

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,
Petitioner,

v.

REALD SPARK, LLC,
Patent Owner.

IPR2023-01046
Patent 10,740,985 B2

Before JEAN R. HOMERE, CHARLES J. BOUDREAU, and
CHRISTOPHER L. OGDEN, *Administrative Patent Judges*.

HOMERE, *Administrative Patent Judge*.

ORDER

Conditionally Granting Patent Owner's Motion for *Pro Hac Vice*
Admission of Timothy J. Gorry
37 C.F.R. § 42.10

On July 25, 2024, Patent Owner filed a motion (Paper 20, “Motion”) requesting *pro hac vice* admission of Timothy J. Gorry. Patent Owner attached a declaration (“Declaration”)¹ from Mr. Gorry in support of the Motion.

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*, 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 Patent Owner has established good cause for *pro hac vice* admission of Mr. Gorry. *See Declaration* ¶¶ 1–10.

Patent Owner has not yet filed an updated Power of Attorney or updated Mandatory Notices identifying Mr. Gorry. The current Power of Attorney and Mandatory Notices identify only Ashley Moore and Jennifer A. Mauri.² Papers 3–4. In view thereof, and for the reasons set forth below, Petitioner’s Motion is *conditionally granted*, and is to be effective after Petitioner files an updated Power

¹ Patent Owner filed the Declaration as a part of the Motion for *Pro Hac Vice*, not as a separate Exhibit. We deem this to be harmless error. However, Patent Owner is reminded that affidavits and declarations must be filed as exhibits. *See* 37 C.F.R. § 42.63(a) (“Evidence consists of affidavits, transcripts of depositions, documents, and things. All evidence must be filed in the form of an exhibit.”).

² The instant Motion was filed concurrently with a Motion to Withdraw and Substitute Counsel (Paper 19). Patent Owner therein requests to: “1) withdraw lead counsel Ashley Moore; 2) substitute back-up counsel Jennifer A. Mauri as lead counsel; and 3) designate Timothy Gorry[] as back-up counsel.” *Id.* at 2.

of Attorney. Petitioner must also file updated mandatory notices identifying Mr. Gorry as back-up counsel.

In view of the above, it is

ORDERED that Patent Owner's Motion for *pro hac vice* admission of Timothy J. Gorry is *conditionally granted*, provided that within ten (10) business days of the date of this order, Patent Owner must submit a Power of Attorney for Mr. Gorry in accordance with 37 C.F.R. § 42.10(b);

FURTHER ORDERED that Patent Owner must file updated mandatory notices identifying Mr. Gorry as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3);

FURTHER ORDERED that Patent Owner is required to continue to have a registered practitioner represent it as lead counsel for the instant proceeding and that Mr. Gorry is authorized to act only as back-up counsel;

FURTHER ORDERED that Mr. Gorry must comply with the Patent Trial and Appeal Board's Consolidated Trial Practice Guide³ (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. Gorry 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.*

³ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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