

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIVITRO LABS INC.,
Petitioner,

v.

BIOMEDICAL DEVICE CONSULTANTS AND LABORATORIES OF
COLORADO, LLC,
Patent Owner.

Case IPR2024-00320
Patent 9,237,935

PETITIONER'S MOTION FOR ADMISSION PRO HAC VICE OF
JOHN W. HARBIN

Pursuant to 37 C.F.R. § 42.10, Petitioner requests that the board admit John W. Harbin *pro hac vice* in this proceeding.

The Board may recognize counsel *pro hac vice* during a proceeding on a showing of good cause. “[W]here lead counsel is a registered practitioner, a motion to appear *pro hac vice* may be granted upon a showing that counsel is an experienced litigation attorney and has an established familiarity with the subject matter at issue in the proceeding.” 37 C.F.R. § 42.10(c).

Here, lead counsel Warren Thomas is a registered practitioner. Mr. Harbin has over 25 years of experience in patent litigation, and he is familiar with the subject matter at issue in this proceeding. Accompanying this motion is the Declaration of John W. Harbin, where Mr. Harbin attests to his experience and familiarity. *See generally* Harbin Decl. (Ex. 1039). Specifically, Mr. Harbin attests that:

- he has been practicing intellectual property litigation, including patent litigation, for more than 25 years;
- he has been lead trial counsel on numerous patent litigation cases;
- he has appeared via *pro hac vice* admission in eleven proceedings before the Patent Trial and Appeal Board in the last three years; and
- he is a senior member of the team that has prepared the contemporaneously filed Petition for *inter partes* Review of U.S. Patent No. 9,237,935.

Ex. 1039 ¶¶ 2, 10.

These facts establish good cause to recognize Mr. Harbin in this proceeding.

Respectfully submitted,

/Warren Thomas/
Warren J. Thomas (Reg. No. 70,581)

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e), I certify that on January 25, 2024 a copy of Petitioner's Motion for Admission Pro Hac Vice and accompanying exhibits were served on counsel for the Patent Owner by email to:

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