Filed on behalf of: Serendia, LLC

Entered: September 16, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JEISYS MEDICAL INC.,
Petitioner,

v.

SERENDIA, LLC,
Patent Owner.

Case IPR2024-00463
Patent 10,869,812

PATENT OWNER'S UNOPPOSED MOTION FOR *PRO HAC VICE* ADMISSION OF CECILIA PENIZA UNDER 37 C.F.R. § 42.10(c)

EXHIBIT LIST

Exhibit	Description
2001	[Proposed] Stipulated Protective Order
2002	Markup Comparison Showing Differences Between the [Proposed] Stipulated Protective Order and the Default Protective Order
2003	Complainant's July 24, 2023 Supplemental Validity Contentions, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C. July 24, 2023) (PROTECTIVE ORDER MATERIAL AND REDACTED VERSIONS)
2004	Expert Report of Jean Woloszko, M.D., Ph.D., dated August 14, 2023 (PROTECTIVE ORDER MATERIAL AND REDACTED VERSIONS)
2005–2006	RESERVED
2007	Deposition transcript of Jean Woloszko, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C.), taken September 14, 2023 (excerpt)
2008	Deposition transcript of Jean Woloszko, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C.), taken September 15, 2023 (excerpt)
2009–2014	RESERVED
2015	Complainant's Rebuttal Post-Hearing Brief, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C. Jan. 5, 2024) (PROTECTIVE ORDER MATERIAL)

Exhibit	Description
2016	Complainant's Public Interest Statement & Complaint of Serendia, LLC, Under Section 337 of the Tariff Action of 1930, as Amended, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C. Mar. 1, 2023)
2017	Parties' Proposed Procedural Schedule and Notice of USPTO/PTO Proceedings and State and Federal Litigation Pursuant to Order No. 3, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C. Apr. 24, 2023)
2018	Order No. 6: Adopted Procedural Schedule, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C. Apr. 27, 2023)
2019	Respondents' Joint Reply Post-Hearing Brief, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C. Jan. 5, 2024) (excerpts)
2020	RESERVED
2021	Jeisys Medical Inc.'s and Cynosure, LLC's Response to the Complaint and Notice of Investigation, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C. May 1, 2023)
2022	RESERVED
2023	Letter from Keith K. Im, SynKloud Technologies, LLC, to Todd Tillemans, Cynosure, LLC, dated Nov. 29, 2021
2024	Order No. 33: Granting Parties' Joint Motion to Amend the Amended Procedural Schedule [Motion Docket No. 1356-027], *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C. Oct. 19, 2023)
2025–2036	RESERVED

Exhibit	Description
2037	Brochure: Sylfirm X Dual Wave RF Microneedling System (2022)
2038–2040	RESERVED
2041	Direct Rebuttal Demonstratives of Vincent A. Thomas (CDX-0045C), *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C. Dec. 12, 2023) (PROTECTIVE ORDER MATERIAL)
2042–2051	RESERVED
2052	Email exchanges between SynKloud and Jeisys, transmitted December 6, 2021 through January 20, 2022, and Certified English Translations thereof (PROTECTIVE ORDER MATERIAL)
2053	Respondents' Notice of Prior Art, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C. May 24, 2023) ("1356 Investigation NOPA")
2054	Complainant's Initial Validity Contentions, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C. June 16, 2023) (PROTECTIVE ORDER MATERIAL)
2055–2061	RESERVED
2062	Presentation: Sylfirm X Clinical Training (2021) (PROTECTIVE ORDER MATERIAL)
2063–2065	RESERVED
2066	Martin Braun, *Sylfirm X Revolutionises [sic] the Clinical Applications of RF Microneedling*, 12 PRIME INT'L J. AESTHETIC ANTI-AGEING [sic] MED. 50 (2022)
2067	World-Class Product of Korea 2020, Certificate to ViOL Co., Ltd., dated December 9, 2020 ("Sylfirm X Award")

Exhibit	Description
2068–2069	RESERVED
2070	Curriculum Vitae of Vincent A. Thomas
2071	Profit & Loss, January–December 2021 (Accrual Basis) (July 6, 2023, 2:31 PM) (PROTECTIVE ORDER MATERIAL)
2072–2082	RESERVED
2083	ViOL, Sylfirm X User Manual (VO-UM-SFX-03), revised April 20, 2022
2084	Sylfirm X, Device Description (PROTECTIVE ORDER MATERIAL)
2085	RESERVED
2086	Sylfirm X Product Photographs
2087–2096	RESERVED
2097	Sylfirm X Introduction Video 1
2098	Transcript of Exhibit 2097 - Sylfirm X Introduction Video 1
2099–2102	RESERVED
2103	Deposition transcript of Peter Crosby, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C.), taken September 4, 2023 (excerpt)
2104	Deposition transcript of Peter Crosby, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C.), taken September 5, 2023 (excerpt)
2105–2107	RESERVED

Exhibit	Description
2108	U.S. Patent Application Publication No. 2002/0120260 A1 ("Morris")
2109	RESERVED
2110	Certified English translation of Korean Registered Patent Publication No. KR 10-0852500, dated August 18, 2008 ("Lee '500")
2111	Respondents' Amended Notice of Prior Art, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C. June 2, 2023)
2112	Rebuttal Expert Report of Peter Crosby, dated August 28,2023 (PROTECTIVE ORDER MATERIAL)
2113	RESERVED
2114	File History for U.S. Patent No. 9,320,536
2115	U.S. Patent No. 6,890,319 B1 ("Crocker")
2116–2118	RESERVED
2119	U.S. Patent. No. 6,277,116 B1 ("Utely")
2120	U.S. Patent Application Publication No. 2002/0120261 A1 ("Morris '261")
2121	RESERVED
2122	Cartessa Aesthetics, Innovations in RF Microneedling: A Closer Look at VirtueRF, Observations Aesthetics, Issue No. 1 (June 2021)
2123–2124	RESERVED

Exhibit	Description
2125	Hearing transcripts, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C.), held November 7, 2023 and December 11, 2023 (Jean Woloszko testimony excerpts) ("Woloszko Hr'g Tr.")
2126	Hearing transcript, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C.), held December 12, 2023 (Peter Crosby testimony excerpts) ("Crosby Hr'g Tr.")
2127	Sylfirm X RF Inspection Report of Peter Crosby
2128	Deposition transcript of Jongju Na, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C.), taken July 25, 2023 (excerpts)
2129	RESERVED
2130	Sylfirm X Product Photographs
2131	RESERVED
2132	U.S. Patent Application Publication No. 2006/0036210 A1 ("Zhang")
2133–2135	RESERVED
2136	Curriculum Vitae of Peter A. Crosby
2137–2138	RESERVED
2139	Appendix 7 – Summary Invalidity Claim Chart, U.S. Patent No. 10,869,812, *In re Certain Dermatological Treatment Devices & Components Thereof*, No. 337-TA-1356 (U.S.I.T.C.)
2140	Declaration of Peter Crosby, dated May 16, 2024 ("Crosby Decl.") (PROTECTIVE ORDER MATERIAL AND REDACTED VERSIONS)

Exhibit	Description
2141	Declaration of Vincent A. Thomas, dated May 20, 2024 ("Thomas Decl.") (PROTECTIVE ORDER MATERIAL AND REDACTED VERSIONS)
2142	U.S. Patent Application Publication No. 2004/0058882 A1 ("Eriksson")
2143	U.S. Patent Application Publication No. 2008/0091182 A1 ("Mehta 182")
2144	Disclaimer in a Patent Under 37 C.F.R. § 1.321(a) of U.S. Patent 10,869,812 ('812 Patent), including electronic payment receipt ("Disclaimer")
2145	Declaration of Charles H. Sanders in Response to Petitioner's Objections to Patent Owner's Evidence [*served, not filed*]
2146	Declaration of Cecilia Peniza in Support of Patent Owner's Unopposed Motion for *Pro Hac Vice* Admission Under 37 C.F.R. § 42.10(c)

I. RELIEF REQUESTED

Under 37 C.F.R. § 42.10(c) and the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response (Paper No. 6), Patent Owner Serendia, LLC ("Patent Owner") respectfully requests the *pro hac vice* admission of attorney Cecilia Peniza, Esq. in this proceeding. Patent Owner has conferred with counsel for Jeisys Medical Inc ("Petitioner"), and Petitioner does not oppose this motion.

II. LEGAL STANDARD

Under 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 Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response (Paper No. 6) further instructs:

> The parties are advised that under 37 C.F.R. § 42.10(c), recognition of counsel *pro hac vice* requires a showing of good cause. The parties are authorized to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c). Such motions shall be filed in accordance with the "Order

> -- Authorizing Motion for *Pro Hac Vice* Admission" in Case IPR2013-00639, Paper 7, a copy of which is available on the Board Web site under "Representative Orders, Decisions, and Notices."

(*Id.* at 2.) The above referenced "Order -- Authorizing Motion for *Pro Hac Vice* Admission" further provides:

> A motion for *pro hac vice* admission must:
>
> a. Contain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding.
>
> b. Be 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 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 USPTO 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 (3) years; and

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

(IPR2013-00639, Paper No. 7 at 3.) As set forth below, and in the accompanying Declaration of Cecilia Peniza, Esq. (Ex. 2146, "Peniza Decl."), each of these requirements is satisfied here.

III. STATEMENT OF FACTS SHOWING GOOD CAUSE FOR THE BOARD TO RECOGNIZE CECILIA PENIZA *PRO HAC VICE* IN THIS PROCEEDING

Ms. Peniza is a member in good standing of the District of Columbia (Bar No. 994975) and the Virginia State Bar (Bar No. 78917) (Peniza Decl. ¶ 2.) Ms. Peniza has never been suspended or disbarred from practice before any court or administrative body. (*Id.* ¶ 3.) No application of Ms. Peniza for admission to practice before any court or administrative body has ever been denied. (*Id.*) Nor has any court or administrative body imposed sanctions or contempt citations against Ms. Peniza. (*Id.*) Ms. Peniza has read, fully understands, 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 Title 37 of the C.F.R. (*Id.* ¶ 4.) Ms. Peniza acknowledges and agrees that she will be subject to the USPTO 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). (*Id.*)

Patent Owner's lead counsel in this proceeding, Charles H. Sanders, is a registered practitioner (Reg. No. 47,053). Moreover, as set forth below (and in her accompanying declaration), Ms. Peniza is both an experienced and technically-trained litigation attorney with an established familiarity with the subject matter at issue in this proceeding.

Ms. Peniza received a B.S. degree in Mechanical Engineering from the University of Florida in 2005 (*Id.* ¶ 5.) Ms. Peniza earned a law degree from Georgetown University in 2009. (*Id.*) Ms. Peniza joined Latham & Watkins LLP ("Latham") as a Partner in 2022. (*Id.*)

Ms. Peniza is currently a member of Latham's intellectual property group, with a focus on patent litigation. (*Id.* ¶ 6.) Ms. Peniza has practiced in Latham's intellectual property group for almost two years. (*Id.*)

Ms. Peniza also has an established familiarity with the subject matter at issue in this proceeding. Ms. Peniza has been actively involved in the related investigation in the International Trade Commission between the Petitioner and Patent Owner, Inv. No. 337-TA-1356, and the following court cases pending in the

District of Delaware: *Serendia, LLC v. Cutera, Inc*., 1:23-cv-00222; *Serendia, LLC v. Cynosure, LLC*, 1:23-cv-00223; and *Serendia, LLC v. EndyMed Medical, Inc*., 1:23-cv-00224. (*Id.* ¶ 7.) U.S. Patent No. 10,869,812 ("'812 patent"), which is at issue in this proceeding, is one of the patents asserted by the Patent Owner in the investigation in the International Trade Commission and the district court litigations. (*Id.* ¶ 8.) Ms. Peniza has been actively involved in all aspects of the litigation, including Patent Owner's factual investigation and development of its claim construction, validity, and infringement positions regarding the claims of the '812 patent at issue here. (*Id.*)

Ms. Peniza has been actively involved in analyzing and assisting with responding to the Petition for *Inter Partes* Review submitted in this proceeding. (*Id.* ¶ 9.)

She is concurrently applying to appear *pro hac vice* in the following proceedings before the USPTO: Case Nos. IPR2024-00383, IPR2024-00384, and IPR2024-00386. (*Id.* ¶ 10.)

In view of Ms. Peniza's extensive knowledge of the subject matter at issue in this proceeding, and in view of the interrelatedness of this proceeding and the related investigation in the International Trade Commission and district court litigations, Patent Owner has a substantial need for Ms. Peniza's *pro hac vice* admission and her involvement in the continued prosecution of this proceeding. In addition,

admission of Ms. Peniza *pro hac vice* will enable Patent Owner to avoid unnecessary expense and duplication of work between this proceeding and the investigation in the International Trade Commission and district court litigations. *See* 77 Fed. Reg. 48,612, 48,661 (Aug. 14, 2012) (Office's comment on final rule discussing concerns about efficiency and costs where an entity has already engaged counsel for parallel district court litigation).

IV. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that Ms. Peniza be admitted *pro hac vice* in this proceeding.

Respectfully submitted,

Dated: September 16, 2024

By: / Charles H. Sanders /

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 16th day of September, 2024, a true and correct copy of the foregoing **Patent Owner's Unopposed Motion For *Pro Hac Vice* Admission Of Cecilia Peniza Under 37 C.F.R. § 42.10(c) and Exhibit 2146** were served by electronic mail on Petitioner's lead and backup counsel at the following email addresses:

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