

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AXION BIOSYSTEMS, INC.,
Petitioner,

v.

AGILENT TECHNOLOGIES, INC.
Patent Owner.

IPR2024-01467
Patent 11,906,508 B2

Before GEORGIANNA W. BRADEN, DAVID COTTA, and
MICHAEL A. VALEK, *Administrative Patent Judges*.

VALEK, *Administrative Patent Judge*.

ORDER
Conditionally Granting Patent Owner's Motion for
Pro Hac Vice Admission of Yang Wang
37 C.F.R. § 42.10(c)

Patent Owner filed a motion requesting *pro hac vice* admission of Yang Wang (“Motion”). Paper 13. Patent Owner also submitted a Declaration from Mr. Wang in support of the Motion (“Declaration”). Ex. 2021. Petitioner has not opposed the Motion. 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 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 (PTAB Oct. 15, 2013) (Paper 7) (“*Unified Patents*”) (representative “Order – Authorizing Motion for *Pro Hac Vice* Admission”); *see also* Paper 3, 2 (requiring motions for *pro hac vice* admission be filed in accordance with *Unified Patents*).

Based on the facts set forth in the Motion and the accompanying Declaration, we find that Patent Owner has demonstrated good cause for Mr. Wang’s *pro hac vice* admission subject to its clarification of what appear to be two minor discrepancies between the requirements of *Unified Patents* and the attestations in the Declaration. First, Mr. Wang declares that he has “never been held in contempt by any court or administrative body” (Ex. 2021 ¶ 9), but the Declaration does not address whether he has ever been sanctioned by a court or administrative body. *See Unified Patents* at 3 (requiring an attestation of “[n]o sanctions or contempt citations imposed by any court or administrative body”) (emphasis added)). Second, *Unified*

Patents requires the declarant to attest to “[f]amiliarity with the subject matter at issue in the proceeding.” *Unified Patents* at 3. Although the Motion suggests that Mr. Wang has such familiarity (*see* Paper 13, 5), the Declaration omits a supporting attestation.

In addition, we note that a power of attorney in accordance with 37 C.F.R. § 42.10(b) has not been filed for Mr. Wang.

Based on the foregoing, Patent Owner’s Motion is *conditionally granted*, effective upon Mr. Wang submitting an updated declaration providing the additional attestations noted above, and Patent Owner filing a power of attorney for Mr. Wang.

Further, Patent Owner has not filed updated mandatory notices identifying Mr. Wang as back-up counsel. Patent Owner must file an updated mandatory notice identifying Mr. Wang as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3).

In consideration of the foregoing, it is hereby

ORDERED that Patent Owner’s Motion for *pro hac vice* admission of Yang Wang is *conditionally granted*, provided that within ten (10) business days of entry of this Order, Mr. Wang submits an updated declaration, and Patent Owner files a power of attorney for Mr. Wang in accordance with 37 C.F.R. § 42.10(b);

FURTHER ORDERED that Patent Owner must file an updated mandatory notice identifying Mr. Wang as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3);

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

FURTHER ORDERED that Mr. Wang is authorized to represent Patent Owner as back-up counsel only in this proceeding;

FURTHER ORDERED that Mr. Wang be familiar with the Patent Trial and Appeal Board Consolidated Trial Practice Guide (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. Wang 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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