

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FITBIT, INC.¹
Petitioner

v.

VALENCELL, INC.
Patent Owner

Case IPR2017-00319²
Patent 8,923,941 B2

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

ARPIN, *Administrative Patent Judge*

DECISION

Granting Petitioner's Unopposed Motion for
Pro Hac Vice Admission of Sam Stake
37 C.F.R. § 42.10(c)

¹ 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.”).

² Case IPR2017-01555 has been joined with this proceeding.

I. INTRODUCTION

Petitioner filed a Motion for *Pro Hac Vice* Admission of Sam Stake. IPR2017-00319, Paper 49 (“the Motion”). Petitioner indicates that Patent Owner does not oppose the Motion. *Id.* at 2. For the reasons provided below, the Motion is *granted*.

II. DISCUSSION

In accordance with 37 C.F.R. § 42.10(c), we 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. The representative Order authorizing motions for *pro hac vice* admission requires 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. *See, e.g.*, IPR2018-00635, Paper 5, 2 (citing *Unified Patents, Inc. v. Parallel Iron, LLC*, Case IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7) (representative “Order – Authorizing Motion for *Pro Hac Vice* Admission”)).

In this proceeding, lead counsel for Petitioner, James M. Glass, is a registered practitioner. IPR2017-00319, Paper 47, 2. Petitioner asserts that there is good cause for us to recognize Mr. Stake *pro hac vice* in this proceeding. IPR2017-00319, Paper 49, 2. Petitioner’s assertions in this regard are adequately supported by the Declaration of Mr. Stake and his biography. IPR2017-00319, Exs. 1073, 1074.

Having considered Petitioner’s unopposed Motion and the exhibits filed in support of the Motion, Petitioner has established that there is good cause for the *pro hac vice* admission of Mr. Stake in this proceeding.

III. ORDER

Accordingly, it is

ORDERED that Petitioner's unopposed Motion for *Pro Hac Vice* Admission of Sam Stake in IPR2017-00319 is *granted*, and Mr. Stake is authorized to represent Petitioner as back-up counsel only in this proceeding;

FURTHER ORDERED that Petitioner shall continue to have a registered practitioner represent it as lead counsel in this proceeding;

FURTHER ORDERED that Mr. Stake shall comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations; and

FURTHER ORDERED that Mr. Stake shall be subject to the Office's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), as well as the Office's Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et. seq.*

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