

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

10X GENOMICS, INC.,
Petitioner,

v.

BIO-RAD LABORATORIES, INC.,
Patent Owner.

Case IPR2020-00086
Patent 9,562,837

**PETITIONER 10X GENOMICS, INC.'S UNOPPOSED MOTION FOR
PRO HAC VICE ADMISSION UNDER 37 C.F.R. § 42.10(c)**

Pursuant to 37 C.F.R. § 42.10(c), Petitioner 10X Genomics, Inc. (“10X”) respectfully requests that the Board recognize Matthew D. Powers as counsel *pro hac vice* in this proceeding. Petitioner seeks the counsel of Mr. Powers due to his familiarity with the Bio-Rad patent and prior art identified in the Petition in this proceeding based on his representation of 10X before the U.S. District Court for the District of Massachusetts, U.S. District Court for the District of Delaware, International Trade Commission, as well as his experience in representing clients in patent cases in major patent venues, including U.S. District Courts, the U.S. Court of Appeals for the Federal Circuit, the International Trade Commission, and the International Chamber of Commerce, and would like Mr. Powers to participate in the trial of this *inter partes* review proceeding. This motion is authorized by the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response (Paper No. 4) that was mailed on October 29, 2019 (“Notice”).

Patent Owner has confirmed that it will not oppose this motion.

I. GOVERNING RULES AND PRECEDENT

37 C.F.R. § 42.10(c) provides:

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 Board has specified that motions under 37 C.F.R. § 42.10(c) should be filed “in accordance with the ‘Order -- Authorizing Motion *for Pro Hac Vice* Admission’ in Case IPR2013-00639, Paper 7.” Notice at 2. That Order states that the motion must “[c]ontain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding” and that it must “[b]e accompanied by an affidavit or declaration of the individual seeking to appear” that attests to the facts specified in the Order. *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper No. 7 (P.T.A.B. Oct. 15, 2013) (“*Unified Patents* Order”).

The statement of facts that follows shows there is good cause for the Board to recognize Mr. Powers as counsel *pro hac vice* during this proceeding. This Motion for *Pro Hac Vice* Admission is accompanied by the required Declaration of Mr. Powers that includes the facts specified in the *Unified Patents* Order.

II. STATEMENT OF FACTS

Petitioner's lead counsel, Samantha A. Jameson, is a registered practitioner (Reg. No. 57,609). Backup counsel Gina Cremona (Reg. No. 74,844) and Daniel Radke (Reg. No. 69,820) are also registered practitioners.

Mr. Powers is an experienced patent litigation attorney with approximately thirty-six years of experience representing clients in patent cases involving numerous technologies. Mr. Powers has experience as a patent litigator before the U.S. District Courts, the International Trade Commission, and the United States Court of Appeals for the Federal Circuit. Through his practice in such cases, Mr. Powers has gained substantial experience in patent litigation including jury trials, bench trials, fact discovery, expert discovery, *Markman* hearings, trials before administrative law judges, and appeals before the Federal Circuit. Petitioner provides Exhibit A, Mr. Powers's biography, as evidence.

Mr. Powers is a member in good standing of the State Bar of California. Mr. Powers has never been suspended or disbarred from practice before any court or administrative body and has never had an application for admission to practice before any court or administrative body denied. Also, no sanction or contempt citation has been imposed against Mr. Powers by any court or administrative body. Mr. Powers has read and agrees to comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in part 42 of the Code of Federal Regulations, and 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). Mr. Powers's previous *pro hac vice* motions in Proceeding Nos. IPR2016-00303, IPR2016-00306, IPR2016-00308, and IPR2016-00309 were

granted. Mr. Powers's previous *pro hac vice* motions in Proceeding Nos. IPR2019-565, IPR2019-00566, IPR2019-00567, and IPR2019-00568 filed in the last three years have been granted. Mr. Powers is now concurrently applying to appear in Proceeding Nos. IPR2020-00087, IPR2020-00088, and IPR2020-00089.

Mr. Powers also has an established familiarity with the subject matter at issue in this *inter partes* review proceeding, including the substantive and technical issues involved. Mr. Powers is lead trial counsel for 10X Genomics, Inc., the Petitioner in this proceeding, in the U.S. District Court for the District of Delaware, Case No. 18-1679-RGA, which involves the same patent (U.S. Patent No. 9,562,837) and the same references identified in the Petition in this proceeding as the grounds for challenge; and in the U.S. District Court for the District of Delaware, Case No. 15-152-RGA, where Bio-Rad asserted U.S. Patent No. 7,129,091 (the 091 Ismagilov patent), which is one of the prior art references relevant to this IPR, and where other art, such as the Thorsen Thesis, also relevant to related petitions, was at issue. Likewise, Mr. Powers was lead trial counsel for Petitioner in Investigation No. 337-TA-1100 in the International Trade Commission, which addressed art from the same field. Mr. Powers has reviewed and considered the Petition and supporting exhibits, the art presented in the Petition, the Patent Owner's Preliminary Response and supporting exhibits, and U.S. Patent No. 9,562,837. Should the present motion be

granted, Petitioner intends for Mr. Powers to participate in the trial of this IPR proceeding.

III. CONCLUSION

Accordingly, Petitioner submits that there is good cause under 37 C.F.R. § 42.10(c) for the Board to recognize Matthew D. Powers as counsel *pro hac vice* during this proceeding.

Dated: May 13, 2020

Respectfully submitted,

/Samantha A. Jameson/
Samantha A. Jameson
USPTO Reg. No. 57,609
Tensegrity Law Group LLP
8260 Greensboro Dr., Suite 260
McLean, VA 22102
Telephone: 703-940-5033
Facsimile: 650-802-6001
samantha.jameson@tensegritylawgroup.com
10X_TLG_IPR_Service@tensegritylawgroup.com

Counsel for Petitioner
10X Genomics, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on May 13, 2020, copies of the foregoing were served via Electronic Mail to the following:

David Bilsker (Reg. No. 39611) (Lead Counsel)
davidbilsker@quinnemanuel.com
QUINN EMANUEL URQUHART & SULLIVAN, LLP
50 California Street, 22nd Floor
San Francisco, California 94111

Kevin Johnson (Reg. No. 38927) (Back-up Counsel)
kevinjohnson@quinnemanuel.com
QUINN EMANUEL URQUHART & SULLIVAN, LLP
555 Twin Dolphin Dr., 5th Floor
Redwood Shores, California 94065

Anne S. Toker (Reg. No. 53692) (Back-up Counsel)
annetoker@quinnemaniel.com
QUINN EMANUEL URQUHART & SULLIVAN, LLP
51 Madison Avenue, 22nd Floor
New York, New York 10010

/Samantha A. Jameson/
Samantha A. Jameson
USPTO Reg. No. 57,609
Tensegrity Law Group LLP
8260 Greensboro Dr., Suite 260
McLean, VA 22102
Telephone: 703-940-5033
Facsimile: 650-802-6001
samantha.jameson@tensegritylawgroup.com
10X_TLG_IPR_Service@tensegritylawgroup.com

Counsel for Petitioner
10X Genomics, Inc.

EXHIBIT A

[Our History \(/ourhistory\)](#)

[Partners > \(/partners\)](#)

[Associates \(/associates\)](#)



Matthew Powers

Email: [Matthew.Powers \(mailto:matthew.powers@tensegritylawgroup.com\)](mailto:Matthew.Powers@tensegritylawgroup.com)

Phone: 650-802-6010

555 Twin Dolphin Drive
Suite 650
Redwood Shores, CA 94065

Matt Powers is known for taking tough cases to trial and winning them. He tries patent cases, trade secret cases, fraud cases, fiduciary duty cases, antitrust cases and contract cases. He has tried patent cases in every major patent venue, including U.S. district courts all over the country and the ITC, as well as maintaining a successful appellate practice at the Federal Circuit Court of Appeals. His litigation experience spans a wide variety of technologies, including computer hardware and software; operating systems and databases; networking; semiconductor devices, processing, and packaging; mobile phones and other consumer electronics; mobile commerce; medical devices; Wi-Fi and location services. Many of the world's leading companies have called on him to lead trial teams in difficult cases, and he is often called on to replace another firm's litigation team for trial on very short notice. He has led teams winning billion dollar cases for many of the leading companies in the world.

Mr. Powers is one the founding partners of the Tensegrity Law Group LLP, a boutique law firm specializing in patent litigation trials, and appellate and counseling matters. Many of the patent cases handled by Tensegrity are further complicated by trade secret, contract, or other issues. Prior to forming Tensegrity, Mr. Powers was a managing partner at Weil, Gotshal & Manges LLP.

Mr. Powers is a Fellow of the American College of Trial Lawyers and of the International Society of Barristers. In 2018, Mr. Powers received his 15th consecutive recognition by Super Lawyers. He is continually recognized as a "Star Performer" by Chambers USA and in 2011 he received top rankings in the national, local, federal circuit, and ITC categories in Managing Intellectual Property magazine. Managing Intellectual Property magazine also named him "Outstanding IP Practitioner of the Year" in 2010. He was named one of Northern California's top ten lawyers in 2009 by Super Lawyers. Commentators in Chambers USA 2010 noted that he is "universally recognized as a star in the field" because of "his impressive trial work." Chambers USA 2009 notes that clients lauded him as a

"mesmerizing trial lawyer" whose peers claim he "continues to soar," and emphasize his "unmistakable star quality." Mr. Powers was distinguished as a "Leading Lawyer" by Legal 500 US 2009 and described by clients as "a litigator you don't want to argue against in court." He was singled out by Chambers USA 2008 as "king of the jungle...a master trial litigator and a genius when it comes to patents... fantastically clever and exceptionally talented." Chambers USA 2007 also recognized him as a "Star Performer" - the only patent litigator in the country so recognized - calling him "genuinely feared as a courtroom opponent" and "a dominant force in the market." In 2007, The American Lawyer described Mr. Powers as a "bona fide litigation superstar." The National Law Journal named him one of the top ten litigators in the country in 2006, and in 2005 he was named "Trial Lawyer of the Year" by the Santa Clara County Trial Lawyers Association. He was also named a "Father of the Year" for 2004 by the Father's Day Council of San Francisco.

Mr. Powers is a frequent lecturer nationally and internationally on intellectual property litigation issues.

ADMISSIONS AND QUALIFICATIONS

1982, California

United States Supreme Court

United States Court of Appeals for the Federal Circuit

United States Court of Appeals for the 2nd Circuit

United States Court of Appeals for the 9th Circuit

United States District Court for the Northern District of California

United States District Court for the Central District of California

United States District Court for the Eastern District of California

United States District Court for the Southern District of California

United States District Court for the Eastern District of Texas

United States District Court for the Western District of Texas

United States District Court for the Northern District of Indiana

United States District Court for the Eastern District of Michigan

United States District Court for the Western District of Wisconsin

EDUCATION

Harvard Law School, J.D. (1982)

Northwestern University (1979)

**555 TWIN DOLPHIN DRIVE, STE 650
REDWOOD SHORES, CA 94065
(650) 802-6000**

DISCLAIMERS (/DISCLAIMER)

© 2020