

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MURRAY & POOLE ENTERPRISES LTD.,

Petitioner,

v.

INSTITUT DE CARDIOLOGIE DE MONTREAL,

Patent Owner.

Case IPR2023-01064

Patent 11,400,063

PATENT OWNER'S MOTION FOR

PRO HAC VICE ADMISSION UNDER 37 C.F.R. § 42.10(C)

I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c), Patent Owner, Institut de Cardiologie de Montreal (“MHI”) respectfully requests that the Board recognize Matthew T. Wilkerson of ArentFox Schiff LLP as counsel *pro hac vice* in this proceeding.

II. REASONS THE REQUESTED RELIEF SHOULD BE GRANTED

As set forth below in the Statement of Material Facts, MHI has made all of the showings required under 37 C.F.R. § 42.10(c) for recognizing Mr. Wilkerson *pro hac vice*. In particular, Mr. Wilkerson is an experienced litigating attorney who has represented clients in patent litigation cases in various United States District Courts and the Court of Appeals for the Federal Circuit, including technically and legally complex matters involving issues likely present in this proceeding. Accordingly, allowing Mr. Wilkerson to appear *pro hac vice* on behalf of MHI is appropriate in this proceeding.

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 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 in this *inter partes* review proceeding is Sailesh K. Patel. Mr. Patel is registered to practice before the United States Patent and Trademark Office and hold Registration No. 46,982.

3. As set forth in the Declaration of Matthew T. Wilkerson (Ex. 4001), Mr.

Wilkerson is an experienced litigating attorney and has established familiarity with the subject matter at issue in this proceeding. Ex. 4001, ¶¶ 1-2. In particular, Mr. Wilkerson has four years of experience as a patent litigator and has represented clients in multiple patent litigation cases in various United States District Courts and the Court of Appeals for the Federal Circuit. *Id.*

4. Further, Mr. Wilkerson is experienced with technically and legally complex matters relating to the pharmaceutical field, including the following representative matters:

- *Ferring Pharmaceuticals Inc., Ferring Int'l Center, S.A., Ferring B.V., and Polypeptide Laboratories A/S v. Fresenius Kabi USA, LLC*, Case No. C.A. No. 20-cv-431 (D. Del. 2022)
- *Ferring Pharmaceuticals Inc., Ferring Int'l Center, S.A., Ferring B.V., and Polypeptide Laboratories A/S v. Fresenius Kabi USA, LLC*, Appeal Nos. 2023-1460, -1559 (Fed. Cir. 2023)
- *Chiesi USA, Inc. and Chiesi Farmaceutici S.P.A. v. MSN Pharmaceuticals, Inc., MSN Laboratories Pvt. Ltd., MSN Life Sciences Pvt. Ltd., Endo Procurement Operations Ltd., and Gland Pharma Ltd.*, Case No. C.A. No. 2:19-cv-18564 (Consol.) (D.N.J. 2022)
- *In re Sugammadex*, Case No. C.A. No. 20-cv-2576 (Consol.) (D.N.J. 2022)
- *In re Sugammadex*, Appeal No. 2023-2254 (Fed. Cir. 2023)
- *Intercept Pharmaceuticals, Inc. and Intercept Pharma Europe Ltd. v. Apotex Inc., et al.*, Case No. C.A. No. 20-1105 (Consol.) (D. Del. 2023)
- *Melinta Therapeutics, LLC, Melinta Subsidiary Corp., and Rempex Pharmaceuticals, Inc. v. Nexus Pharmaceuticals, Inc.*, Case No. 1:21-cv-02636 (N.D. Ill. 2023)
- *Amgen Inc. and KAI Pharmaceuticals, Inc. v. MSN Laboratories Pvt. Ltd., MSN Pharmaceuticals, Inc., and USV Pvt. Ltd.*, Case No. C.A. No. 21-662 (D. Del. 2023)
- *Novartis Pharmaceuticals Corp. and Astex Therapeutics Ltd. v. MSN Pharmaceuticals Inc. and MSN Laboratories Pvt. Ltd.*, Case No. C.A. No. 21-870 (Consol.) (D. Del. 2024)

5. Mr. Wilkerson 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. *Id.*, ¶6. Mr. Wilkerson 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.*, ¶7.

IV. CONCLUSION

For the foregoing reasons, MHI respectfully requests that the Board admit Matthew T. Wilkerson of ArentFox Schiff LLP as counsel *pro hac vice*.

Respectfully submitted,

Dated: March 13, 2024

By: /Sailesh K. Patel/

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Counsel for Patent Owner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Patent Owner's Motion for *Pro Hac Vice* Admission Under 37 C.F.R. § 42.10(c) and Exhibit 4001 were served electronically via e-mail on March 13, 2024, in its entirety on the following:

Joanna Brougher (jbrougher@biopharlaw.com)

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Petitioner has agreed to electronic service.

Dated: March 13, 2024

By: /Sailesh K. Patel/

Sailesh K. Patel

ARENTFOX SCHIFF LLP