

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NORMAN INTERNATIONAL, INC.  
Petitioner

v.

HUNTER DOUGLAS, INC.  
Patent Owner

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Case IPR2014-01175  
Patent 6,968,884

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GAUDETTE, *Administrative Patent Judge.*

DECISION

Patent Owner's Revised Unopposed Motion for  
*Pro Hac Vice* Admission of Frederick L. Whitmer  
*37 C.F.R. § 42.10*

On September 10, 2015, Hunter Douglas, Inc. (“Patent Owner”) filed an Unopposed Motion for *Pro Hac Vice* Admission of Frederick L. Whitmer (Paper 11). On September 24, 2015, Patent Owner was advised, via email communication from the Board, that the Declaration of Frederick L. Whitmer in Support of the Motion (Ex. 2002) was deficient, because Mr. Whitmer had not identified all other proceedings before the Office for which he had applied to appear *pro hac vice* in the last three years, as required by the Board’s decision in *Unified Patents, Inc. v. Parallel Iron, LLC*, Case IPR2013-00639, Paper 7 at 3 ¶ 2(b)(vii) (PTAB October 15, 2013) (expanded panel)). In response to this email communication, Patent Owner filed a Revised Unopposed Motion for Pro Hac Vice Admission (Paper 18 (“Motion”)) and revised Declaration (Ex. 2004 (“Declaration”)). For the reasons provided below, the Motion is *granted*.

As set forth in 37 C.F.R. § 42.10(c), 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. 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.” 37 C.F.R. § 42.10(c). In authorizing motions for *pro hac vice* admission, we also require a statement of facts showing there is good cause for us to recognize counsel *pro hac vice* and an affidavit or declaration of the individual seeking to appear in this proceeding. *See* Paper 5 at 2 (referencing the “Order—Authorizing Motion for *Pro Hac Vice* Admission” in *Unified Patents*).

Patent Owner’s lead counsel, Kristopher L. Reed, is a registered practitioner.

Paper 3. Patent Owner states that there is good cause for Mr. Whitmer's *pro hac vice* admission, because Mr. Whitmer is: (1) an experienced litigation attorney; and (2) familiar with the subject matter at issue in this proceeding by virtue of the fact that he is counsel for Patent Owner in the co-pending litigation, *Hunter Douglas, Inc. v. Nien Made Enterprise Co., Ltd.*, Case No. 1:13-cv-01412-MSK-MJW (D. Colo.), involving the challenged patent in this proceeding. Paper 18, 1–2. Patent Owner provides facts in support of these contentions, *see id.*, and Mr. Whitmer attests to these facts in his Declaration.

Mr. Whitmer testifies that in the co-pending litigation, he has “reviewed prior art, developed validity arguments, developed claim construction arguments, filed and responded to motions regarding personal jurisdiction, stay, and scheduling.” Ex. 2004, ¶ 7. Mr. Whitmer testifies that he has experience in numerous litigations involving patent infringement and validity in District Courts across the country, including experience in jury and bench trials, Markman hearings, and Federal Circuit oral arguments in patent infringement litigation. *Id.* at ¶ 8. Mr. Whitmer also testifies that he previously applied for and was granted *pro hac vice* admission to appear before the Board in IPR2014-00283 on behalf of Patent Owner. *Id.* at ¶ 9.

Based on the facts set forth above, we conclude Mr. Whitmer has sufficient legal and technical qualifications to represent Patent Owner in this proceeding. Accordingly, Patent Owner has established good cause for Mr. Whitmer's *pro hac vice* admission. Mr. Whitmer will be permitted to appear *pro hac vice* in the instant proceeding as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

For the forgoing reasons, it is

ORDERED that Patent Owner's Revised Unopposed Motion for *Pro Hac Vice* Admission of Mr. Whitmer for this proceeding is GRANTED;

FURTHER ORDERED that Patent Owner is to continue to have a registered practitioner represent it as lead counsel for this proceeding; and

FURTHER ORDERED that Mr. Whitmer is to comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials, as set forth in Part 42 of Section 37 of the C.F.R., and to be subject to the Office's Code of Professional Responsibility set forth in 37 C.F.R. §§ 11.101 et seq. and disciplinary jurisdiction under 37 C.F.R. § 11.19(a).

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