

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KINDERFARMS, INC.
Petitioner

v.

GENEXA, INC.
Patent Owner

Case No. PGR2023-00051

U.S. Patent No. 11,617,795

**MOTION FOR SHANTELL L. LAFAYETTE TO APPEAR *PRO HAC*
VICE ON BEHALF OF PETITIONER KINDERFARMS, INC.
UNDER 37 C.F.R. § 42.10 (C)**

I. STATEMENT OF REQUESTED RELIEF

Pursuant to the Board’s October 3, 2023 Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response authorizing motions for pro hac vice admission (Paper No. 3, at 2), and 37 C.F.R. §§ 42.10(c) and 42.22, Petitioner KinderFarms, LLC (“KinderFarms”) hereby moves for an Order allowing Shantelle L. LaFayette of Mayer Brown LLP to appear *pro hac vice* on behalf of KinderFarms in the above-captioned case.

II. EXHIBITS RELIED UPON FOR THIS MOTION

For this motion, Petitioner relies on KinderFarms Exhibit 1044 – Declaration of Shantelle L. LaFayette in Support of Motion to Appear *Pro Hac Vice* on Behalf of KinderFarms, and KinderFarms Exhibit 1045 – Mayer Brown Professional Profile of Shantelle L. LaFayette.

III. REASONS THE REQUESTED RELIEF SHOULD BE GRANTED

As set forth below in the Statement of Material Facts, KinderFarms has made the necessary showing, pursuant to 37 C.F.R. § 42.10(c), for recognizing Shantelle L. LaFayette *pro hac vice*. Ms. LaFayette has been involved in this matter since its inception. She participated in the preparation of the Petition (Paper 2) and supporting exhibits, including working with Dr. Crowley to prepare his expert declaration, which are already filed in this proceeding. Exhibit 1044, at ¶5. She has also reviewed the Patent Owner Preliminary Response (Paper 6) and Institution Decision (Paper

8). Thus, Ms. LaFayette has established familiarity with the subject matter at issue in this proceeding. Additionally, Ms. LaFayette is an experienced litigation attorney and has been involved in various patent litigations and has also assisted with several *inter partes* review proceedings before the PTAB. Exhibit 1044, at ¶5. In particular, Ms. LaFayette is counsel representing KinderFarms in a parallel district court patent infringement litigation involving U.S. Patent No. 11,617,795 (the “’795 patent”) in the Central District of California, which is captioned *Genexa Inc. v. KinderFarms*, CDCA-2-23-cv-08378. Exhibit 1044, at ¶5. In light of Ms. LaFayette’s involvement in the related district court litigation, it is imperative to have her as counsel in this proceeding.

IV. STATEMENT OF MATERIAL FACTS

37 C.F.R. § 42.10(c) states that “[t]he 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.” As an initial matter, Lead Counsel for Petitioner KinderFarms LLC, in this post grant review proceeding is Brian W. Nolan. Mr. Nolan is registered to practice before the

United States Patent and Trademark Office and holds Registration No. 45,821. Furthermore, the following statement of facts demonstrates that Ms. LaFayette is an experienced patent litigator and has an established familiarity with the subject matter at issue, and accordingly, there is good cause for the Board to recognize Ms. Lafayette *pro hac vice*.

As set forth in KinderFarms Exhibit 1045, Ms. Lafayette is an associate practicing in the New York Intellectual Property Group at Mayer Brown LLP. Exhibit 1044, at ¶1. Exhibit 1045, at 1. Her practice is focused on patent litigation and due diligence matters, particularly as related to the innovative pharmaceutical industry. Exhibit 1045, at 1. Ms. Lafayette holds a Juris Doctor degree from McGill University. Exhibit 1044, at ¶3. Exhibit 1045, at 2. She also holds a Ph.D. in Microbiology and Immunology from McGill University, an M.Sc. in Molecular Genetics from the University of Toronto, and an Hon. B.Sc. in molecular biology from the University of Toronto. Exhibit 1044, at ¶2. Exhibit 1045, at 2.

Ms. LaFayette has read and will comply with the United States Patent and Trademark Office Trial Practice Guide, and the Board's Rules of Practice for Trials set forth in Part 42 of 37 C.F.R. Exhibit 1044, at ¶10. Ms. LaFayette also agrees to be subject to the United States Patent and Trademark Office Code of Professional Responsibility set forth in 37 C.F.R. §§ 11.101 et seq. and disciplinary jurisdiction under 37 C.F.R. § 11.19(a). Exhibit 1044, at ¶11.

Finally, Ms. LaFayette has never been suspended, disbarred or sanctioned by a court or administrative body. Exhibit 1044, at ¶7. She has never had a court or administrative body deny her application for admission to practice. Exhibit 1044, at ¶8. She has never been sanctioned or cited for contempt by any court or administrative body. Exhibit 1044, at ¶9.

V. CONCLUSION

In view of the foregoing, and having satisfied the requirements of 37 C.F.R. § 42.10(c), KinderFarms LLC respectfully moves for an Order allowing Shantelle L. LaFayette of Mayer Brown LLP to appear *pro hac vice* on behalf of KinderFarms in the above-captioned case.

Respectfully submitted,

Dated: April 30, 2024

/s/ Brian W. Nolan
By: / Brian W. Nolan /
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