

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MOM ENTERPRISES, LLC,
Petitioner,

v.

ELAINE AND REINHOLD W. VIETH,
Patent Owner.

IPR2023-00726
Patent 9,066,958 B2

Before JOHN G. NEW, SHERIDAN K. SNEDDEN, and
CYNTHIA M. HARDMAN, *Administrative Patent Judges*.

HARDMAN, *Administrative Patent Judge*.

ORDER

Granting Patent Owner's Motions for *Pro Hac Vice* Admission of
Alan M. Anderson, L. Reagan Florence, and Matthew Palen
37 C.F.R. § 42.10

On October 24, 2023, Patent Owner filed motions requesting *pro hac vice* admission of Alan M. Anderson, L. Reagan Florence, and Matthew Palen. Papers 16–18 (collectively “Motions”). Patent Owner also submitted Declarations from Alan M. Anderson (Ex. 2012), L. Reagan Florence (Ex. 2013), and Matthew Palen (Ex. 2014) in support of the Motions (collectively “Declarations”). Petitioner did not oppose the Motions. *See* Paper 3, 2 (authoring motions for *pro hac vice* admission per procedures and timeline set forth in *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7)). For the reasons provided below, we grant the Motions.

In accordance with 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 authorizing a motion for *pro hac vice* admission, the Board requires the moving party to provide 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 the proceeding. *See Unified Patents, Inc.*, IPR2013-00639, Paper 7.

Based on the facts set forth in the Motions and the accompanying Declarations, we conclude that Mr. Anderson, Ms. Florence, and Mr. Palen each have sufficient qualifications to represent Patent Owner in this proceeding, that Mr. Anderson, Ms. Florence, and Mr. Palen have each demonstrated sufficient litigation experience and familiarity with the subject matter of this proceeding, and that Mr. Anderson, Ms. Florence, and Mr. Palen meet all other requirements for admission *pro hac vice*. *See* Exs. 2012–2014. Accordingly, Patent Owner has established good cause for

pro hac vice admission of Mr. Anderson, Ms. Florence, and Mr. Palen. Mr. Anderson, Ms. Florence, and Mr. Palen will be permitted to serve as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

We note that Patent Owner filed a Power of Attorney including Mr. Anderson, Ms. Florence, and Mr. Palen in accordance with 37 C.F.R. § 42.10(b). Paper 19, 2. Patent Owner has also filed Mandatory Notices identifying Mr. Anderson, Ms. Florence, and Mr. Palen as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3). Paper 20, 3.

In consideration of the foregoing, it is hereby

ORDERED that Patent Owner's Motions for *pro hac vice* admission of Alan M. Anderson, L. Reagan Florence, and Matthew Palen are *granted*;

FURTHER ORDERED that Patent Owner is to continue to have a registered practitioner represent it as lead counsel for this proceeding;

FURTHER ORDERED that Mr. Anderson, Ms. Florence, and Mr. Palen are authorized to represent Patent Owner as back-up counsel only in this proceeding;

FURTHER ORDERED that Mr. Anderson, Ms. Florence, and Mr. Palen comply with the Patent Trial and Appeal Board 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;² and

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

² In their Declarations, Mr. Anderson, Ms. Florence, and Mr. Palen indicate they will comply with "Part 42 of the C.F.R." Ex. 2012, 2; 2013, 2; 2014, 1. The Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials are set forth in Part 42 of Title 37, Code of Federal Regulations. We excuse this mistake on this occasion.

FURTHER ORDERED that Mr. Anderson, Ms. Florence, and Mr. Palen are 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.*³

³ In their Declarations, Mr. Anderson, Ms. Florence, and Mr. Palen indicate they will comply with the “Code of Professional Responsibility set forth in 37 C.F.R. §§ 10.101, *et seq.*,” as opposed to attesting that they shall be subject to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et. seq.* Ex. 2012, 2; 2013, 2; 2014, 1. We excuse this mistake on this occasion, noting that Mr. Anderson, Ms. Florence, and Mr. Palen will 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.*

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