

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KOHLER CO.,
Petitioner,

v.

DELTA FAUCET CO.,
Patent Owner.

Case No. IPR2024-00700
U.S. Patent No. 10,393,363

**PATENT OWNER'S UNOPPOSED MOTION FOR ADMISSION *PRO HAC*
VICE OF ANNA MIZZI PURSUANT TO 37 C.F.R. § 42.10(c)**

IPR2024-00700
Kohler Co. v. Delta Faucet Co.

I. Statement of Precise Relief Requested

Patent Owner Delta Faucet Co. (“Patent Owner”) respectfully requests that the Patent Trial and Appeal Board (“Board”) enter an order granting the *pro hac vice* admission of Anna Mizzi as back-up counsel for Patent Owner in this proceeding, Case No. IPR2024-00700. Patent Owner has conferred with counsel for Petitioner, who do not oppose this motion.

II. Applicable Rule

Pursuant to 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 and to any other conditions as the Board may impose.” “[A] motion to appear *pro hac vice* by counsel who is not a registered practitioner may be granted upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.” *Id.* The PTAB set forth requirements for filing motions for *pro hac vice* admission in *Unified Patents, Inc. v. Parallel Iron, LLC*, Case IPR2013-00639, Paper 7 (“Order – Authorizing Motion For *Pro Hac Vice* Admission – 37 C.F.R. §42.10”) (PTAB Oct. 15, 2013). A motion seeking *pro hac vice* admission must be filed no sooner than twenty-one (21) days after service of the petition, must contain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding, and must be accompanied by a declaration or

affidavit of the individual seeking *pro hac vice* admission. *Id.* at 2-3. The affidavit or declaration must attest to: (1) membership in good standing of the Bar of at least one State or the District of Columbia; (2) no suspensions or disbarments from any practice before any court or administrative body; (3) no application for admission to practice before any court or administrative body ever denied; (4) no sanctions or contempt citations imposed by any court or administrative body; (5) the individual seeking to appear has read and will comply with the Office Patent Trial Practice Guide and the Board’s Rules of Practice for Trials set forth in part 42 of 37 C.F.R.; (6) the individual will be subject to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 et seq. and disciplinary jurisdiction under 37 C.F.R. § 11.19(a); (7) all other proceedings before the Office for which the individual has applied to appear *pro hac vice* in the last three (3) years; and (8) familiarity with the subject matter at issue in the proceeding. *Id.*

III. Statement of Facts Showing Good Cause for the Board to Recognize Counsel *Pro Hac Vice* During the Proceeding

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 and to any other conditions as the Board may impose. Section 42.10(c) provides that “where the lead counsel is a registered practitioner, a motion to appear *pro hac vice* by counsel who is not a

registered practitioner may be granted upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.” The facts here establish good cause for the Board to recognize Anna Mizzi *pro hac vice* in this proceeding.

1. Lead counsel, David L. Cavanaugh, Reg. No. 36,476, is a registered practitioner.

2. Counsel, Anna Mizzi, is an experienced litigator and has an established familiarity with the subject matter at issue in the proceeding. Accompanying this motion as Exhibit 2008 is the January 8, 2025 Declaration of Anna Mizzi in Support of Motion for Admission *Pro Hac Vice* (“Mizzi Decl.”). In her declaration, Mrs. Mizzi declares:

I am a member in good standing of the New York Bar (Reg. No. 5867916).

Mizzi Decl. ¶2 (Ex. 2008). Mrs. Mizzi also states:

I am familiar with the subject matter at issue in this proceeding. I have reviewed the papers and exhibits filed in this proceeding
Mizzi Decl. ¶8 (Ex. 2008).

3. In her declaration, Mrs. Mizzi also attests to each of the listed items required by the “Order – Authorizing Motions for *Pro Hac Vice* Admission” in Case IPR2013-00639, Paper 7. *See* Mizzi Decl. ¶¶1-9 (Ex. 2008).

IV. Conclusion

For the foregoing reasons, Patent Owner respectfully requests that the Board admit Anna Mizzi *pro hac vice* in this proceeding.

Respectfully Submitted,

/David L. Cavanaugh/

David L. Cavanaugh
Reg. No. 36,476
WILMER CUTLER PICKERING
HALE AND DORR LLP
60 State Street
Boston, MA 02109
Tel: (617) 526-6000

Dated: January 8, 2025

PATENT OWNER’S UPDATED TABLE OF EXHIBITS

Exhibit	Description
2001	<i>Delvie’s Plastics</i> , “What's The Difference Between Transparent & Translucent?” available at https://www.delviesplastics.com/blog/transparent-vs-translucent.html . (last accessed July 6, 2024)
2002	<i>United States Plastic Corp.</i> , “Definitions of opaque, translucent, and transparent.” available at https://www.usplastic.com/knowledgebase/article.aspx?contentkey=824 . (last accessed July 11, 2024)
2003	Reserved
2004	Reserved
2005	Reserved
2006	Reserved
2007	Reserved
2008	Declaration of Anna Mizzi in Support of Motion for Admission <i>Pro Hac Vice</i>

CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(4) and 42.205(b), the undersigned certifies that on January 8, 2025, a complete and entire copy of the following documents:

- Patent Owner's Unopposed Motion for Admission *Pro Hac Vice* of Anna Mizzi
- Declaration of Anna Mizzi in Support of Motion for Admission *Pro Hac Vice*

to be served via electronic service, to the Petitioner by serving the correspondence address of record as follows:

K. Patrick Herman

Registration No. 75,018

(P52PTABDocket@orrick.com)

Alyssa Caridis

Registration No. 57,545

(A8CPTABDocket@orrick.com)

/Jungyeon Kim/

Jungyeon Kim, Reg. No. 82,377

Email: john.kim@wilmerhale.com