

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PERSEPHONE GmbH,
Petitioner Application 15/368,221,
Petitioner,

v.

SIMON TECHNOLOGIES LLC,
Respondent Application 14/726,075,
Respondent.

DER2017-00004

Before JAMESON LEE, MICHAEL R. ZECHER, and JUSTIN T. ARBES,
Administrative Patent Judges.

LEE, *Administrative Patent Judge.*

ORDER
Granting Respondent's Motion to Withdraw
and Substitute Counsel
37 C.F.R. § 42.10(e)

On January 18, 2023, Respondent filed a motion titled “UNOPPOSED MOTION (A) TO WITHDRAW AND REPLACE LEAD COUNSEL AND (B) FOR *PRO HAC VICE* ADMISSION OF JORDAN STRAUSS UNDER 37 C.F.R. § 42.10(c).” Paper 15 (“Motion”).¹

However, the Motion is improperly filed. Motions for withdrawal and substitution of counsel and motions for *pro hac vice* admission must be filed separately, as the latter requires payment of a \$250 fee per attorney per case. See 37 C.F.R. § 41.15(e). Respondent did not submit the required *pro hac vice* admission fee with the Motion. Under these circumstances, we will treat the Motion as being for withdrawal and substitution of counsel only, and we *grant* that portion of the Motion. The *pro hac vice* admission request portion of the Motion is *dismissed*.²

In the Motion, Respondent seeks to withdraw David Doyle (Reg. No. 43,596) as lead counsel. Motion 2. The Motion indicates that Neil Ferrari (Reg. No. 61,484) will be new lead counsel for Respondent. *Id.* Respondent represents that Petitioner does not oppose the Motion. *Id.* Respondent filed a Power of Attorney appointing Mr. Ferrari as lead counsel. Paper 14. Respondent also filed updated Mandatory Notices reflecting the requested withdrawal and substitution of counsel. Paper 13.

Counsel may withdraw from an *inter partes* review proceeding only with Board authorization. 37 C.F.R. § 42.10(e). Under these circumstances, we grant Respondent’s Motion to withdraw and substitute counsel.

¹ The Motion does not include page numbers. We consider the title page as page 1 and proceed therefrom in numerical order.

² On January 20, 2023, Respondent filed a separate motion for *pro hac vice* admission of Mr. Strauss (Paper 16), which we address in a separate order.

DER2017-00004
Petitioner Application 15/368,221
Respondent Application 14/726,075

Accordingly, it is:

ORDERED that Respondent's Motion to withdraw and substitute counsel in this proceeding is *granted*;

FURTHER ORDERED that David Doyle is withdrawn as counsel for Respondent in this proceeding; and

FURTHER ORDERED that Neil Ferrari is recognized as lead counsel for Respondent in this proceeding, and that Respondent file an updated mandatory notice within ten days of this communication to indicate an email address for Neil Ferrari.

DER2017-00004
Petitioner Application 15/368,221
Respondent Application 14/726,075

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