *Pro Hac Vice* Admission is being filed no sooner than twenty one (21) days after service of the Petition. *See Unified Patents, Inc. v. Parallel Iron, LLC*, Case IPR2013-00639, Paper No. 7 (P.T.A.B. Oct. 15, 2013).

III. STATEMENT OF FACTS

This motion is authorized by the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response that was mailed on May 23, 2023 (Paper No. 6).

Patent Owner’s lead counsel is a registered practitioner. Where lead counsel is a registered practitioner, the Board may permit a non-registered practitioner to appear *pro hac vice* “upon a showing that counsel is an experienced litigating attorney and has established familiarity with the subject matter at issue in the

proceeding.” 37 C.F.R. §42.10(c); *Unified Patents*, Case IPR2013-00639, Paper 7 (setting forth requirements for *pro hac vice* admission).

As set forth in his Declaration submitted herewith (Ex. 2001), Mr. Zinna is an experienced litigator. (Ex. 2001, ¶¶ 1-3). He is a Partner with Kelley Drye & Warren LLP with 20 years of experience representing clients in patent and technology related litigation. (*Id.*, ¶¶ 1, 3). Mr. Zinna has litigated patent matters through trial and appeal and has argued complex claim construction and invalidity issues in numerous district court proceedings. (*Id.*, ¶¶ 2, 3).

Mr. Zinna is also familiar with the subject matter of this proceeding. (*Id.*, ¶¶ 4, 5). He is the lead counsel for Patent Owner in the related district court litigation on the patent at issue in this *inter partes* review, U.S. Patent No. 11,298,166 (“the ’166 Patent”) (*Extremity Medical, LLC v. Fusion Orthopedics, LLC*, Case No. 2:22-cv-00723-PHX-GMS (D. Ariz.)). (*Id.*, ¶¶ 1, 4). As such, he has reviewed and analyzed the ’166 Patent, the Petition, as well as the prior art at issue in this proceeding. (*Id.*).

Based on his work in the co-pending district court litigation and the other facts detailed in his declaration, Mr. Zinna has significant familiarity with the subject matter in this proceeding. (Ex. 2001, ¶¶ 1, 4-5). Patent Owner wishes to apply Mr. Zinna’s knowledge of the patent and litigation experience by employing him as counsel in this proceeding. Admission of Mr. Zinna *pro hac vice* will

enable Patent Owner to avoid unnecessary expense and duplication of work in this proceeding and between it and the co-pending litigation. Because Mr. Zinna is an experienced practitioner with an established familiarity with the subject matter of this proceeding, Patent Owner respectfully submits that there is good cause under 37 C.F.R. § 42.10(c) to recognize Mr. Zinna as counsel *pro hac vice* during this proceeding. (Ex 2001, ¶¶ 1-9).

IV. DECLARATION OF INDIVIDUAL TO APPEAR

This motion for *Pro Hac Vice* Admission is supported by the accompanying Declaration of Michael J. Zinna (Ex. 2001), as required by *Unified Patents*, Case IPR2013-00639, Paper 7.

Respectfully submitted,

Dated: May 31, 2023

By: / David G. Lindenbaum /
David G. Lindenbaum, Reg. No. 51,951
KELLEY DRYE & WARREN LLP
One Jefferson Road
Parsippany, NJ 07054
Telephone: (212) 808-7800
Facsimile: (212) 808-7897
E-mail: dlindenbaum@kelleydrye.com

*Attorneys for Patent Owner Extremity
Medical, LLC*

Case IPR2023-00894
U.S. Patent No. 11,298,166

LIST OF EXHIBITS

Exhibit	Description
Exhibit 2001	Declaration of Michael J. Zinna in Support of Patent Owner's Motion For Pro Hac Vice Admission Pursuant To 37 C.F.R. § 42.10(c)

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned hereby certifies that, on May 31, 2023, a true copy of the foregoing PATENT OWNER'S MOTION FOR PRO HAC VICE ADMISSION PURSUANT TO 37 C.F.R. § 42.10(c) and Exhibit 2001 were served upon the following via email:

Jennifer Brinkerhoff	Jen@FusionOrthopedics.com
Corby Vowell	corby@vowelllawfirm.com
Samuel Rocereta	sam@fusionorthopedics.com

/s/ David G. Lindenbaum/
David G. Lindenbaum (Reg. No. 51,951)
KELLEY DRYE & WARREN LLP
*Attorneys for Patent Owner Extremity
Medical, LLC*