UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Catalyst Orthoscience Inc.,

Petitioner

v.

Shoulder Innovations, Inc.,

Patent Owner

Case No.: PGR2024-00042

U.S. Patent No. 11,771,561

PATENT OWNER'S MOTION TO ADMIT *PRO HAC VICE* ANDREW MCELLIGOTT AS BACKUP COUNSEL UNDER 37 C.F.R. § 42.10(c)

I. INTRODUCTION AND STATEMENT OF RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c) and the Board's authorization in the Notice of Filing Date accorded to Petition (Paper 3 at 2), Patent Owner moves the Board to grant admission *pro hac vice* to Andrew McElligott to act as backup counsel in this proceeding.

II. REASONS FOR THE RELIEF REQUESTED

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." Good cause exists for admitting Mr. McElligott *pro hac vice* in this proceeding, as discussed below.

As noted in the supporting Declaration of Mr. McElligott (Ex.2009 ("McElligott Decl.")), Mr. McElligott has a technical background in the biological sciences and previously worked in the fields of cardiovascular and general physiological research. (McElligott Decl. at ¶1). He is counsel at the law firm of Crowell & Moring LLP (the firm representing Patent Owner here), specializing in patent litigation. (*Id.*). He is a member in good standing of the Illinois State Bar and is admitted to practice before the U.S. Court of Appeals for the Federal Circuit and the District Court for the Northern District of Illinois. (*Id.* at ¶2).

Lead counsel, Jon W. Gurka, is a registered practitioner. Mr. McElligott has

been assisting Mr. Gurka regarding this proceeding and, thus, is familiar with the patent at issue, the challenged claims, and the references cited in the Petition (Paper 1). (*Id.* at ¶9). Mr. McElligott is also counsel in the co-pending litigation, *Shoulder Innovations, Inc. v. Catalyst OrthoScience Inc.*, C.A. No. 24-266-JPM (D. Del.), which involves the same patent at issue in the Petition. (McElligott Decl. at ¶10).

In addition, Mr. McElligott has reviewed and agrees to be bound by the U.S.P.T.O.'s Rules of Professional Conduct under 37 C.F.R. § 11.101 *et seq.*, 37 C.F.R. § 11.19(a), and the rules governing this proceeding, including those set forth in the U.S.P.T.O.'s Patent Trial Practice Guide and the Board's Rules of Practice for Trials. (McElligott Decl. at ¶¶6-7).

III. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that the Board grant admission *pro hac vice* to Mr. McElligott in this proceeding.

Dated: September 30, 2024

Respectfully submitted,

/Ryan Fitzgerald/

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Attorneys for Patent Owner Shoulder Innovations, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing PATENT OWNER'S MOTION TO ADMIT *PRO HAC VICE* ANDREW MCELLIGOTT AS BACKUP COUNSEL UNDER 37 C.F.R. § 42.10(c) has been served in its entirety on September 30, 2024 to the following counsel for Petitioner via e-mail:

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