

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CARDIOCOM, LLC
Petitioner

v.

ROBERT BOSCH HEALTHCARE SYSTEMS, INC.
Patent Owner

Case IPR2013-00431 (Patent 7,921,186 B2)
Case IPR2013-00439 (Patent 7,769,605 B2)
Case IPR2013-00449 (Patent 7,840,420 B2)
Case IPR2013-00451 (Patent 7,587,469 B2)
Case IPR2013-00460 (Patent 7,870,249 B2)¹

Before STEPHEN C. SIU, JUSTIN T. ARBES, and MIRIAM L. QUINN,
Administrative Patent Judges.

ARBES, *Administrative Patent Judge.*

DECISION

Patent Owner's Motion for *Pro Hac Vice* Admission of Bas de Blank
37 C.F.R. § 42.10

¹ This Order addresses an issue pertaining to all five cases. Therefore, we exercise our discretion to issue one Order to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

Cases IPR2013-00431, IPR2013-00439, IPR2013-000449, IPR2013-00451, and IPR2013-00460

In each of the five instant proceedings, Patent Owner Robert Bosch Healthcare Systems, Inc. (“Bosch”) filed a motion requesting *pro hac vice* admission of Bas de Blank and provided an affidavit from Mr. de Blank in support of the request.² Petitioner Cardiocom, LLC did not file an opposition to any of the motions. For the reasons stated below, Bosch’s motions are *granted*. As the motions and affidavits in the five proceedings are substantially similar, we will refer herein to the papers filed in Case IPR2013-00431 for convenience.

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 motions 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 4 (referencing the “Order – Authorizing Motion for *Pro Hac Vice* Admission,” Paper 6 in IPR2013-00010, at 3-4).

In its motions, Bosch argues that there is good cause for Mr. de Blank’s *pro hac vice* admission because he is an experienced litigation

² See IPR2013-00431, Paper 8, Ex. 2003; IPR2013-00439, Paper 12, Ex. 2007; IPR2013-00449, Paper 7, Ex. 2007; IPR2013-00451, Paper 7, Ex. 2006; IPR2013-00460, Paper 9, Ex. 2004.

Cases IPR2013-00431, IPR2013-00439, IPR2013-000449, IPR2013-00451, and IPR2013-00460

attorney and has an established familiarity with the subject matter at issue in these proceedings. Paper 8 at 4-9. Specifically, Mr. de Blank is counsel for Bosch in *Robert Bosch Healthcare Systems, Inc. v. Cardiocom, LLC*, E.D. Tex. Case No. 2:13-cv-00349, where the patents being challenged in the instant proceedings are being asserted. Paper 8 at 5-6. Bosch contends that given Mr. de Blank's involvement in the related litigation, there is a need for him to be involved in the instant proceedings "to avoid unnecessary expense and duplication of work" between the proceedings. *Id.* at 8. In his affidavit, Mr. de Blank attests that:

- (1) he is "a member in good standing of the State Bar of California";
- (2) he has "never been suspended or disbarred from practice before any court or administrative body," "[n]o court or administrative body has ever denied [his] application for admission to practice before it," and "[n]o court or administrative body has ever imposed sanctions or contempt citations on [him]";
- (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 [Title 37 of] the Code of Federal Regulations," and "understand[s] 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)";
- (4) he has "not applied to appear *pro hac vice* in any other proceedings before the Office in the last three (3) years";
- (5) he has been "litigating patent cases for over 15 (fifteen) years"; and
- (6) he is "counsel for Bosch in . . . *Robert Bosch Healthcare Systems, Inc. v. Cardiocom, LLC*, Civil Action No. 2:13-cv-349 (E.D. Tex.)," which "involves U.S. Patent No. 7,921,186 also at issue in this *inter partes* review proceeding," and has been "actively involved in preparing the technical aspects of the case relating to infringement and validity of the '186 Patent,

Cases IPR2013-00431, IPR2013-00439, IPR2013-000449, IPR2013-00451, and IPR2013-00460

including detailed analysis of the ‘186 Patent and its file history.”

Ex. 2003 ¶¶ 3-14. Also, Bosch’s lead counsel in the instant proceedings, Don Daybell, is a registered practitioner. Paper 8 at 4.

Based on the facts set forth above, we conclude that Mr. de Blank has sufficient legal and technical qualifications to represent Bosch in these proceedings and that there is a need for Bosch to have its counsel in the related litigation involved in these proceedings. *See* IPR2013-00639, Paper 7, dated October 15, 2013 (superseding IPR2013-00010, Paper 6, dated October 15, 2012, and setting forth the requirements for *pro hac vice* admission) (copy available on the Board Web site under “Representative Orders, Decisions, and Notices”). Accordingly, Bosch has established good cause for Mr. de Blank’s *pro hac vice* admission. Mr. de Blank will be permitted to appear *pro hac vice* in the instant proceedings as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

In consideration of the foregoing, it is hereby:

ORDERED that Bosch’s motions for *pro hac vice* admission of Bas de Blank in the instant proceedings are granted and Mr. de Blank is authorized to represent Bosch as back-up counsel in the instant proceedings;

FURTHER ORDERED that Bosch is to continue to have a registered practitioner as lead counsel in the instant proceedings;

FURTHER ORDERED that Mr. de Blank 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

Cases IPR2013-00431, IPR2013-00439, IPR2013-000449, IPR2013-00451,
and IPR2013-00460

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

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