

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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3M COMPANY, MERCK & CO., INC. and  
MERCK SHARP & DOHME CORP.,  
Petitioner,

v.

APTAR FRANCE S.A.S.,  
Patent Owner.

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Cases<sup>1</sup>  
IPR2018-01054 (Patent No. 8,936,177)  
IPR2018-01055 (Patent No. 9,370,631)

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Before HYUN J. JUNG, SCOTT A. DANIELS, and  
RICHARD H. MARSCHALL, *Administrative Patent Judges*.

JUNG, *Administrative Patent Judge*.

ORDER

Denying Without Prejudice Patent Owner's Motion for  
Admission *Pro Hac Vice* of Ryan A. Hargrave and Robert M. Manley  
*37 C.F.R. § 42.10(c)*

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<sup>1</sup> This order addresses issues that are the same in all identified cases. We exercise our discretion to issue one order to be filed in each case. The parties are not authorized to use this style heading in subsequent papers.

Patent Owner submitted Motions for *pro hac vice* admission of Ryan A. Hargrave (Paper 8) and Robert M. Manley (Paper 9).<sup>2</sup> The Motions are supported by the Affidavits of Ms. Hargrave (Ex. 2001) and Mr. Manley (Ex. 2003). Petitioner has not opposed the Motions. For the reasons provided below, Patent Owner's Motions are *denied without prejudice*.

In accordance with 37 C.F.R. § 42.10(c), we may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause. In authorizing a motion for *pro hac vice* admission, the Board requires the moving party to provide a statement of facts showing 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. *Unified Patents, Inc. v. Parallel Iron, LLC*, No. IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7). According to our Rules, any statement under oath, i.e., affidavit, must include the proper seal of the officer before whom the oath or affirmation is made. 37 C.F.R. § 1.66. Our Rules also provide that a declaration may be submitted in lieu of an affidavit. *Id.* at §§ 1.68, 42.2. Such a declaration must acknowledge that willful false statements and the like are punishable by fine or imprisonment or both as set forth in 18 U.S.C. § 1001. *Id.* at § 1.68. A declarant must also set forth in the declaration that all statements made of the declarant's own knowledge are true, and that all statements made on information and belief are believed to be true. *Id.*

Here, the Affidavits do not meet the requirements for an affidavit or declaration. More particularly, Ms. Hargrave's Affidavit and Mr. Manley's Affidavit do not comply with the requirements for an affidavit because they

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<sup>2</sup> Paper and exhibit numbers refer to Case IPR2018-01054. Corresponding Motions and Affidavits were filed in IPR2018-01055.

IPR2018-01054 (Patent No. 8,936,177)

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do not include the seal of the officer before whom the oath was made. Nor do the Affidavits set forth that all statements are true or believed to be true, and that willful false statements are punishable by fine or imprisonment or both pursuant to 18 U.S.C. § 1001, as required for a declaration. In the absence of a properly executed affidavit or declaration, Patent Owner has not met the requirements for *pro hac vice* admission.

In consideration of the foregoing, it is hereby

ORDERED that Patent Owner's Motions for *pro hac vice* admission of Ryan A. Hargrave and Robert M. Manley are *denied without prejudice*.

IPR2018-01054 (Patent No. 8,936,177)

IPR2018-01055 (Patent No. 9,370,631)

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