

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
Petitioner,

v.

THROUGHPUTER, INC.,
Patent Owner.

IPR2023-00852
Patent 11,150,948 B1

Before MICHAEL R. ZECHE, JOHN A. HUDALLA, and
MATTHEW S. MEYERS, *Administrative Patent Judges*.

HUDALLA, *Administrative Patent Judge*.

ORDER

Granting Patent Owner's Motion for
Admission *Pro Hac Vice* of W. Cook Alciati
37 C.F.R. § 42.10(c)

Patent Owner filed a motion requesting admission *pro hac vice* of W. Cook Alciati. Paper 8 (“Motion” or “Mot.”). Patent Owner also submitted a Declaration from W. Cook Alciati in support of the Motion. Ex. 2001 (“Declaration”). Patent Owner represents that Petitioner does not oppose the Motion. Mot. 1. For the reasons provided below, Patent Owner’s Motion is *granted*.

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* Paper 5, 2 (citing *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. Alciati has sufficient legal and technical qualifications to represent Patent Owner in this proceeding, has demonstrated sufficient litigation experience and familiarity with the subject matter of this proceeding, and meets all other requirements for admission *pro hac vice*. *See, e.g.*, Mot. 1–2; Ex. 2001 ¶¶ 1, 2, 7, 8. Accordingly, Patent Owner has established good cause for *pro hac vice* admission of Mr. Alciati. Mr. Alciati 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. Alciati in accordance with 37 C.F.R. § 42.10(b). Paper 3. Patent Owner has also filed a Mandatory Notice identifying Mr. Alciati as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3). Paper 4.

In consideration of the foregoing, it is hereby

ORDERED that Patent Owner's Motion (Paper 8) for admission *pro hac vice* of W. Cook Alciati is *granted*;

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

FURTHER ORDERED that Mr. Alciati is authorized to represent Patent Owner as back-up counsel only in this proceeding;

FURTHER ORDERED that Mr. Alciati 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; and

FURTHER ORDERED that Mr. Alciati is 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.*²

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

² Mr. Alciati declares that he “agree[s] to be subject to the USPTO “*Code of Professional Responsibility*” rather than the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.* Ex. 2001 ¶ 6 (emphasis added). We consider this to be harmless error.

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