

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

KOSS CORPORATION,
Patent Owner.

IPR2021-00592 (Patent 10,469,934 B2)
IPR2021-00600 (Patent 10,298,451 B1)¹

Before PATRICK R. SCANLON, DAVID C. MCKONE,
GREGG I. ANDERSON, and NORMAN H. BEAMER,
*Administrative Patent Judges.*²

ANDERSON, *Administrative Patent Judge.*

ORDER

Granting Petitioner's Motions for *Pro Hac Vice*
Admission of Doug Winnard
37 C.F.R. § 42.10

¹ These cases have not been joined or consolidated. Rather, this Order addresses issues that are the same in the identified proceedings. We exercise our discretion to issue one Order to be filed in each proceeding. The parties, however, are not authorized to use this style heading in subsequent papers.

² This is not an expanded panel of the Board.

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Petitioner filed motions for admission *pro hac vice* of Doug Winnard (Paper 31³) in each of the above-captioned proceedings (collectively, “Motions”). The Motions are supported by Declarations of Mr. Winnard. Ex. 1026 (“Declaration”). No opposition has been filed. For the following reasons, the Motions are *granted*.

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. In authorizing a motion for *pro hac vice* admission, the Board requires the moving party to provide 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 the proceeding. *See 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”).

Having reviewed the Motions and supporting Declarations, good cause exists for granting admission *pro hac vice* to Mr. Winnard.⁴ We note that Petitioner has not filed a Power of Attorney including Mr. Winnard in

³ Paper and exhibit numbers refer to Proceeding IPR2021-00592. Corresponding papers and exhibits were filed in IPR2021-00600.

⁴ We note that in the Declarations, Mr. Winnard declares that he has read and will comply with 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.” rather than “Part 42 of 37 C.F.R.” Ex. 1026 ¶ 5. We deem this discrepancy as harmless error because Mr. Winnard declares that he agrees to be subject to the United States Patent and Trademark Office 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) in the following paragraph of the Declarations. *Id.* at ¶ 6.

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accordance with 37 C.F.R. § 42.10(b) and has not filed an updated Mandatory Notice identifying Mr. Winnard as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3).

Accordingly, it is:

ORDERED that the Motions are *granted* and Doug Winnard is authorized to represent Petitioner as back-up counsel in the above-identified proceedings;

FURTHER ORDERED that a registered practitioner will continue to represent Petitioner as lead counsel in the above-identified proceedings;

FURTHER ORDERED that within ten (10) business days of the date of this Order, Petitioner shall file a Power of Attorney including Mr. Winnard in accordance with 37 C.F.R. § 42.10(b);

FURTHER ORDERED that within ten (10) business days of the date of this Order, Petitioner shall file an updated Mandatory Notice in accordance with 37 C.F.R. § 42.8(b)(3) listing Mr. Winnard as back-up counsel;

FURTHER ORDERED that Mr. Winnard shall comply with the USPTO's Consolidated Trial Practice Guide (84 Fed. Reg. 64,280 (Nov. 21, 2019)),⁵ 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. Winnard is subject to the USPTO's Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.* and to the USPTO's disciplinary jurisdiction under 37 C.F.R. § 11.19(a).

⁵ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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