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Paper 14
Entered: May 3, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

K/S HIMPP,
Petitioner,

v.

BRAGI GMBH,
Patent Owner.

IPR2023-01150
Patent 9,843,853 B2

Before LARRY J. HUME, STACEY G. WHITE, and MICHELLE N. WORMMEESTER, *Administrative Patent Judges*.

HUME, *Administrative Patent Judge*.

ORDER
Dismissing Patent Owner's Motion to
Withdraw Backup Counsel Kaylee Hoffner
35 U.S.C. § 316; 37 C.F.R. §§ 10.40(c), 41.5(c), 42.10(e)

I. INTRODUCTION

BRAGI GmbH ("Patent Owner") filed a Motion for Withdrawal of Counsel Kaylee Hoffner. Paper 13 ("Motion" or "Mot."). Specifically, Patent Owner seeks to withdraw backup counsel Kaylee Hoffner. Mot. 2.

II. DISCUSSION

"[C]ounsel may not with draw from a proceeding before the Board unless the Board authorizes such withdrawal." 37 C.F.R. § 42.10(e). *See also* 37 C.F.R. § 41.5(c).

Prior authorization for filing the motion was not requested by Patent Owner in this case as required under our Rules (*id.*), nor was any indication provided as to whether the motion is opposed or unopposed by Petitioner. *See generally*, Mot.

Notwithstanding these informalities, we note that Backup Counsel Kaylee Hoffner has not been admitted *pro hac vice* (PHV) for this case, nor has any Motion for Admission Motion been submitted, in spite of indications in the Patent Owner's Preliminary Response (Paper 7) and Updated Mandatory Notice (Paper 11) that a request for PHV admission would be forthcoming. Thus, Kaylee Hoffner is not a counsel of record in this case.

Because Counsel Hoffner is not a counsel of record, the Board dismisses Patent Owner's motion to withdraw as moot. To clarify the record, Patent Owner should file an updated Mandatory Notice that identifies current lead and backup counsels. If any counsel Patent Owner identifies is not registered to practice before the PTO, Patent Owner should also file a corresponding PHV Motion.

III. ORDER

It is:

ORDERED that, Patent Owner's Motion to Withdraw Counsel Kaylee Hoffner as backup counsel is dismissed as moot;

FURTHER ORDERED that, pursuant to 37 C.F.R. § 42.8, Patent Owner must file an Updated Mandatory Notice identifying lead and backup counsel; and

FURTHER ORDERED that, for any added counsel who are not registered patent attorneys with the PTO, a timely *pro hac vice* motion for admission must be filed. *See* 37 C.F.R. 42.10.

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