

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MCCORMICK & COMPANY, INC.,
FONA TECHNOLOGIES, LLC, AND
FONA INTERNATIONAL, LLC,
Petitioners

v.

ZOOMESSENCE, INC.,

Patent Owner

Case No.: IPR2026-00416

U.S. Patent No. 9,332,776

**DECLARATION OF MICHAEL B. POWELL IN SUPPORT OF PATENT
OWNER'S NOTICE OF INTENT TO DESIGNATE PROVISIONALLY
RECOGNIZED PTAB ATTORNEY AS BACK-UP COUNSEL**

I, Michael B. Powell, hereby declare as follows:

1. I am a member in good standing of the State Bar of New York. I was admitted to the State Bar of New York on June 17, 2013. My New York Bar registration number is 5130059. I am admitted to practice before the United States Court of Appeals for the Federal Circuit; the United States District Court for the Southern District of New York; the United States District Court for the Eastern District of New York; the United States District Court for the Eastern District of Texas; and the United States District Court for the District of Delaware. I have been litigating patent cases for approximately 14 years.

2. I have never been suspended or disbarred from practice before any court or administrative body.

3. I have never had a court or administrative body deny or revoke my application for admission to practice.

4. I have never had any sanctions or contempt citations imposed on me by any court or administrative body.

5. I have read 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 37 C.F.R.

6. I agree to be subject to the United States Patent and Trademark Office 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).

7. I am an experienced litigation attorney, with particular experience in patent infringement litigation in district courts across the country, including experience with fact and expert deposition discovery, claim construction, Markman hearings, motion practice, trials, and hearings. A noncomprehensive list of representative patent litigations where I have been actively involved as patent litigation counsel include:

- *AngioDynamics, Inc. v. Endovascular Engineering, Inc.*, 1:26-cv-00469 (D. Del. 2026)
- *ZoomEssence, Inc. v. McCormick & Company, Inc.*, 2:25-cv-01240 (E.D. Tex. 2025)
- *Guidance Endodontics, LLC v. Dentsply Sirona, Inc.*, 1:25-cv-01123 (D. Del. 2025)
- *Open Text Corporation v. Hyland Software, Inc.*, 8:20-cv-02123 (C.D. Cal. 2020)
- *TriOptima AB v. Quantile Techs. Ltd.*, 2:19-cv-00390 (E.D. Tex. 2019)
- *C.R. Bard, Inc. v. AngioDynamics, Inc.*, 1:15-cv-00218 (D. Del. 2015)

8. I have not applied to appear *pro hac vice* in any proceedings before the USPTO in the last three years. However, I was admitted *pro hac vice* in *Quantile Techs. Ltd. v. TriOptima AB*, CBM2020-00011, CBM2020-00012 (PTAB), and I have not subsequently been denied permission to appear *pro hac vice* in a Board

proceeding. I also previously assisted lead and backup counsel for Patent Owner Anheuser-Busch InBev, S.A. before the PTAB in Inter Partes Reviews IPR2018-01663, IPR2018-01665, IPR2018-01667, and IPR2018-01669.

9. I am familiar with the subject matter at issue in this proceeding and in the related litigation in the United States District Court for the Eastern District of Texas, in which U.S. Patent No. 9,332,776 is asserted by Patent Owner: *ZoomEssence, Inc. v. McCormick & Company, Inc.*, Case No. 2:25-cv-01240 (E.D. Tex., filed Dec. 19, 2025). I am also familiar with the prior art raised in this IPR proceeding, including: Baranauskienė et al., “Flavor Retention of Peppermint (*Mentha piperita* L.) Essential Oil Spray-Dried in Modified Starches during Encapsulation and Storage” (Ex. 1005, “Baranauskiene”); Watanabe et al., U.S. Patent Application Publication No. 2004/0228959 (Ex. 1006, “Watanabe”); and Subramaniam et al., European Patent No. EP 1,435,797 B1 (Ex. 1004, “Subramaniam”). I have reviewed the papers filed in this IPR proceeding and in the related district court proceeding.

10. I declare that all statements made herein of my own knowledge are true and correct and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Dated: July 30, 2026

/Michael B. Powell/

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