

UNITED STATES PATENT AND TRADEMARK OFFICE

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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FRESENIUS KABI USA, LLC and FRESENIUS KABI SWISSBIOSIM GmbH  
Petitioners,

v.

AMGEN, INC. and AMGEN MANUFACTURING LIMITED  
Patent Owner

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Case IPR2019-00971  
Patent 9,856,287 B1

Title: REFOLDING PROTEINS USING A CHEMICALLY CONTROLLED  
REDOX STATE

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**PETITIONERS' MOTION FOR *PRO HAC VICE* ADMISSION OF  
ROBERT V. CERWINSKI UNDER 37 C.F.R. § 42.10(c)**

**I. STATEMENT OF THE PRECISE RELIEF REQUESTED**

Pursuant to the Board's "Notice of Filing Date Accorded /Defective Petition," dated December 15, 2015 (Paper No. 3), authorizing the parties to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c), Petitioners Fresenius Kabi USA, LLC and Fresenius Kabi SwissBioSIM GmbH respectfully request that the Board allow Robert V. Cerwinski to appear *pro hac vice* on their behalf in this proceeding. Patent Owner has stated that it will not oppose this motion.

**II. REASONS THE REQUESTED RELIEF SHOULD BE GRANTED**

As set forth in the Statement of Material Facts below, and as required by 37 C.F.R. § 42.10(c), Petitioners have demonstrated good cause to admit Mr. Cerwinski *pro hac vice* in this proceeding. In particular, Petitioners' lead counsel is a registered practitioner, and Mr. Cerwinski is an experienced litigating attorney having an established familiarity with the subject matter at issue in this proceeding.

Furthermore, this motion is being filed more than twenty one days after service of the petition; includes a statement of facts showing good cause for the Board to recognize Mr. Cerwinski *pro hac vice*; and is being filed concurrently with Exhibit 1047, the Declaration of Robert V. Cerwinski in Support of Petitioners' Motion for *Pro Hac Vice* Admission of Robert V. Cerwinski ("Cerwinski Decl."), all in accordance with the "Order Authorizing Motion for *Pro*

*Hac Vice Admission*” in *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 at 3 (P.T.A.B. Oct. 15, 2013).

### III. STATEMENT OF MATERIAL FACTS

1. 37 C.F.R. § 42.10(c) provides 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. 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.”
2. Huiya Wu, lead counsel for Petitioners Fresenius Kabi USA, LLC and Fresenius Kabi SwissBioSIM GmbH in this proceeding, is a registered practitioner holding Registration No. 44,411.
3. As set forth in the Cerwinski Decl., Mr. Cerwinski is an experienced litigating attorney. Specifically, Mr. Cerwinski has over 20 years of experience representing clients in patent litigations, in United States District Courts and the Court of Appeals for the Federal Circuit. Mr. Cerwinski is a member in good standing of the Bar of the New York Bar. Mr. Cerwinski has never been suspended or disbarred from practice before any court or administrative body.

No application of Mr. Cerwinski for admission to practice before any court or administrative body has ever been denied. No sanctions or contempt citations have been imposed against Mr. Cerwinski by any court or Administrative Body. (Cerwinski Decl., ¶¶ 2-3).

4. Mr. Cerwinski also has an established familiarity with the precise subject matter at issue in this proceeding. Petitioner and Patent Owner are currently involved in IPR2019-00971 concerning U.S. Patent No. 9,856,287 (the “’287 patent”). Mr. Cerwinski is counsel for Fresenius Kabi USA, LLC and Fresenius Kabi SwissBioSIM GmbH, and in the course of that representation, he has developed a strong familiarity with the ’287 patent, its prosecution history, the general subject matter to which the ’287 patent is directed, and the prior art references relied upon by both Petitioner and Patent Owner. Additionally, Mr. Cerwinski has thoroughly reviewed the Petition and accompanying Exhibits submitted in this proceeding.

5. Mr. Cerwinski has attested to the each of the requirements set forth in paragraph 2(b)(i)-(viii) of the “Order Authorizing Motion for *Pro Hac Vice* Admission” in Case IPR2013-00639, Paper 7 at 3. (Cerwinski Decl., ¶¶ 3, 4, 6-8, 9-13).

#### IV. CONCLUSION

In view of the foregoing, Petitioners respectfully submit that the requirements of 37 C.F.R. § 42.10(c) have been satisfied, and requests an Order permitting Robert V. Cerwinski to appear *pro hac vice* on its behalf in this proceeding.

Dated: August 6, 2019

Respectfully submitted,

/Huiya Wu/

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