

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MICROSOFT CORPORATION,

Petitioner,

v.

BRADIUM TECHNOLOGIES LLC,

Patent Owner.

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Case IPR2015-01432 (Patent 7,139,794 B2)

Case IPR2015-01434 (Patent 7,908,343 B2)

Case IPR2015-01435 (Patent 8,924,506 B2<sup>1</sup>)

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Before: BRYAN F. MOORE, BRIAN J. McNAMARA, and  
MINN CHUNG, *Administrative Patent Judges*.

McNAMARA, *Administrative Patent Judge*.

ORDER GRANTING MOTION FOR ADMISSION PRO HAC VICE  
OF MICHAEL N. ZACHERY  
*37 C.F.R. § 42.10*

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<sup>1</sup> This Order addresses issues that are identical in related cases. Therefore, we exercise our discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style heading in any subsequent papers.

On August 4, 2015 Bradium Technologies LLC (“Patent Owner”) moved for the *pro hac vice* admission of attorney Michael N. Zachary in accordance with 37 CFR § 42.10. (“Motion”). Microsoft Corporation (“Petitioner”) has not opposed the Motion. We grant the Motion.

### **I. Discussion**

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 be 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, the Board also requires 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 in this proceeding. (*See*, Paper 7, “Order – Authorizing Motion for *Pro Hac Vice* Admission” in IPR2013-00639, entered October 15, 2013).

Michael N. Zachary provides uncontroverted testimony that he:

- i. is a membership in good standing of the Bars of California, Oregon, and Washington State;
- ii. has not been subject to any suspensions or disbarments from practice before any court or administrative body;
- iii. has never been denied any application for admission to practice before any court or administrative body ever denied;
- iv. has not been subject to sanctions or contempt citations imposed by any court or administrative body;

- v. 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. 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. has listed all other proceedings before the Office for which he has applied to appear *pro hac vice* in the last three (3) years; and
- viii. has familiarity with the subject matter at issue in the proceeding.

Backup counsel for Patent Owner, Chris Coulson, who is a registered to practice at the USPTO, has provided a statement of facts that Michael N. Zachary is a litigation attorney experienced in patent cases and has an established familiarity with the subject matter of this proceeding, having represented Patent Owner in other litigation involving the same technology. Thus, Patent Owner has shown good cause why Michael N. Zachary should be recognized *pro hac vice* for purposes of this proceeding. Mr. Zachary has provided the requisite affidavit or declaration. Therefore, Michael N. Zachary has complied with the requirements for admission *pro hac vice* in this proceeding.

## **II. Order**

It is

ORDERED that the Motion seeking admission *pro hac vice* for Michael N. Zachary is GRANTED;

FURTHER ORDERED that Mr. Zachary may not act as lead counsel in the proceeding;

FURTHER ORDERED that a registered practitioner must remain as lead counsel throughout the proceeding;

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Patent 7,139,794 B2; 7,908,343 B2; 8924,506 B2

FURTHER ORDERED that Michael N. Zachary 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 the C.F.R.; and

FURTHER ORDERED that Michael N. Zachary is to be subject to the Office's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et. seq.*, which took effect on May 3, 2013.

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