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Paper 16
Date: December 2, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JUNIPER NETWORKS, INC.,
Petitioner,

v.

ORCKIT CORPORATION,
Patent Owner.

IPR2024-00026 (Patent 7,545,740 B2)[1]
IPR2024-00034 (Patent 8,830,821 B2)
IPR2024-00037 (Patent 10,652,111 B2)
IPR2024-00895 (Patent 10,652,111 B2)

Before KRISTEN L. DROESCH, NATHAN A. ENGELS, and BRENT M. DOUGAL, *Administrative Patent Judges*.

DOUGAL, *Administrative Patent Judge*.

ORDER
Conditionally Granting Petitioner's Motion to
Withdraw and Substitute Counsel
37 C.F.R. § 42.10

[1] This Order addresses identical issues in the listed proceedings. The Parties are not authorized to use this style heading.

Juniper Networks, Inc. ("Petitioner") filed a "Petitioner's Unopposed Motion for Withdrawal and Substitution of Lead Counsel." Paper 12 ("the Motion").[2] In the Motion, Petitioner requests to withdraw its current lead counsel, Kyle K. Tsui (Reg. No. 62,602), and substitute Nathan K. Cummings (Reg. No. 46,093) of Fisch Sigler LLP as new lead counsel.

Petitioner states that "good cause exists for Petitioner's request" because "Petitioner's new counsel, Mr. Cummings, meets the requirements of 37 C.F.R. § 42.10(c) as lead counsel and as a registered practitioner" and "Petitioner will not seek any extensions of time as a result of this Motion." Motion, 1. Petitioner also indicates that it has conferred with Patent Owner and Patent Owner does not oppose the Motion. *Id.*

Petitioner has not yet filed an updated Power of Attorney or updated Mandatory Notices reflecting the proposed change. Petitioner states that "[t]o the extent this Motion is granted, Petitioner will file a Substitute Power of Attorney and Updated Mandatory Notice." Motion, 1.

A party represented by counsel must designate a lead counsel and at least one backup counsel. 37 C.F.R. § 42.10(a). In addition, counsel may not withdraw from an *inter partes* review proceeding unless the Board authorizes such withdrawal. 37 C.F.R. § 42.10(e). Notwithstanding Petitioner's representations that it will file a power of attorney for substitute counsel, no power of attorney for substitute counsel has been filed. Kyle K. Tsui and any

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[2] For purposes of expediency, we cite to the Motion filed in IPR2024-00026. Similar papers were filed in the other proceedings.

other attorneys currently designated as counsel for Petitioner under 37 C.F.R. § 42.8(b)(3), will remain of record until new lead counsel is identified by an appropriate power of attorney. See 37 C.F.R. § 42.10(b).

Under these circumstances, we conditionally grant Petitioner's Motion, effective upon filing of the aforementioned Power of Attorney identifying Mr. Cummings as lead counsel. Kyle K. Tsui will be authorized to withdraw as counsel effective upon Petitioner's filing of a power of attorney identifying new lead counsel.

In consideration of the foregoing, it is hereby

ORDERED that Petitioner's Motion is *conditionally granted* effective upon Petitioner's filing of a power of attorney and updated mandatory notices identifying new lead counsel in each of the above-captioned proceeding;

FURTHER ORDERED that Kyle K. Tsui (Reg. No. 62,602) shall be withdrawn from each of the above-captioned proceedings, effective upon Petitioner's filing of a power of attorney and updated mandatory notices identifying new lead counsel in each proceeding;

FURTHER ORDERED that Nathan K. Cummings (Reg. No. 46,093) shall represent Petitioner as lead counsel in each of the above-captioned proceedings upon the filing of a power of attorney and updated mandatory notices identifying Mr. Cummings as lead counsel.

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