

Filed on behalf of CYTONOME/ST LLC

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Paper No. ____

Date Filed: August 18, 2020

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NANOCELLECT BIOMEDICAL, INC.,
Petitioner

v.

CYTONOME/ST, LLC,
Patent Owner

Case IPR2020-00550
Patent 9,011,797

**PATENT OWNER'S MOTION FOR *PRO HAC VICE* ADMISSION OF
THOMAS W. LANDERS**

Pursuant to 37 C.F.R. § 42.10(c) and the Board’s February 21, 2020 Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response (Paper 5), Patent Owner Cytonome/ST, LLC (“Patent Owner”) respectfully requests the *pro hac vice* admission of attorney Thomas W. Landers in this proceeding. Patent Owner has conferred with counsel for NanoCollect Biomedical, Inc. (“Petitioner”), and Petitioner does not oppose this motion.

I. Statement of Facts Showing Good Cause for the Board to Recognize Thomas W. Landers *Pro Hac Vice* in this Proceeding

The Board may recognize counsel *pro hac vice* during an *inter partes* review 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.” 37 C.F.R. § 42.10(c). “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.” *Id.*

As set forth below and in the accompanying Declaration of Thomas W. Landers in Support of Motion to Appear *Pro Hac Vice* (“Landers Decl.,” Exhibit 2033), the facts here establish good cause for the Board to recognize Thomas W. Landers *pro hac vice* in this proceeding.

1. Lead counsel, Kirt O'Neill, is a registered practitioner (Reg. No. 38,257).
2. Mr. Landers is a member in good standing of the State Bar Texas (Bar No. 24102057). *See* Exhibit 2033, ¶ 2.
3. Mr. Landers has never been suspended or disbarred from practice before any court or administrative body. *See* Exhibit 2033, ¶ 3.
4. None of Mr. Landers's applications for admission to practice before any court or administrative body have ever been denied. *See* Exhibit 2033, ¶ 4.
5. Mr. Landers has not been sanctioned nor has he had a contempt citation imposed on him by any court or administrative body. *See* Exhibit 2033, ¶ 5.
6. Mr. Landers has declared that he has read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trial set forth in part 42 of 37 C.F.R. *See* Exhibit 2033, ¶ 6.
7. Mr. Landers has acknowledged and agrees that he 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). *See* Exhibit 2033, ¶ 7.
8. Mr. Landers has appeared *pro hac* vice before the Patent Trial and Appeal Board in two *inter partes* review proceedings in the last three years. *See* Exhibit 2033, ¶ 8.

9. Mr. Landers has been a practicing attorney for nearly four years in the areas of patent litigation and patent advisory work. He has been involved in numerous patent infringement cases in district courts across the country, as well as the Federal Circuit. He is presently counsel for Patent Owner in a related litigation captioned *Cytonome/ST, LLC v. NanoCelect Biomedical, Inc., Case No. 1:19-cv-00301-UNA (D. Del.)*. See Exhibit 2033, ¶ 9.

10. In preparation for his representation of Cytonome/ST, LLC in the district court litigation and before the Board in this *inter partes* review, Mr. Landers has studied and analyzed the field of technology relevant to the ‘797 patent, as well as the claims, specification, and prosecution history of the ‘797 patent. Accordingly, Mr. Landers has become very familiar with both the particular subject matter and substantive issues concerning the ‘797 patent. He is also familiar with the alleged prior art references asserted by Petitioner in this *inter partes* review proceeding. See Exhibit 2033, ¶ 9.

In view of Mr. Landers’s knowledge of the subject matter at issue in this proceeding, and in view of the interrelatedness of this proceeding and those mentioned above, Patent Owner has a substantial need for Mr. Landers’s *pro hac vice* admission and his involvement in this proceeding. In addition, *pro hac vice* admission of Mr. Landers will enable Patent Owner to avoid unnecessary expense and duplication of work between this proceeding and the related cases mentioned

above. *See* 77 Fed. Reg. 48,612, 48,661 (Aug. 14, 2012) (Office's comment on final rule discussing concerns about efficiency and costs where an entity has already engaged counsel for parallel district court litigation).

II. Conclusion

For the foregoing reasons, Patent Owner respectfully requests that the Board admit Thomas W. Landers *pro hac vice* in this proceeding.

Dated: August 18, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Patent Owner's Motion for *Pro Hac Vice* Admission of Thomas W. Landers was served on counsel of record on August 18, 2020 by filing this document through the End-to-End System, as well as delivering a copy via electronic mail to counsel of record for the Petitioner at the following addresses:

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