

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

CARBYNE BIOMETRICS, LLC,
Patent Owner.

IPR2024-00329 (Patent 9,972,010 B1)
IPR2024-00330 (Patent 10,713,656 B1)
IPR2024-00331 (Patent 11,526,886 B1)¹

Before JAMESON LEE, ARTHUR M. PESLAK, and
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

PER CURIAM.

ORDER
Granting Patent Owner's Motions for
Pro Hac Vice Admission of Bradley Jarrett
37 C.F.R. § 42.10

¹ This Order addresses issues that are the same in each of the above-identified proceedings. We issue one Order to be entered in each proceeding. The combined caption is for administrative convenience only and does not indicate that IPR2024-00329, IPR2024-00330, and IPR2024-00331 have been joined. The parties are not authorized to use this caption without express permission from the Board.

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On September 27, 2024, Patent Owner filed a Motion for *Pro Hac Vice* Admission of Bradley Jarrett in each of the above-identified proceedings. Paper 13 (“Motion”).² Patent Owner also submitted a Declaration from Mr. Jarrett in support of the Motion in each proceeding. Ex. 2029 (“Declaration”).³ Petitioner has not opposed the Motions. For the reasons provided below, Patent Owner’s Motions are *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 Unified Patents*,

² For expediency, we cite to papers in IPR2024-00329. Similar papers were filed in IPR2024-00330 and IPR2024-00331.

³ Mr. Jarrett states that he, “being duly sworn and upon oath, hereby attest[s]” to the statements in Exhibit 2029. This language, however, is normally associated with an affidavit, which requires undertaking an oath before a notarial officer whose seal and signature appear on the document. *See* 37 C.F.R. § 1.66. These items are missing in Exhibit 2029, and so it is not a proper affidavit. Nevertheless, a declaration may be provided in lieu of an affidavit. *See* 37 C.F.R. § 42.2 (“Affidavit means affidavit or declaration under § 1.68 of this chapter. . . . [A] declaration under 28 U.S.C. 1746 may be used as an affidavit.”). Here, Exhibit 2029 suffices as a proper declaration under 28 U.S.C. § 1746, given the statement by Mr. Jarrett that he “declare[s] under penalty of perjury that the foregoing is true and correct,” with his signature and the date. Ex. 2029. The language regarding “being duly sworn and upon oath” (*id.*) is deemed harmless error.

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Inc. v. Parallel Iron, LLC, IPR2013-00639, Paper 7 (PTAB Oct. 15, 2013)
(representative “Order – Authorizing Motion for *Pro Hac Vice* Admission”).

Based on the facts set forth in the Motions and the accompanying Declarations, we conclude that Mr. Jarrett has sufficient legal and technical qualifications to represent Patent Owner in these proceedings, has demonstrated sufficient litigation experience and familiarity with the subject matter of these proceedings, and meets all other requirements for admission *pro hac vice*. See Paper 13; Ex. 2029. Accordingly, Patent Owner has established good cause for *pro hac vice* admission of Mr. Jarrett.

Accordingly, it is

ORDERED that Patent Owner’s Motions for *pro hac vice* admission of Bradley Jarrett are *granted*;

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

FURTHER ORDERED that Mr. Jarrett is authorized to represent Patent Owner as back-up counsel only in these proceedings;

FURTHER ORDERED that Mr. Jarrett be familiar with the Patent Trial and Appeal Board Consolidated Trial Practice Guide⁴ (84 Fed. Reg. 64,280 (Nov. 21, 2019)), and comply with 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. Jarrett 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.*

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

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For PETITIONER:

David W. O'Brien
Hong Shi
Kelly Lyle
HAYNES AND BOONE, LLP
david.obrien.ipr@haynesboone.com
hong.shi.ipr@haynesboone.com
kelly.lyle.ipr@haynesboone.com

For PATENT OWNER:

Richard A. Kamprath
George Fishback
McKOOL SMITH, P.C.
rkamprath@mckoolsmith.com
gfishback@mckoolsmith.com
Carbyne_Apple@mckoolsmith.com