

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 IPR2013-00449
Patent 7,840,420

Mailed: November 26, 2013

**PETITIONER'S MOTION FOR ADMISSION PRO HAC VICE OF
WILLIAM D. SCHULTZ UNDER 37 C.F.R. § 42.10(c)**

RELIEF REQUESTED

Under 37 C.F.R. § 42.10(c), and in accordance with the Board’s “Order – Authorizing Motion for *Pro Hac Vice* Admission” in case IPR 2013-00639, petitioners Cardiocom LLC request that the Board admit William D. Schultz *pro hac vice* in this proceeding.

GOVERNING LAWS, RULES, AND PRECEDENT

Section 42.10(c) provides the “Board may recognized 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 any other conditions as the Board may impose.” The Rule provides that counsel who is not a recognized 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’s July 18, 2013, Notice of Filing Date Accorded to Petition, Paper No. 4, authorized the parties to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c). The Notice provided *pro hac vice* motions shall be filed in accordance with the “Order – Authorizing Motion for *Pro Hac Vice* Admission” in Case IPR2013-00010 (MPT). On October 15, 2013, the Board issued an Order, Paper No. 7, in Case IPR2013-00639 that provides the guidelines for admission

under 37 C.F.R. § 42.10(c). The Order incorporated changes in the rules, including the publication of the Final Rule in 78 Fed. Reg. 20180 adopting new Rules of Professional Conduct.

The October 15, 2013 Order provides motions for *pro hac vice* “[c]ontain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding.” The Order further provides the motion is to be “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 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);
- 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.”

TIME OF FILING

In accordance with the rules, this motion is being filed no sooner than twenty one (21) days after service of the petition.

STATEMENT OF THE FACTS

The following facts, supported by the attached Declaration of William D. Schultz in Support of Petitioner’s Motion for Admission *Pro Hac Vice*, establish good cause to recognize Mr. Schultz *pro hac vice* in this proceeding.

There is good cause for the Board to recognize counsel William D. Schultz *pro hac vice* during this proceeding.

Petitioner’s Lead counsel, Daniel W. McDonald, is a registered practitioner (Reg. No. 32,044).

Counsel William D. Schultz is an experienced litigating attorney. Mr. Schultz is a partner at the law firm of Merchant & Gould P.C. Mr. Schultz has been a litigating attorney for more than 11 years. Schultz Decl., ¶ 8. His experience includes representing a wide range of clients in intellectual property litigation. Mr. Schultz has been litigating patent cases for at least 11 years. *Id.*, ¶ 9.

Mr. Schultz has established familiarity with the subject matter at issue in this proceeding. Mr. Schultz has worked with lead counsel in all aspects of preparing Petitioner's Petition, the expert declaration filed in support of the Petition, and all other filings Petitioner has made. *Id.*, ¶ 11. As such, Mr. Schultz has become familiar with U.S. Patent No. 7,840,420 (the "420 Patent") and with its prosecution file history. *Id.* He is familiar with the prior art relied upon in Petitioner's Petition. He is also familiar with the legal and factual arguments made by Petitioner and Patent Owner. *Id.*

Mr. Schultz is counsel for Petitioner in a co-pending district court litigation filed by Patent Owner Robert Bosch Healthcare Systems, Inc. *Id.*, ¶ 10. That litigation is captioned *Robert Bosch Healthcare Systems, Inc. v. Cardiocom, LLC*, No. 2:13-cv-349 (E.D. Tex., filed April 26, 2013). *Id.* The litigation involves the same patent at issue in this proceeding as well as five related patents, including U.S. Patent Nos. 7,516,192; 7,587,469; 7,769,605; 7,921,186; and 7,870,249. *Id.*

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