

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.

COTTA, *Administrative Patent Judge.*

ORDER

Granting Petitioner's Motion for *Pro Hac Vice* Admission of
Noah C. Graubart
37 C.F.R. § 42.10

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IPR2021-00971 (Patent 10,595,731 B2)
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On March 9, 2022, Apple, Inc. (“Petitioner”) filed a motion for *pro hac vice* admission of Noah C. Graubart in each of the above-identified proceedings. Paper 22 (“Motion”).¹ Petitioner also filed a declaration from Mr. Graubart in support of the Motion in each case. Ex. 1059. Patent Owner has not filed an opposition to the Motions.

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 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*, Case IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7) (representative “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. Graubart has sufficient legal and technical qualifications to represent Petitioner in the above-identified proceedings, that Mr. Graubart has demonstrated sufficient familiarity with the subject matter of these proceedings, that Mr. Graubart 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.

¹ For purposes of expediency, we cite to Papers filed in IPR2021-00970. Petitioner filed similar Motions in IPR2021-00971 and IPR2021-00972.

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Graubart. Mr. Graubart will be permitted to serve as back-up counsel only.
See 37 C.F.R. § 42.10(c).

It is, therefore,

ORDERED that the Motion for *Pro Hac Vice* Admission of Noah C. Graubart is *granted* and Mr. Graubart is authorized to represent Petitioner only as back-up counsel in this proceeding;

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

FURTHER ORDERED that Mr. Graubart shall comply with the Office Patent Trial Practice Guide, as updated by the Consolidated Office Patent Trial Practice Guide (84 Fed. Reg. 64,280 (Nov. 21, 2019)) and the Board's Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations;² and

FURTHER ORDERED that that Graubart 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).

² The Declarations state 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." Ex. 1059 ¶ 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 this harmless error.

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