

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FITBIT, INC.<sup>1</sup>  
Petitioner

v.

VALENCELL, INC.  
Patent Owner

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Case IPR2017-00319<sup>2</sup>  
Patent 8,923,941 B2

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Before BRIAN J. McNAMARA, JAMES B. ARPIN, and  
SHEILA F. McSHANE, *Administrative Patent Judges*.

ARPIN, *Administrative Patent Judge*.

DECISION  
Granting Motion to Withdraw  
*37 C.F.R. § 42.10(e)*

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<sup>1</sup> Petitioner Apple, Inc. is no longer a party in this proceeding. *Fitbit, Inc. v. Valencell, Inc.*, 964 F.3d 1112, 1114 (Fed. Cir. 2020) (“Following the [Final Written Decision], Apple withdrew from the proceeding.”).

<sup>2</sup> Case IPR2017-01555 has been joined with this proceeding.

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On September 1, 2020, Patent Owner filed updated Mandatory Notices (Paper 47) naming new lead and back-up counsel and an updated power of attorney (Paper 46). On September 2, 2020, after obtaining our e-mail authorization pursuant to 37 C.F.R. § 42.20(b), Harper Batts and Christopher Ponder (hereinafter “the withdrawing attorneys”) of Sheppard, Mullin, Richter & Hampton LLP filed a joint Motion to Withdraw as Petitioner’s counsel in this *inter partes* review. IPR2017-00319, Paper 49 (“Mot.”). No opposition has been filed, and the withdrawing attorneys indicate that Patent Owner does not oppose this Motion to Withdraw. Mot. 2. For the following reasons, the motion is granted.

Counsel may withdraw from an *inter partes* review proceeding only with authorization from the Board. 37 C.F.R. § 42.10(e). Normally, this is accomplished by filing a motion to withdraw, which requires Board authorization *before* filing. *See* 37 C.F.R. § 42.20(b). Once authorization is granted, the motion then is made by the attorney(s) seeking to withdraw. *See, e.g.*, IPR2013-00010, Paper 30.

The withdrawing attorneys have complied with our procedures. Petitioner already has designated new lead and back-up counsel, who are a registered practitioners, and does not seek any time extensions.

It is therefore

ORDERED that the withdrawing attorneys’ Motion to Withdraw is granted;  
FURTHER ORDERED that Harper Batts and Christopher Ponder are permitted to withdraw as counsel in this *inter partes* review;

FURTHER ORDERED that James M. Glass is recognized as Petitioner’s lead counsel, and Sam Stake and Ogi Zivojnovic of Quinn Emanuel Urquhart & Sullivan, LLP are recognized as Petitioner’s back-up counsel, in this *inter partes* review; and

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FURTHER ORDERED that Petitioner shall update the Board's electronic filing system to reflect the change in lead counsel.

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WITHDRAWING ATTORNEYS:

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