

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIFESCAN, INC.,
Petitioner,

v.

FACET TECHNOLOGIES, LLC,
Patent Owner.

IPR2023-00712
Patent 8,840,635 B2

Before ULRIKE W. JENKS, JAMES A. TARTAL, and DAVID COTTA,
Administrative Patent Judges.

TARTAL, *Administrative Patent Judge.*

ORDER

Granting Petitioner's Motion for Admission
Pro Hac Vice of Gerald W. Griffin
37 C.F.R. § 42.10

On April 10, 2023, Petitioner filed motions for admission *pro hac vice* of Gerald W. Griffin. (the “Motion”). Paper 7. Petitioner also filed a declaration of Mr. Griffin in support of the Motion (the “Declaration”). Ex. 1026. Patent Owner has not opposed the Motion. For the reasons provided below, Petitioner’s Motion is *granted*.

Pursuant to 37 C.F.R. § 42.10(c), 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. In its notice authorizing motions for *pro hac vice* admission, the Board requires a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* and an affidavit or declaration of the individual seeking to appear in this proceeding. *See Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7) (representative “Order – Authorizing Motion for *Pro Hac Vice* Admission”).

Based on the facts set forth in the Motion and the accompanying Declaration, we conclude that Mr. Griffin has sufficient legal and technical qualifications to represent Petitioner in this proceeding, that Mr. Griffin has demonstrated sufficient litigation experience and familiarity with the subject matter of this proceeding, and that Mr. Griffin meets all other requirements for admission *pro hac vice*. Accordingly, Petitioner has established good cause for admission *pro hac vice* of Mr. Griffin. Mr. Griffin will be permitted to serve as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

We note that Petitioner has filed a Power of Attorney including Mr. Griffin in accordance with 37 C.F.R. § 42.10(b). Paper 2. Petitioner has also filed a Mandatory Notice identifying Mr. Griffin as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3). Paper 1, 1.

Accordingly, it is:

ORDERED that Petitioner's Motion for *pro hac vice* admission of Gerald W. Griffin is *granted*;

FURTHER ORDERED that Petitioner is to continue to have a registered practitioner represent it as lead counsel for the above-identified proceeding;

FURTHER ORDERED that Mr. Griffin is authorized to represent Petitioner as back-up counsel only in the above-identified proceeding;

FURTHER ORDERED that Mr. Griffin comply with the Patent Trial and Appeal Board's Consolidated Trial Practice Guide¹ (84 Fed. Reg. 64,280 (Nov. 21, 2019)), and the Board's Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations; and

FURTHER ORDERED that Mr. Griffin shall be subject to the Office's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et. seq.*

¹ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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