

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.

IPR2024-00320
Patent 9,237,935 B2

Before JOHN F. HORVATH, JOHN A. HUDALLA, and
DONALD E. DAYBELL, *Administrative Patent Judges*.

DAYBELL, *Administrative Patent Judge*.

ORDER
Granting Patent Owner's Motions for
Pro Hac Vice Admission of Shannon L. Bjorklund and Gregory Tamkin
37 C.F.R. § 42.10

Patent Owner filed motions requesting *pro hac vice* admission of Shannon L. Bjorklund and Gregory Tamkin. Paper 7 (“Bjorklund Mot.”); Paper 8 (“Tamkin Mot.”). Patent Owner also submitted declarations from Ms. Bjorklund and Mr. Tamkin in support of the Motions. Ex. 2001 (“Bjorklund Dec.”); Ex. 2002 (“Tamkin Dec.”). Patent Owner attests that Petitioner does not oppose the Motions. Bjorklund Mot. 2; Tamkin Mot. 2.

For the reasons provided below, Patent Owner’s Motions are *granted*.

In accordance with 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. 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 Motions and the accompanying declarations, we conclude that Ms. Bjorklund and Mr. Tamkin have sufficient legal and technical qualifications to represent Patent Owner in this proceeding, that Ms. Bjorklund and Mr. Tamkin have demonstrated sufficient litigation experience and familiarity with the subject matter of this proceeding, and that Ms. Bjorklund and Mr. Tamkin meet all other requirements for admission *pro hac vice*. *See* Motions. Accordingly, Patent Owner has established good cause for *pro hac vice* admission of Ms. Bjorklund and Mr. Tamkin. Ms. Bjorklund and Mr. Tamkin will be permitted to serve as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

We note that Patent Owner filed a Power of Attorney including Ms. Bjorklund and Mr. Tamkin in accordance with 37 C.F.R. § 42.10(b). Paper 6. Patent Owner also filed Mandatory Notices in accordance with 37 C.F.R. § 42.8(b)(3) that identify Ms. Bjorklund and Mr. Tamkin as back-up counsel. Paper 5.

In consideration of the foregoing, it is hereby

ORDERED that Patent Owner's Motions for *pro hac vice* admission of Ms. Bjorklund and Mr. Tamkin are *granted*;

FURTHER ORDERED that Patent Owner is to continue to have a registered practitioner represent it as lead counsel for this proceeding;

FURTHER ORDERED that Ms. Bjorklund and Mr. Tamkin are authorized to represent Patent Owner as back-up counsel only in this proceeding;

FURTHER ORDERED that Ms. Bjorklund and Mr. Tamkin comply with the Patent Trial and Appeal Board 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 37,² Code of Federal Regulations; and

FURTHER ORDERED that Ms. Bjorklund and Mr. Tamkin are subject to the Office's disciplinary jurisdiction under 37 C.F.R. § 11.19(a),

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

² The Declarations state that Ms. Bjorklund and Mr. Tamkin "have read and will comply with the Office Patent Trial Practice Guide and the Board's Rules for Practice for Trials set forth in part 41, the relevant rules of conduct for Subpart B, and 42 of the C.F.R." Bjorklund Dec. ¶ 8; Tamkin Dec. ¶ 8. We note that the Board's Rules of Practice for Trials are set forth in Part 42 of 37 C.F.R., and it is those rules to which Ms. Bjorklund and Mr. Tamkin will be subject.

IPR2024-00320
Patent 9,237,935 B2

and the USPTO Rules of Professional Conduct set forth in 37 C.F.R.
§§ 11.101 *et. seq.*

IPR2024-00320
Patent 9,237,935 B2

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