

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VMWARE, INC., INTERNATIONAL BUSINESS MACHINES
CORPORATION
AND
ORACLE AMERICA, INC.
Petitioners,

v.

ELECTRONICS AND TELECOMMUNICATIONS RESEARCH
INSTITUTE,
Patent Owner.

Case IPR2014-00949
Case IPR2014-00901
Patent 6,978,346 B2

GREGG I. ANDERSON, *Administrative Patent Judge.*

DECISION

Petitioner's Motion for *Pro Hac Vice* Admission of Michael Rueckheim
37 C.F.R. § 42.10

On April 22, 2015, Petitioner (“VMware”) filed a Motion for *Pro Hac Vice* Admission of Michael Rueckheim. Paper 22 (“Mot.”). The motion indicates that it is unopposed by Patent Owner. Mot. 2.

The Board may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause, subject to the condition that lead counsel is a registered practitioner. 37 C.F.R. § 42.10(c). If 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 this proceeding, lead counsel for VMware is Katherine Kelly Lutton, a registered practitioner. VMware’s motion relies on a declaration of Michael Rueckheim (Ex. 1016). Mr. Rueckheim declares that he is a member in good standing of the Bar of Texas. Ex. 1016 ¶ 1. Mr. Rueckheim also declares that he has never been suspended, disbarred, sanctioned or cited for contempt by any court or administrative body, and that he has never had an application for admission to practice denied by any court or administrative body. *Id.* ¶¶ 2-4. Mr. Rueckheim further declares that he is familiar with the subject matter at issue in this proceeding based on his work as counsel for VMware in the related district court litigation between the parties involving Patent 6,978,346: *Safe Storage LLC v. VMware, Inc.*, Case No. 1-13-cv-00928-GMS (D. Del.). *Id.* ¶ 8.

Mr. Rueckheim further states (1) that he has read and will comply with the Board’s Rules of Practice for Trials as set forth in Part 42 of Title 37, Code of Federal Regulations, as well as the Office Patent Trial Practice Guide, and (2) that he agrees to be subject to the “United States Patent and

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Trademark Office 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).” Ex. 1015 ¶¶ 5-6.

Based on the foregoing, we determine that VMware has established good cause for admission, *pro hac vice*, of Mr. Michael Rueckheim.

It is

ORDERED that VMware’s motion for *pro hac vice* admission of Michael Rueckheim is *granted*;

FURTHER ORDERED that Mr. Rueckheim is authorized to represent Petitioner only as backup counsel;

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

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