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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

VARIA HOLDINGS LLC,
Patent Owner.

IPR2024-01362 (Patent 8,381,974 B2)
IPR2024-01363 (Patent 9,405,947 B2)
IPR2024-01364 (Patent 8,127,984 B2)[1]

Before KEVIN F. TURNER, NORMAN H. BEAMER, and MARY C. HOFFMAN, *Administrative Patent Judges*.

BEAMER, *Administrative Patent Judge*.

ORDER
Granting Patent Owner's Motions for
Pro Hac Vice Admission of Daniel A. Apgar
37 C.F.R. § 42.10(c)

[1] This Order addresses substantively identical motions filed in each of the above-captioned proceedings. We exercise our discretion to issue one Order to cover all proceedings. The parties are not authorized to use this style heading in any subsequent papers.

Patent Owner filed Motions for *Pro Hac Vice* Admission of Daniel A. Apgar (Paper 30[2]) in each of the above-captioned proceedings. Patent Owner submitted Declarations of Daniel A. Apgar (Ex. 2010) in support of each Motion. Patent Owner states that Petitioner does not oppose the Motions. Paper 30, 1. 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, 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. Apgar 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

[2] This Order cites to papers and exhibits filed in IPR2024-01362. Corresponding items were filed in IPR2024-01363 and IPR2024-01364.

pro hac vice. *See* Ex. 2010 ¶¶ 1–8.[3] Accordingly, Patent Owner has established good cause for *pro hac vice* admission of Mr. Apgar. Mr. Apgar will be permitted to serve as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

Patent Owner filed Powers of Attorney including Mr. Apgar in accordance with 37 C.F.R. § 42.10(b). Paper 25. Patent Owner has also filed Mandatory Notices identifying Mr. Apgar as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3). Paper 26.

Accordingly, it is

ORDERED that Patent Owner's Motions for *pro hac vice* admission of Daniel A. Apgar are *granted*;

FURTHER ORDERED that Patent Owner continue to have a registered practitioner represent it as lead counsel in these proceedings;

FURTHER ORDERED that Mr. Apgar is authorized to act as back-up counsel only in these proceedings;

FURTHER ORDERED that Mr. Apgar be familiar with the Patent Trial and Appeal Board Consolidated Trial Practice Guide (84 Fed. Reg. 64,280 (Nov. 21, 2019))[4] 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

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[3] The Declarations refer to "the Board's Rules of Practice for Trials set forth in part 42 of the C.F.R." (Ex. 2010 ¶ 7) and should refer to "the Board's Rules of Practice for Trials set forth in Part 42 of Title 37, Code of Federal Regulations." The Declarations also refer to the "USPTO Code of Professional Responsibility" (Ex. 2010 ¶ 8) and should refer to the "USPTO Rules of Professional Conduct." We deem these harmless errors.

[4] Available at https://www.uspto.gov/TrialPracticeGuideConsolidated.

FURTHER ORDERED that Mr. Apgar 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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