UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EDWARDS LIFESCIENCES CORPORATION AND
EDWARDS LIFESCIENCES LLC,
Petitioner,

v.

AORTIC INNOVATIONS LLC,
Patent Owner.

Case IPR2023-01151
Patent 11,337,834

PATENT OWNER AORTIC INNOVATIONS LLC'S MOTION FOR *PRO HAC VICE* ADMISSION OF NATHAN NOBU LOWENSTEIN UNDER 37 C.F.R. § 42.10(c)

EXHIBIT LIST	
2001	Declaration of Nathan Lowenstein in Support of Motion for *Pro Hac Vice* Admission
2002	Declaration of Stephen J.D. Brecker [Brecker-Decl.]
2003-2007	Reserved
2008	Declaration of Nigel Buller, *Edwards Lifesciences Corp. et al. v. Aortic Innovations, LLC*, IPR2022-00193 (filed Nov. 12, 2021) [-00193-Buller-Decl.]
2009-2039	Reserved
2040	Excerpts from the opposition proceeding to European Patent 2982337 [Spenser-II-European-Proceeding]
2041-2042	Reserved
2043	Institution Decision of IPR2022-00034 [IPR2022-00034 Inst.-Dec.]
2044-2046	Reserved
2047	Edwards Petition for Inter Partes Review filed in IPR2022-00034 [IPR2022-00034 Petition]
2048-2051	Reserved
2052	Deposition Transcript of Nigel P. Buller In IPR2022-00034 [Buller-00034-Depo.]
2053-2086	Reserved
2087	Excerpts of Defendants' Preliminary Invalidity Contentions filed in Aortic Innovations LLC v. Edwards Lifesciences Corp, Edwards Lifesciences LLC, and Edwards Lifesciences (U.S.), Inc. Case No. 1:21-cv-01377-JPM (Delaware) [PICs]

2088-2100	Reserved
2101	U.S. Patent No. US6,663,667 [Dehdashtian]
2102	U.S. Patent Application No. 2006/0004442 to Spenser [’442 Application]
2103	Declaration of Stephen J.D. Brecker filed in IPR2022-00556 [Brecker-556-Decl.]
2104-2107	Reserved
2108	Petitioner’s Reply to Patent Owner’s Response in IPR2022-00034
2109	Petitioner’s Reply to Patent Owner’s Response in IPR2022-01527
2110	Petitioner’s Reply to Patent Owner’s Response in IPR2022-01584
2111-2121	Reserved
2122	Transcript of April 12, 2023 Deposition of Nigel P. Buller in IPR2022-00556 [Buller-556-Reply-Depo.]
2123	Reserved
2124	Final Written Decision of IPR2022-00556 [-00556FWD]
2125	U.S. Patent No. 6,096,052 [Callister]
2126	File History of US Patent Application 2002/0151958 A1 to Chuter [Chuter-FH]
2127	*Aortic Innovations LLC v. Edwards Lifesciences Corp.* No. 1:21-cv-01377-JPM, Claim Construction Order (May 9, 2023) [Aortic-I-Claim-Construction-Order]
2128	Declaration of Nigel P. Buller filed in IPR2022-00556 [Buller-556-Decl.]
2129	Edwards Petition for Inter Partes Review filed in IPR2022-00556 [-00556-Pet.]

2130	Petitioner's Reply to Patent Owner's Response in IPR2022-00556 [-00556-Reply]
2131	Prosecution History of U.S. Patent No. 10,987,236 ['236-FH]
2132	U.S. Patent No. 10,966,846 ['846]
2133	U.S. Patent No. 10,987,236 ['236]
2134	Reply Declaration of Nigel P. Buller filed in IPR2022-00556 [Buller-556-Reply-Decl.]
2135	Disclaimer in Patent Under 37 CFR 1.321(a), U.S. Patent 11, 337, 834, Oct. 10, 2023 [Disclaimer]

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I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c), Patent Owner Aortic Innovations LLC ("Patent Owner") respectfully requests that the Board admit Nathan Nobu Lowenstein *pro hac vice* in this proceeding as back-up counsel. Patent Owner has met and conferred with Petitioner, and Petitioner does not oppose this motion.

II. GOVERNING LAW, RULES, AND PRECEDENT

Section 42.10(c), 37 C.F.R., provides that:

> The 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.

The Board has further required that a motion for *pro hac vice* admission be filed in accordance with the "Order - Authorizing Motion for *Pro Hac Vice* Admission" entered in *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 (P.T.A.B. Oct. 15, 2013) ("*United Patents* Order").

The *United Patents* Order requires that such motions (1) "[c]ontain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding[,]" and (2) "[b]e accompanied by an affidavit or declaration of the individual seeking to appear attesting to the following:"

i. Membership in good standing of the Bar of at least one State or the District of Columbia;

ii. No suspensions or disbarments from practice before any court or administrative body;

iii. No application for admission to practice before any court or administrative body ever denied;

iv. No sanctions or contempt citations imposed by any court or administrative body;

v. The individual seeking to appear 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.;

vi. The individual will be subject to the U.S.P.T.O. 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);

vii. All other proceedings before the Office for which the individual has applied to appear *pro hac vice* in the last three (3) years; and

viii. Familiarity with the subject matter at issue in the proceeding.

III. STATEMENT OF FACTS

Based on the following statement of facts, and supported by the Declaration of Nathan Nobu Lowenstein, submitted herewith as Exhibit 2001, Patent Owner requests the *pro hac vice* admission of Nathan Nobu Lowenstein in this proceeding:

1. Patent Owner's lead counsel, Kenneth J. Weatherwax (the undersigned), is a registered practitioner (Reg. No. 54,528).

2. Mr. Lowenstein is a partner at the law firm of Lowenstein & Weatherwax LLP. Ex. 2001 ¶ 8.

3. Mr. Lowenstein is an experienced litigator, and the majority of his practice has consisted of patent litigation and other patent related matters such as PTAB litigations and matters before the United States Court of Appeals for the Federal Circuit. *Id.* ¶ 9. Representative patent litigations where Mr. Lowenstein has been actively involved as patent litigation counsel include:

- *Microprocessor Enhancement Corp. v. Texas Instruments Inc.*, 8:08-cv-01123 (C.D. Cal.).
- *The Quantum World Corp. v. Atmel Corp.*, 2:07-cv-00024 (E.D. Tex.).

- *St. Jude Med., Inc. v. Access Closure, Inc.*, 4:08-cv-04101 (W.D. Ark.).
- *Tessera, Inc. v. Micron Tech., Inc.*, 2:05-cv-00094 (E.D. Tex.).

Ex. 2001 ¶ 9.

4. Mr. Lowenstein's experience in post-grant patent proceedings includes drafting patent owner responses, taking depositions, and presenting oral arguments before the Board. *Id*. ¶ 10. Representative matters where Mr. Lowenstein is or was actively involved include:

- *Samsung Elecs. Co., Ltd. et al. v. Smart Mobile Techs., LLC* (IPR2022-01248).
- *Apple, Inc. v. Smart Mobile Techs. LLC* (IPR2022-00807).
- *Edwards Lifesciences Corp. et al. v. Aortic Innovations, LLC* (IPR2022-00556).
- *Google LLC v. Neonode Smartphone LLC* (IPR2021-01041).
- *Hulu, LLC v. DivX LLC* (IPR2021-01418, -01419).
- *Patent Quality Assurance, LLC v. VLSI Tech. LLC* (IPR2021-01229).
- *Samsung Elecs. Co., Ltd. et al. v. Neonode Smartphone LLC* (IPR2021-00144).
- *Edwards Lifesciences Corp. et al. v. Aortic Innovations, LLC* (IPR2021-001527, -01584; IPR2022-00034, -00193).

- *OpenSky Industries, LLC v. VLSI Technology LLC* (IPR2021-01056, -01064).
- *Cohesity Inc. v. Commvault Systems, Inc.* (IPR2021-00934, -00935).
- *Netflix Inc. et al. v. DivX, LLC* (IPR2020-00558, -00614, -00646).
- *DISH Network LLC et al. v. Sound View Innovations, LLC* (IPR2020-01041).
- *Apple Inc. v. SEVEN Networks, LLC* (IPR2020-00236, -00255, -00280, -00281, -00285, -00506, -00507, -00584).
- *Intel Corp. v. VLSI Tech. LLC* (IPR2020-00106, -00112, -00113, -00114, -00141, -00142, -00158, -00498, -00526, -00527, -00582, -00583).
- *Intel Corp. v. VLSI Tech. LLC* (IPR2019-01192, -01197, -01198, -01199, -01200).
- *Unified Patents Inc. v. DivX, LLC* (IPR2019-01379).
- *ZTE (USA), Inc. v. SEVEN Networks, LLC* (IPR2019-00412, -00460, -00461).
- *Apple, Inc. v. IXI IP, LLC* (IPR2019-00124, -00125, -00139, -00140, -00141, -00181).
- *Samsung Elecs. Co., Ltd. v. SEVEN Networks, LLC* (IPR2018-01106, -01108, -01120, -01122, -01124, -01125, -01126, -01127).

- *Google LLC v. SEVEN Networks, LLC* (IPR2018-01047 through -01052, -01101, -01116 through -01118).
- *Intel Corp. v. VLSI Tech. LLC* (IPR2018-01033, -01038, -01040, -01105, -01107, -01144).
- *Unified Patents Inc. v. Sound View Innovations, LLC* (IPR2018-00096, -00599).
- *Hulu, LLC v. Sound View Innovations, LLC* (IPR2018-00017, -00366, -00582, -00864, -01023, -01039).
- *Alphonso, Inc. v. Free Stream Media Corp.* (IPR2017-01730, -01731).
- *Facebook, Inc. v. Sound View Innovations, LLC* (IPR2017-00985, -00986, -00998, -01002 through -01006).
- *Kingston Tech. Co. v. Polaris Innovations, Ltd.* (IPR2016-01621 through -01623, IPR2017-00114, -00116, -00238).
- *Intel Corp. v. Future Link Sys., LLC* (IPR2016-01398, -01400 through -01402).
- Matters involving Solocron Media, LLC (IPR2015-00342, -00349, -00350, -00364, -00376, -00380, -00383, -00387 through -00392).
- *Microsoft Corp. v. IpLearn-Focus, LLC* (IPR2015-00095, -00097).

- Matters involving Maxim Integrated Products, Inc. (CBM2014-00038 through -041, -00177 through -00180, CBM2015-00098, -00101, -00102, IPR2016-00032, -00033).
- *Nissan N. Am., Inc. v. Diamond Coating Techs., LLC* (IPR2014-01545 through -01548).

Ex. 2001 ¶ 10.

5. Mr. Lowenstein has an established familiarity with the subject matter at issue in this proceeding. *Id*. ¶ 15. Mr. Lowenstein has reviewed the Patent at issue as well as the Petition and the relevant art. *Id*.

6. Mr. Lowenstein is a member in good standing of the State Bar of California. *Id*. ¶¶ 1, 2.

7. Mr. Lowenstein has never been suspended or disbarred from practice before any court or administrative body. *Id*. ¶ 3.

8. No application of Mr. Lowenstein for admission to practice before any court or administrative body has ever been denied. *Id*. ¶ 4.

9. No sanctions or contempt citations have ever been imposed against Mr. Lowenstein by any court or administrative body. *Id*. ¶ 5.

10. Mr. Lowenstein 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. Ex. 2001 ¶ 6.

11. Mr. Lowenstein understands that he will be subject to the U.S.P.T.O. 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). Ex. 2001 ¶ 7.

12. Mr. Lowenstein has previously been admitted to appear, *pro hac vice*, in the following matters before the U.S.P.T.O.:

- *Samsubg Elecs. Co., Ltd. et al. v. Smart Mobile Techs., LLC* (IPR2022-01248).
- *Apple, Inc. v. Smart Mobile Techs. LLC* (IPR2022-00807).
- *Edwards Lifesciences Corp. et al. v. Aortic Innovations, LLC* (IPR2022-00556).
- *Google LLC v. Neonode Smartphone LLC* (IPR2021-01041).
- *Hulu, LLC v. DivX LLC* (IPR2021-01418, -01419).
- *Patent Quality Assurance, LLC v. VLSI Tech. LLC* (IPR2021-01229).
- *Samsung Elecs. Co., Ltd. et al. v. Neonode Smartphone LLC* (IPR2021-00144).
- *Edwards Lifesciences Corp. et al. v. Aortic Innovations, LLC* (IPR2021-001527, -01584; IPR2022-00034, -00193).
- *OpenSky Industries, LLC v. VLSI Technology LLC* (IPR2021-01056, -01064).
- *Cohesity, Inc. v. Commvault Systems, Inc.* (IPR2021-00934, -00935).

- *Netflix Inc. et al. v. DivX, LLC* (IPR2020-00558, -00614, -00646).
- *DISH Network LLC et al. v. Sound View Innovations, LLC* (IPR2020-01041).
- *Apple Inc. v. SEVEN Networks, LLC* (IPR2020-00236, -00255, -00280, -00281, -00285, -00506, -00507, -00584).
- *Intel Corp. v. VLSI Tech. LLC* (IPR2020-00106, -00112, -00113, -00114, -00141, -00142, -00158, -00498, -00526, -00527, -00582, -00583).
- *Intel Corp. v. VLSI Tech. LLC* (IPR2019-01192, -01197, -01198, -01199, -01200).
- *Unified Patents Inc. v. DivX, LLC* (IPR2019-01379).
- *ZTE (USA), Inc. v. SEVEN Networks, LLC* (IPR2019-00412, -00460, -00461).
- *Samsung Elecs. Co., Ltd. v. SEVEN Networks, LLC* (IPR2018-01106, -01108, -01124, -01125).
- *Google LLC v. SEVEN Networks, LLC* (IPR2018-01047 through -01052, -01101, -01116 through -01118).
- *Intel Corp. v. VLSI Tech. LLC* (IPR2018-01033, -01038, -01040, -01105, -01107, -01144).

- *Unified Patents Inc. v. Sound View Innovations, LLC* (IPR2018-00096, -00599).
- *Hulu, LLC v. Sound View Innovations, LLC* (IPR2018-00017, -00366, -00582, -00864, -01023, -01039).
- *Facebook, Inc. v. Sound View Innovations, LLC* (IPR2017-00985, -00986, -00998, -01002 through -01006).
- *Intel Corp. v. Future Link Sys., LLC* (IPR2016-01398, -01401, -01402).
- *Kingston Tech. Co. v. Polaris Innovations, Ltd.* (IPR2016-01621 through -01623, IPR2017-00114, -00116).
- *Compass Bank v. Maxim Integrated Prods., Inc.* (CBM2015-00098, -00101, -00102).
- *Microsoft Corp. v. IpLearn-Focus, LLC* (IPR2015-00095, -00097).

Ex. 2001 ¶ 11.

13. Mr. Lowenstein has previously applied for admission, *pro hac vice*, in the following matters before the U.S.P.T.O. which were terminated before the application was granted:

- *Edwards Lifesciences Corp. et al. v. Aortic Innovations LLC* (IPR2022-00549).
- *Patent Quality Assurance, LLC v. VLSI Tech. LLC* (IPR2022-00480).

- *OpenSky Indus., LLC v. VLSI Tech. LLC* (IPR2022-00645).
- *Rubrik Inc. v. Commvault Systems, Inc.* (IPR2021-00535, -00589, -00590)
- *Apple, Inc. v. IXI IP, LLC* (IPR2019-00124, -00125, -00139, -00140, -00141, -00181).
- *Samsung Elecs. Co., Ltd. v. SEVEN Networks, LLC* (IPR2018-01120, -01122, -01126, -01127).
- *Kingston Tech. Co. v. Polaris Innovations, Ltd.* (IPR2017-00238).
- *Intel Corp. v. Future Link Sys., LLC* (IPR2016-01400).

Ex. 2001 ¶ 12.

14. Mr. Lowenstein is concurrently applying for *pro hac vice* admission in the following matters:

- *Edwards Lifesciences Corp. et al. v. Aortic Innovations LLC* (IPR2023-01232, -01325).

Ex. 2001 ¶ 13.

15. Other than the matters identified in ¶¶ 12-14, *supra*, Mr. Lowenstein has not applied to appear *pro hac vice* in any other proceedings before the U.S.P.T.O. in the last three years.

IV. GOOD CAUSE EXISTS FOR THE *PRO HAC VICE* ADMISSION OF NATHAN NOBU LOWENSTEIN.

The Board may recognize counsel *pro hac vice* 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. 37 C.F.R. § 42.10(c).

The facts outlined above in the Statement of Facts, and contained in the Declaration of Nathan Nobu Lowenstein (Ex. 2001), establish that there is good cause to admit Mr. Lowenstein *pro hac vice* in this proceeding. Patent Owner's lead counsel is a registered practitioner. Mr. Lowenstein has extensive experience in patent litigation and post-grant patent proceedings. He also has an established familiarity with the subject matter at issue, including the patents, petitions, and references.

V. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that the Board admit Mr. Lowenstein *pro hac vice* in this proceeding.

Respectfully submitted,

/ Kenneth J. Weatherwax /
Kenneth J. Weatherwax, Reg. No. 54,528
LOWENSTEIN & WEATHERWAX LLP

Date: October 19, 2023

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the following documents were served by electronic service, by agreement between the parties, on the date signed below:

PATENT OWNER AORTIC INNOVATIONS LLC'S MOTION FOR *PRO HAC VICE* ADMISSION OF NATHAN NOBU LOWENSTEIN UNDER 37 C.F.R. § 42.10(c)

EXHIBIT 2001

The names and address of the parties being served are as follows:

Craig S. Summers	2css@knobbe.com
Joshua J. Stowell	2jys@knobbe.com
Brian C. Barnes	2bcb@knobbe.com
	BoxEdwards28-1@knobbe.com

Respectfully submitted,

/ William Katz /

Date: October 19, 2023