

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FITBIT, INC.
Petitioner

v.

VALENCELL, INC.
Patent Owner

Case IPR2017-00319¹
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 Motion to Withdraw
37 C.F.R. § 42.10(e)

On October 1, 2020, after obtaining our e-mail authorization pursuant to 37 C.F.R. § 42.20(b), Petitioner filed a Motion to Withdraw requesting to withdraw Jeremy Taylor and other practitioners associated with Baker Botts LLP (Customer

¹ Case IPR2017-01555 has been joined with this proceeding.

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No. 21003) (hereinafter “the withdrawing attorneys”), as Petitioner’s counsel in this *inter partes* review. IPR2017-00319, Paper 59 (“Mot.”). No opposition has been filed, and Petitioner indicates that Patent Owner does not oppose this motion. Mot. 2. For the following reasons, the motion is granted.

DISCUSSION

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 the Board’s prior 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; IPR2013-00067, Paper 35. Here, Petitioner filed the Motion to Withdraw on behalf of the withdrawing attorneys, and Petitioner’s lead counsel signed the motion, instead of the withdrawing attorneys.

Petitioner and the withdrawing attorneys have not followed the prescribed procedure. *See* Mot. 1 n.1. Nevertheless, because Patent Owner does not oppose the motion, Petitioner continues to be represented by registered practitioners, and there is no reason to believe that the withdrawing attorneys do not seek to withdraw; there is no prejudice shown. Consequently, the panel treats the motion as if it were properly filed by the withdrawing attorneys. Under the circumstances, we see no reason to deny the motion.

It is therefore

ORDERED that Petitioner’s motion is *granted*; and

FURTHER ORDERED that Jeremy Taylor and other practitioner’s associated with Baker Botts LLP (Customer No. 21003) are permitted to withdraw as counsel in this proceeding.

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