

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KOHLER CO.,
Petitioner,

v.

DELTA FAUCET CO.,
Patent Owner.

IPR2024-00700
Patent 10,393,363 B2

Before GRACE KARAFFA OBERMANN, JANE E. INGLESE, and
BRIAN P. MURPHY, *Administrative Patent Judges*.

INGLESE, *Administrative Patent Judge*.

ORDER
Conditionally Granting Patent Owner's Motion for
Pro Hac Vice Admission of Anna Mizzi
37 C.F.R. § 42.10

Patent Owner filed a motion requesting *pro hac vice* admission of Anna Mizzi in the above-identified proceeding (“Motion”). Paper 14. Patent Owner also submitted a Declaration from Ms. Mizzi in support of the Motion (“Declaration”). Ex. 2008. Patent Owner represents that Petitioner does not oppose the Motion. Mot. 2.

For the reasons provided below, the Motion is *conditionally granted*.

In accordance with 37 C.F.R. § 42.10(c)(1), the Board may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause, subject to the condition that lead counsel is 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, Inc. v. Parallel Iron, LLC*, IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7) (representative “Order – Authorizing Motion for *Pro Hac Vice* Admission”).

Ms. Mizzi states in the Declaration that she has “not ***appeared*** *pro hac vice* in any proceedings before the United States Patent and Trademark Office in the last three years.” Declaration ¶ 7 (emphasis added). Ms. Mizzi, however, should address all other proceedings before the Office for which she has “***applied*** to appear *pro hac vice* in the last three (3) years.” *Unified Patents* 3 (emphasis added).

Based on the facts set forth in the Motion and the accompanying Declaration, we conclude that Ms. Mizzi has sufficient legal and technical qualifications to represent Patent Owner in this proceeding, that she has demonstrated sufficient familiarity with the subject matter of this proceeding, that she meets all other requirements for admission *pro hac vice*

with the exception discussed above, and that Patent Owner's intent to be represented by counsel with litigation experience is warranted. Accordingly, Patent Owner has established good cause for *pro hac vice* admission of Ms. Mizzi, who will be permitted to serve only as back-up counsel. *See* 37 C.F.R. § 42.10(c)(1).

Upon review of the record before us, we note that a Power of Attorney in accordance with 37 C.F.R. § 42.10(b) has been submitted for Ms. Mizzi. Paper 5. Patent Owner has also filed updated Mandatory Notices identifying Ms. Mizzi as back-up counsel. Paper 15.

In consideration of the foregoing, it is hereby

ORDERED that Patent Owner's Motion for *pro hac vice* admission of Anna Mizzi is *conditionally granted*, provided that within five (5) business days of the date of this order, Ms. Mizzi submits a substitute declaration that complies with *Unified Patents*, including stating whether Ms. Mizzi has applied to appear *pro hac vice* in other proceedings before the Office in the last three (3) years;

FURTHER ORDERED that Patent Owner is to continue to have a registered practitioner represent it as lead counsel in the above-identified proceeding;

FURTHER ORDERED that Ms. Mizzi is authorized to represent Patent Owner as back-up counsel only in the above-identified proceeding;

FURTHER ORDERED that Ms. Mizzi must be familiar with the Patent Trial and Appeal Board Consolidated Trial Practice Guide¹ (84 Fed. Reg. 64,280 (Nov. 21, 2019)), and comply with the Board's Rules of

¹ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations; and

FURTHER ORDERED that Ms. Mizzi 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.*

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