

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC.,
Petitioner,

v.

ALIVECOR, INC.,
Patent Owner.

IPR2021-00970 (Patent 9,572,499 B2)
IPR2021-00971 (Patent 10,595,731 B2)
IPR2021-00972 (Patent 10,638,941 B2)

Before ROBERT A. POLLOCK, ERIC C. JESCHKE, and
DAVID COTTA, *Administrative Patent Judges*.

POLLOCK, *Administrative Patent Judge*.

DECISION¹

Conditionally Granting Petitioner's Motions for
Admission *Pro Hac Vice* of Michael Amon
37 C.F.R. § 42.10

¹ This Decision addresses overlapping issues in the cases listed above. Therefore, we issue one Decision to be filed in each case. The parties, however, are not authorized to use this style of filing.

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On February 22, 2022, Apple Inc. (“Petitioner”) filed an Unopposed Motion for *Pro Hac Vice* Admission of Michael Amon in each of the above-identified proceedings. Paper 16 (“Motion”).² Petitioner also filed a Declaration of Michael Amon in support of the Motion in each case. Ex. 1058 (“Declaration”).³ Petitioner indicates that the motion is unopposed. Motion 1.

Upon a review of the record before us, we note that Powers of Attorney in accordance with 37 C.F.R. § 42.10(b) have not been submitted for Mr. Amon in these proceedings. For the reasons provided below, Petitioner’s Motions are *conditionally granted*, subject to the filing of Powers of Attorney for Mr. Amon.

Pursuant to 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. In its notice authorizing motions for *pro hac vice* admission, the Board requires a statement of facts showing there is good cause for the Board to recognize

² For purposes of expediency, we cite to Papers and Exhibits filed in IPR2021-00970. Petitioner filed similar Motions and Declarations in IPR2021-00971 and IPR2021-00972.

³ In the Declaration, Mr. Amon states that “willful false statements may jeopardize the validity of the application or any patents issued thereon.” Ex. 1058 ¶ 10. Although this language is not applicable to AIA proceedings, we deem the inclusion of this extraneous text to be harmless error. Mr. Amon also declares that “I have 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 the Code of Federal Regulations.” *Id.* ¶ 5. The Office Patent Trial Practice Guide and the Board’s Rules of Practice for Trials are set forth in Part 42 of *Title 37*, Code of Federal Regulations. We deem the omission of “Title 37” to be harmless error.

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counsel *pro hac vice* and an affidavit or declaration of the individual seeking to appear in this proceeding. *See* Paper 3, 2 (citing *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 (PTAB Oct. 15, 2013) (“Order Authorizing Motion for *Pro Hac Vice* Admission”)).

Based on the facts set forth in the Motions and the accompanying Declarations, we conclude that Mr. Amon has sufficient legal and technical qualifications to represent Petitioner in the above-identified proceedings, that Mr. Amon has demonstrated sufficient familiarity with the subject matter of these proceedings, that Mr. Amon meets all other requirements for admission *pro hac vice*, and that Petitioner’s intent to be represented by counsel with litigation experience is warranted. Accordingly, Petitioner has established good cause for *pro hac vice* admission of Mr. Amon. Mr. Amon will be permitted to serve as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

We note that Powers of Attorney in accordance with 37 C.F.R. § 42.10(b) have not been submitted for Mr. Amon. Mr. Amon will not be admitted until Petitioner files Powers of Attorney identifying Mr. Amon.

ORDER

It is:

ORDERED that Petitioner’s Motions for Admission *Pro Hac Vice* of Michael Amon are *conditionally granted* provided that within ten (10) days of the date of this Order, Petitioner submits Powers of Attorney for Mr. Amon in each proceeding, in accordance with 37 C.F.R. § 42.10(b);

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FURTHER ORDERED that Petitioner must file updated mandatory notices identifying Mr. Amon as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3);

FURTHER ORDERED that Petitioner is to continue to have a registered practitioner represent it as lead counsel for the above-identified proceedings;

FURTHER ORDERED that Mr. Amon will be authorized to represent Petitioner only as back-up counsel in the above-identified proceedings;

FURTHER ORDERED that Mr. Amon shall be familiar with the Consolidated Trial Practice Guide⁴ (84 Fed. Reg. 64,280 (Nov. 21, 2019)), and comply with 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. Amon shall 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.*

⁴ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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FOR PETITIONER:

Walter Renner
Jeremy Monaldo
FISH & RICHARDSON P.C.
axf-ptab@fr.com
jjm@fr.com

FOR PATENT OWNER:

James M. Glass
Andrew M. Holmes
John W. McCauley
Quinn Emanuel Urquhart & Sullivan LLP
jimglass@quinnemanuel.com
drewholmes@quinnemanuel.com
johnmccauley@quinnemanuel.com