

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GAIN CAPITAL HOLDINGS, INC.,
Petitioner

v.
OANDA CORPORATION
Patent Owner

Case No. CBM2020-00021
Patent 8,392,311

**PATENT OWNER OANDA CORPORATION'S
MOTION FOR PRO HAC VICE ADMISSION OF
ERIK DYKEMA UNDER 37. C.F.R. § 42.10(c)**

EXHIBIT LIST

2001	Declaration of Erik Dykema in Support of Motion for <i>Pro Hac Vice</i> Admission
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U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c) and the Notice of Filing Date in this proceeding (Paper 5 at 1-2), Patent Owner OANDA Corporation (“Patent Owner”) respectfully requests that the Board admit Erik Dykema *pro hac vice* in this proceeding as back-up counsel.

II. GOVERNING LAW, RULES, AND PRECEDENT

Section 42.10(c), 37 C.F.R., provides that:

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 further required that a motion for *pro hac vice* admission be filed in accordance with the “Order - Authorizing Motion for *Pro Hac Vice*

Admission” entered in *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 (P.T.A.B. Oct. 15, 2013) (“*United Patents Order*”).

The *United 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[,]” and (2) “[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 Rules of Practice for Trials set forth in part 42 of 37 C.F.R.;
- vi. The individual will be subject to the U.S.P.T.O. 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.

III. STATEMENT OF FACTS

Based on the following statement of facts, and supported by the Declaration of Erik Dykema, submitted herewith as Exhibit 2001, Patent Owner requests the *pro hac vice* admission of Erik Dykema in this proceeding:

1. Patent Owner's lead counsel, Drew Koning (the undersigned), is a registered practitioner (Reg. No. 60,764).
2. Mr. Dykema is an associate at the law firm of Koning Zollar LLP. Ex. 2001 ¶ 8.
3. Mr. Dykema is an experienced litigator, and the majority of his practice has consisted of patent litigation and other patent related matters. *Id.* ¶ 9.
4. Mr. Dykema has an established familiarity with the subject matter at issue in this proceeding, has reviewed the patent at issue, as well as the petition and the relevant art. *Id.* ¶ 12.
5. Mr. Dykema is a member in good standing of the bars of New Jersey and New York. *Id.* ¶ 1, 2.
6. Mr. Dykema has never been suspended or disbarred, had an application for admission denied, or had any sanctions or contempt citations imposed upon him. *Id.* ¶ 3-5.
7. Mr. Dykema has read and will comply with the Trial Practice

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