

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

LEDUP MANUFACTURING GROUP LTD.,
Petitioner

v.

SEASONAL SPECIALTIES, LLC,
Patent Owner

CASE: IPR2024-01259

U.S. PATENT NO. 11,533,794

PATENT OWNER, SEASONAL SPECIALTIES, LLC'S, MOTION FOR
PRO HAC ADMISSION OF COURTLAND C. MERRILL UNDER 37 C.F.R.
§ 42.10(c)

EXHIBIT LIST

Ex. No.	Description
2001	Affidavit of Courtland C. Merrill in Support of <i>Pro Hac Vice</i> Admission Under 37 C.F.R. § 42.10 (c)

I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10 (c), the undersigned, on behalf of the Patent Owner, Seasonal Specialties, LLC (“Seasonal”), hereby respectfully requests the *pro hac vice* admission of Courtland C. Merrill in this proceeding.

II GOVERNING LAW, RULES AND PRECEDENT

Section § 42.10 (c) of 37 C.F.R. provides as follows:

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. For example, 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 Board has advised that any motion for *pro hac vice* admission under 37 C.F.R. § 42.10 (c) must be filed in accordance with the “Order—Authorizing Motion for *Pro Hac Vice* Admission” entered in Case IPR2024-01258, Paper 7 (“*Unified Patents* Order”).

The Unified Patents Order requires that such motions (1) “[c]ontain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding;” “[b]e accompanied by an affidavit or declaration of the individual seeking to appear attesting to the following”:

- i. Membership in good standing of the Bar of at least one State or the District of Columbia;

- ii. No suspensions or disbarments from practice before any court or administrative body;
- iii. No application for admission to practice before any court or administrative body ever denied;
- iv. No sanctions or contempt citations imposed by any court or administrative body;
- v. The individual seeking to appear has read and will comply with the Office Patent Trial Practice Guide and the Board's Rule of Practice for Trials set forth in part 42 of 37 C.F.R.;
- vi. 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);
- vii. All other proceedings before the Office for which the individual has applied to appear *pro hac vice* in the last three (3) years; and
- viii. Familiarity with the subject matter at issue in the proceeding.

(See *Unified Patents* Order, p.3.)

III. STATEMENT OF FACTS

Based on the following facts, and supported by the Affidavit of Courtland C. Merrill, submitted herewith as Exhibit 2001, Patent Owner, Seasonal Specialties, LLC, requests *pro hac vice* admission of Mr. Merrill in this proceeding:

- 1. Patent Owner, Seasonal Specialties, LLC's lead counsel, Joseph M. Kuo, is a registered practitioner (Reg. No. 38,943).
- 2. Mr. Merrill is an attorney at the law firm Saul Ewing, LLP. (Ex. 2001 at ¶3).
- 3. Mr. Merrill is an experienced trial attorney whose practice focuses exclusively on business and intellectual property disputes. (*Id.* at ¶4).

Mr. Merrill has been an intellectual property litigation attorney for

nearly 20 years, and has been litigating patent cases involving a variety of technologies during that entire time period. (*Id.*) Mr. Merrill has litigated numerous patent disputes involving the legal concepts of both infringement and validity, and has significant experience in all aspects of litigation, including depositions, claim construction proceedings and various stages of trial. (*Id.*).

4. Mr. Merrill is a member of good standing of the Bars of: Minnesota, Wisconsin, the United State District Court of the District of Minnesota, The United States District Court for the Eastern District of Wisconsin, the United States Court of Appeals for the Eighth Circuit, and the United States Court of Appeals for the Federal Circuit. (Ex. 2001 at ¶5).
5. Mr. Merrill has never been suspended or disbarred from practice before any court or administrative body. (*Id.* at ¶6).
6. No application of Mr. Merrill for admission to practice before any court or administrative body has ever been ultimately denied. (*Id.* at ¶7).
7. No sanctions or contempt citations have ever been imposed against Mr. Merrill by any court or administrative body. (*Id.* at ¶8).
8. Mr. Merrill has read and will comply with the Office Patent Trial Practice Guide and the Board's Rule of Practice for Trials set for in part 42 of 37 C.F.R. (*Id.* at ¶9).

9. Mr. Merrill understands that he 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). (*Id.* at ¶10).
10. Mr. Merrill has not applied to appear *pro hac vice* in any proceedings before the Office in the last three (3) years. (*Id.* at ¶11).
11. Mr. Merrill has an established familiarity with the subject matter at issue in this proceeding. (*Id.* at ¶12, 13; *see also* § IV. below.)

IV. GOOD CAUSE EXISTS FOR THE *PRO HAC VICE* ADMISSION OF MR. MERRILL IN THIS PROCEEDING

“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.” 37 C.F.R § 42.10(c). “[W]here 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.” *Id.*

Patent Owner’s lead counsel, Joseph M. Kuo, is a registered practitioner. Based on the facts contained herein, as supported by Mr. Merrill’s affidavit, good cause exists to admit Mr. Merrill *pro hac vice* in this proceeding.

As set forth in his Affidavit, Mr. Merrill is an experienced trial attorney with nearly 20 years of patent litigation experience. (Ex. 2001 at ¶4.) Mr. Merrill’s

extensive patent litigation experience provides him with a thorough understanding of the legal theories advanced in this proceeding. (*Id.* at ¶¶4,12-13.) He has reviewed in detail the patent-in-suit, U.S. Patent No. 11,533,794 (“the ‘794’ patent”), and has had direct involvement with the district court case that is the subject of the ‘794’ patent: United States District Court for the Central District of California *Seasonal Specialties, LLC v. LEDUP Manufacturing Group, LTD.*, Case No. 2:23-cv-06318. Based on the facts contained here, as supported by Mr. Merrill’s Affidavit, good cause exists to admit Mr. Merrill *pro hac vice* in this proceeding.

V. CONCLUSION

For the foregoing reasons, Patent Owner, Seasonal Specialties, LLC respectfully requests that Courtland C. Merrill be admitted *pro hac vice* in this proceeding.

Date: November 6, 2024

Respectfully Submitted,

Mailing address for all correspondence: Saul Ewing LLP Centre Square West 1500 Market Street, 38th Floor Philadelphia, PA 19102-2186	<u>Joseph M. Kuo</u> Joseph M. Kuo (Reg. No. 38,943) Saul Ewing LLP 161 N. Clark Street, Suite 4200 Chicago, Illinois 60601 Tel: (312) 876-7151 Joseph.Kuo@saul.com Brian Landry (Reg. No. 52,074) Saul Ewing LLP 131 Dartmouth Street, Suite 501 Boston, MA 02116 Tel: (617) 912-0969 Brian.Landry@saul.com
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	<i>Counsel for Patent Owner, Seasonal Specialties, LLC</i>
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Certification of Service Under 37 C.F.R. § 42.6(e)

The undersigned hereby certifies that Patent Owner, Owner Seasonal Specialties, LLC's Motion for Pro Hac Vice Admission of Courtland C. Merrill Under 37 C.F.R. § 42.10(c) was served electronically via e-mail on November 6, 2024 in its entirety on the following counsel of record for the Petitioner:

William W. Cochran	billc@patentlegal.com
Christopher P. Whitham	chrisw@patentlegal.com
Bridget A. Cochran	bridgetc@patentlegal.com

Date: November 6, 2024

/s/Joseph M. Kuo
(Reg. No. 38,943)