

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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COOK GROUP INCORPORATED  
and  
COOK MEDICAL LLC,  
Petitioner,

v.

BOSTON SCIENTIFIC SCIMED, INC.,  
Patent Owner.

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IPR2017-00134  
Patent 8,709,027 B2

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Before, JAMES T. MOORE, JAMES A. TARTAL, and  
ROBERT L. KINDER, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

ORDER  
Conditionally Granting  
Petitioner's Motion to Withdraw and Substitute Counsel  
*37 C.F.R. § 42.10*

On June 24, 2020, with our prior authorization, Petitioner filed a Motion for Withdrawal and Substitution of Counsel. Paper 95 (“Motion”). The Motion requests withdrawal of Dominic P. Zanfardino as lead counsel and James M. Oehler as back-up counsel for Petitioner, pursuant to 37 C.F.R. § 42.10(e), and the substitution of Jeffrey M. Nichols (Reg. No. 46,958) of Brinks Gilson & Lione. Motion 1. According to Petitioner, “Patent Owner has informed Petitioners that it does not oppose this motion.” *Id.* Petitioner therefore respectfully requests that this Motion be granted. *Id.*

A party represented by counsel must designate a lead counsel and at least one backup counsel. 37 C.F.R. § 42.10(a). Counsel may not withdraw from an *inter partes* review proceeding unless the Board authorizes such withdrawal. *Id.* § 42.10(e). A power of attorney must be filed with the designation of counsel, unless the designated counsel is already counsel of record. *Id.* § 42.10(b). The parties must provide certain mandatory notices, including identification of lead and back-up counsel. *Id.* § 42.8. Where there is a change of information, a party must file a revised notice within 21 days of the change. *Id.* § 42.8(a)(3).

Here, Petitioner asserts that it “will file an updated power of attorney and mandatory notice if this motion is granted.” There is no need for Petitioner to file an updated power of attorney because Mr. Nichols is already counsel of record in this proceeding. *See* Paper 1, 2. Mr. Zanfardino will remain lead counsel of record and Mr. Oehler will remain back-up counsel of record until Petitioner has filed updated Mandatory notices. *See* 37 C.F.R. § 42.8(a)(3).

In view of the foregoing, we conditionally grant Petitioner's Motion. Mr. Zanfardino and Mr. Oehler will be authorized to withdraw as counsel effective upon Petitioner's filing of updated Mandatory notices.

It is

ORDERED that the Petitioner's Motion for Withdrawal and Substitution of Counsel (Paper 95) is *conditionally granted*, effective upon Petitioner's filing of updated Mandatory notices; and

FURTHER ORDERED that Dominic P. Zanfardino and James M. Oehler shall be withdrawn from this proceeding, effective upon Petitioner's filing of updated Mandatory notices.

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For PETITIONER:

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