

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BIONTECH SE and PFIZER INC.,
Petitioner,

v.

MODERNATX, INC.,
Petitioner.

IPR2023-01358
Patent 10,702,600 B1

Before TIMOTHY G. MAJORS, and DAVID COTTA, *Administrative Patent Judges*.

COTTA, *Administrative Patent Judge*.

ORDER
Granting Petitioner's Motion for *Pro Hac Vice*
Admission of Michael J. Mestitz
37 C.F.R. § 42.10

On August 27, 2024, Petitioner filed a motion (Paper 67, “Motion”) requesting *pro hac vice* admission of Michael J. Mestitz. Petitioner filed a declaration (Ex. 1319 “Declaration”) from Mr. Mestitz in support of the Motion. Petitioner states “[t]he parties have met and conferred, and Patent Owner does not oppose this motion.” Motion 1.

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 *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7) (representative “Order – Authorizing Motion for *Pro Hac Vice* Admission”).

Based on the facts set forth in the Motion and the accompanying Declaration, we conclude that Mr. Mestitz has sufficient legal and technical qualifications to represent Petitioner in this proceeding, that Mr. Mestitz has demonstrated sufficient litigation experience and familiarity with the subject matter of this proceeding, and that Mr. Mestitz meets all other requirements for admission *pro hac vice*. See Declaration. Accordingly, Petitioner has established good cause for *pro hac vice* admission of Mr. Mestitz.

In view of the above, it is

ORDERED that Petitioner’s Motion for *pro hac vice* admission of Mr. Mestitz is *granted*;

FURTHER ORDERED that Petitioner continue to have a registered practitioner represent it as lead counsel for the instant proceeding, but that Mr. Mestitz is authorized to act as back-up counsel;

FURTHER ORDERED that Mr. Mestitz comply with the Patent Trial and Appeal 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 Mr. Mestitz is subject to the Office's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.*²

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

² The Motion and Declaration incorrectly reference the "USPTO Code of Professional Responsibility." We deem this harmless error.

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