

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALIVECOR, INC.,
Petitioner,

v.

APPLE INC.,
Patent Owner.

IPR2023-00948 and IPR2023-00949¹
Patent 10,866,619 B1

Before KEN B. BARRETT, SCOTT A. DANIELS, and
ROBERT L. KINDER, *Administrative Patent Judges*.

DANIELS, *Administrative Patent Judge*.

ORDER
Granting Petitioner's Motion for
Pro Hac Vice Admission of Philip Ducker
37 C.F.R. § 42.10

¹ This Order addresses issues that are the same in each of these proceedings. We issue one Order to be entered in each proceeding. The parties are not authorized to use this style caption unless later permitted.

On February 23, 2024, Petitioner filed a Motion requesting *Pro Hac Vice* Admission of Philip Ducker in each of the above-identified proceedings. Paper 12.² Petitioner submitted a Declaration from Mr. Ducker in support of the Motion. Ex. 1026.

In accordance with 37 C.F.R. § 42.10(c), we may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause. 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. v. Parallel Iron, LLC*, Case IPR2013-00639, Paper 7 (PTAB Oct. 15, 2013) (setting forth the requirements for admission *pro hac vice*).

Based on the facts set forth in the Motion and the accompanying Declaration, we conclude that Mr. Ducker has sufficient legal and technical qualifications to represent Petitioner in these proceedings, that Mr. Ducker has demonstrated sufficient litigation experience and familiarity with the subject matter of these proceedings, and that Mr. Ducker meets all other requirements for admission *pro hac vice*. *See* Ex. 1026 ¶¶ 1–10.³ Accordingly, Petitioner has established good cause for *pro hac vice* admission of Mr. Ducker. Mr. Ducker will

² For expediency, we cite to papers and exhibits in IPR2023-00948. Similar papers were filed in IPR2023-00949.

³ In the Declaration, Mr. Ducker indicates he agrees to be subject to the United States Patent and Trademark Office Rules of Professional Responsibility set forth in parts 10 and 11 of 37 C.F.R., as opposed to attesting that he shall be subject to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.* *See* Ex. 1026 ¶ 7. We excuse this mistake on this occasion, noting that Mr. Ducker 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.*

be permitted to appear *pro hac vice* as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

A Power of Attorney has been submitted for Mr. Ducker in accordance with 37 C.F.R. § 42.10(b). Paper 1. Mandatory Notices have also been submitted, included in the Petition, identifying Mr. Ducker as back-up counsel, as required by 37 C.F.R. § 42.8(b)(3). Paper 2, 114–115.

In consideration of the foregoing, it is hereby

ORDERED that Petitioner’s Motion (Paper 12) for *pro hac vice* admission of Philip Ducker is *granted*;

FURTHER ORDERED that Petitioner continue to have a registered practitioner represent it as lead counsel in the above-identified proceedings, and that Mr. Ducker is authorized to act only as back-up counsel;

FURTHER ORDERED that Mr. Ducker comply with the Patent Trial and Appeal Board’s Consolidated Trial Practice Guide⁴ (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. Ducker 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. §§ 11.101–11.901.

⁴ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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