

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NXP USA, INC.
Petitioner,

v.

BELL NORTHERN RESEARCH, LLC,
Patent Owner.

IPR2023-01414
Patent 8,416,862 B2

Before JEFFREY W. ABRAHAM, JOHN D. HAMANN, and
RUSSELL E. CASS, *Administrative Patent Judges*.

ABRAHAM, *Administrative Patent Judge*.

ORDER
Granting Petitioner's Motion for
Pro Hac Vice Admission of Zachary Loney
37 C.F.R. § 42.10

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On May 22, 2024, Petitioner filed a motion requesting *pro hac vice* admission of Zachary Loney in the above-identified proceeding (“Motion”). Paper 14. Petitioner also submitted a Declaration from Zachary Loney (Paper 15) in support of the Motion (“Declaration”).¹

Petitioner attests that Patent Owner does not oppose the Motion. Paper 14, 3.

For the reasons provided below, Petitioner’s Motion is *granted*. In accordance with 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 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*, 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 Motion and the accompanying Declaration, we conclude that Mr. Loney has sufficient legal and technical qualifications to represent Petitioner in this proceeding, has demonstrated sufficient litigation experience and familiarity with the subject matter of this proceeding, and meets all other requirements for admission *pro hac vice*. *See* Paper 15. Accordingly, Petitioner has established good cause for *pro*

¹ Petitioner filed the Declaration as a Paper. We deem this to be harmless error, however, Petitioner is reminded that affidavits and declarations must be filed as exhibits. *See* 37 C.F.R. § 42.63(a) (“Evidence consists of affidavits, transcripts of depositions, documents, and things. All evidence must be filed in the form of an exhibit.”).

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hac vice admission of Mr. Loney. Mr. Loney will be permitted to serve as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

Upon review of the record before us, we note that a Power of Attorney in accordance with 37 C.F.R. § 42.10(b) has been submitted for Mr. Loney. Paper 3, 2. Petitioner has also submitted Mandatory Notices identifying Mr. Loney as back-up counsel. Paper 19, 5.

In consideration of the foregoing, it is hereby

ORDERED that Petitioner's motion for admission *pro hac vice* of Zachary Loney in this proceeding is *granted*;

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

FURTHER ORDERED that Mr. Loney is authorized to represent Petitioner only as back-up counsel in this proceeding;

FURTHER ORDERED that Mr. Loney be familiar with the Patent Trial and Appeal Board Consolidated Trial Practice Guide² (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. Loney is subject to the USPTO's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and the USPTO's Rules of Professional Conduct set forth at 37 C.F.R. §§ 11.101 *et seq.*

² Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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