

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INDEED, INC. and MONSTER WORLDWIDE, INC.
Petitioners,

v.

CAREER DESTINATION DEVELOPMENT, LLC
Patent Owner.

Case CBM2014-00068 (US 7,424,438 B2)
Case CBM2014-00077 (US 7,424,438 B2)¹

Before SALLY C. MEDLEY, MEREDITH C. PETRAVICK, and
JUSTIN BUSCH, *Administrative Patent Judges*.

PETRAVICK, *Administrative Patent Judge*.

DECISION

Patent Owner's Motion for *Pro Hac Vice* Admission of David L. Marcus
37 C.F.R. § 42.10

¹ This decision addresses issues that are identical in the two cases. Therefore, we exercise our discretion to issue one decision to be entered in each of the two cases. The parties, however, are not authorized to use this style heading in their papers.

INTRODUCTION

Patent Owner Career Destination Development, LLC (“Patent Owner”) filed a motion requesting *pro hac vice* admission of David L. Marcus. Paper 8². Patent Owner provided a declaration from Mr. Marcus in support of its motion. Paper 9³. Petitioner did not oppose Patent Owner’s motion for *pro hac vice* admission of Mr. Marcus. For the reasons stated below, Patent Owner’s motion is *granted*.

DISCUSSION

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). For example, where the lead counsel is a registered practitioner, a non-registered practitioner may be permitted to appear *pro hac vice* “upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.” *Id.* 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. Paper 6 at 2 (referencing the “Order – Authorizing Motion for *Pro Hac Vice* Admission,” in Case IPR2013-00639, Paper 7).

In its motion, Patent Owner argues that there is good cause for Mr. Marcus’s *pro hac vice* admission because he is an experienced litigation attorney and he has an established familiarity with the subject matter at issue in this proceeding. Paper

² For expediency, CBM2014-00068 is representative and all subsequent citations are to CBM2014-0068 unless otherwise noted.

³ Mr. Marcus’s declaration should have been filed as a separate exhibit. 37 C.F.R. § 42.63.

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8 at 2. In particular, Mr. Marcus is counsel of record in co-pending litigations styled *Career Destination Development, LLC v. Monster Worldwide, Inc.*, Case No. 2:13-cv-02434; *Career Destination Development, LLC v. Indeed, Inc.*, Case No. 2:13-cv-02486; and *Career Destination Development, LLC v.*

TheLadders.Com, Inc., Case No. 2:13-cv-02522, all filed in the U.S. District Court for the District of Kansas. *Id.* In his declaration, Mr. Marcus attests that:

(1) he is “authorized to practice law in the States of Missouri, Kansas and Arizona”;

(2) he has “never been suspended or disbarred in any court,” and has “never had sanctions or contempt citations imposed on [him] by any court of administrative body”;

(3) he 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.,” and agrees to 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)”;

(4) he is “familiar with the subject matter at issue in this proceeding and ha[s] knowledge of the facts set forth in the Motion for *Pro Hac Vice* Admission.”

Paper 9, ¶¶ 1-4, 7, 8.

Based on the facts set forth in support of the motion, we conclude that Mr. Marcus has sufficient legal and technical qualifications to represent Patent Owner in this proceeding, and that there is a need for Patent Owner to have its counsel in the related litigations involved in this proceeding. Accordingly, Patent Owner has established good cause for Mr. Marcus’s *pro hac vice* admission. Mr. Marcus will be permitted to appear *pro hac vice* in this proceeding as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

In consideration of the foregoing, it is

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ORDERED that Patent Owner's motion for *pro hac vice* admission of David L. Marcus is *granted*, and Mr. Marcus is authorized to represent Patent Owner only as back-up counsel in this proceeding;

FURTHER ORDERED that Patent Owner should continue to have a registered practitioner as lead counsel in this proceeding;

FURTHER ORDERED that Mr. Marcus is to comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials, as set forth in Title 37, Part 42 of the Code of Federal Regulations; and

FURTHER ORDERED that Mr. Marcus is subject to the USPTO's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and the USPTO's Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.*

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