

Filed February 27, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIVITRO LABS INC.,
Petitioner,

v.

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

Case IPR2024-00320
Patent 9,237,935

**PATENT OWNER'S UNOPPOSED MOTION FOR
ADMISSION *PRO HAC VICE*
OF GREGORY TAMKIN
PURSUANT TO 37 C.F.R. § 42.10**

I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10, Patent Owner Biomedical Device Consultants & Laboratories, LLC (“Biomedical”) respectfully requests that the Board admit Gregory Tamkin *pro hac vice* in this proceeding. Patent Owner’s motion is unopposed.

II. STATEMENT OF FACTS

Pursuant to 37 C.F.R. § 42.10(c), 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 facts, supported by the accompanying Declaration of Gregory Tamkin in Support of Patent Owner’s Motion for Admission *Pro Hac Vice* (Ex. 2002, “Tamkin Declaration”), establish good cause to admit Mr. Tamkin *pro hac vice* in this proceeding.

Lead counsel Jordan L. Stott is a registered practitioner.

Mr. Tamkin is an experienced litigation attorney. Mr. Tamkin has been a litigation attorney for more than 29 years. Tamkin Declaration ¶ 3. Mr. Tamkin has been litigating patent cases for over 23 of those years. *Id.* Mr. Tamkin is licensed to

practice law in the states of California and Colorado. *Id.* ¶ 4. He is a member in good standing of the bar of that jurisdiction. *Id.* He has never been censured, suspended, disbarred, or denied admission or readmission by any court, or administrative body, and there are no disciplinary proceedings presently pending against him before the bar of any court, or administrative body. *Id.* ¶ 5.

Mr. Tamkin is admitted to practice in these jurisdictions: Federal Circuit Court of Appeals; the Ninth Circuit Court of Appeals; the Tenth Circuit Court of Appeals; the United States District Courts for the Northern, Eastern, Southern and Central Districts of California; the United States District Court for the District of Colorado; the United States District Courts for the Northern District of Illinois; the United States District Courts for the Eastern District of Texas; and the United States District Courts for the Eastern and Western Districts of Wisconsin. *Id.* ¶ 6.

Mr. Tamkin has familiarity with the subject matter at issue in this proceeding and in the related district court case *Biomedical Device Consultants & Laboratories of Colorado, LLC v. ViVitro Labs, Inc.*, Civil No. 2:23-cv-04291-HDV (C.D.Cal.), in which U.S. Patent No. 9,237,935 was asserted by the Patent Owner. *Id.* ¶ 7. This experience includes at least detailed analysis of the asserted patent, prior art in this field, and participation in preliminary injunction and appellate briefing regarding the asserted patent. *Id.*

Mr. Tamkin has read and will comply with the Office Patent Trial Practice

Guide and the Board’s Rules for Practice for Trials set forth in parts 41, the relevant rules of conduct for Subpart B, and 42 of the C.F.R., and He agrees to be subject to the USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§ 11.101 et seq., and to disciplinary jurisdiction under 37 C.F.R. § 11.19(a). *Id.* ¶ 8.

III. ANALYSIS

The facts contained in the Statement of Facts above, and contained in the Tamkin Declaration, establish that there is good cause to admit Mr. Tamkin *pro hac vice* in this proceeding under 37 C.F.R. § 42.10. Lead counsel is a registered practitioner, Mr. Tamkin is an experienced litigation attorney, and Mr. Tamkin has familiarity with the subject matter at issue in this proceeding.

Furthermore, this motion is submitted in accordance with the “Order -- Authorizing Motion for *Pro Hac Vice* Admission” in Case IPR2013-00639, Paper 7, including the Tamkin Declaration attesting to Mr. Tamkin’s experience and familiarity.

IV. CONCLUSION

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

Date: February 27, 2024

/s/ Jordan L. Stott

Jordan L. Stott (Reg. No. 71,867)

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CERTIFICATE OF SERVICE

The undersigned certifies pursuant to 37 C.F.R. § 42.6(e) that on February 27, 2024, a true and correct copy of Motion for Admission *Pro Hac Vice* of Gregory S. Tamkin for Patent Owner Biomedical Device Consultants & Laboratories of Colorado, LLC was served via Email on Counsel for Patent Owner:

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Date: February 27, 2024

/s/ Jordan L. Stott
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