

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC,
Petitioner,

v.

MOTION OFFENSE, LLC,
Patent Owner.

IPR2020-00705
Patent 10,013,158 B1

Before PATRICK M. BOUCHER, KIMBERLY MCGRAW, and
NABEEL U. KHAN, *Administrative Patent Judges*.

BOUCHER, *Administrative Patent Judge*.

ORDER
Granting Patent Owner's Motion for Admission
Pro Hac Vice of Derek Dahlgren
37 C.F.R. § 42.10

Motion Offense, LLC (“Patent Owner”) filed a Motion for *Pro Hac Vice* Admission of Derek Dahlgren in the above-identified proceeding. Paper 6 (“Motion”). Petitioner has not opposed the Motion. The Motion is *granted*.

In its Motion, Patent Owner states that there is good cause to recognize Mr. Dahlgren during this proceeding because Mr. Dahlgren “is an experienced litigation attorney” and “has an established familiarity with the subject matter at issue in this proceeding.” *Id.* at 2–3. The Motion includes, as an exhibit, a Declaration made by Mr. Dahlgren, attesting to and sufficiently explaining these facts. Ex. 2001 (“Declaration”).¹ In addition, Mr. Dahlgren agrees to comply with the Office Patent Trial Practice Guide and the Board’s Rules of Practice for Trials, as set forth in Part 42 of Title 37 of the C.F.R., and be subject to the Office’s disciplinary jurisdiction under 37 C.F.R. § 11.19(a) and to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et. seq.* *Id.* at 2.

Based on the facts set forth in the Motion and the accompanying Declaration,² we find that Mr. Dahlgren has sufficient legal and technical

¹ Although Patent Owner and Mr. Dahlgren state they have submitted an *affidavit* at Exhibit 2001, Exhibit 2001 is in fact a *declaration* under 37 C.F.R. § 1.68, not an affidavit (which requires the seal and signature of a notarial officer).

² *Unified Patents* indicates that “A motion for *pro hac vice* admission must: . . . Be accompanied by an affidavit or declaration of the individual seeking to appear attesting to the following: . . . All other proceedings before the Office for which the individual has applied to appear *pro hac vice* in the last three (3) years.” *See Unified Patents*, Paper 7 at 3. The Declaration of Mr. Dahlgren states that Mr. Dahlgren “ha[s] been admitted to appear *pro hac vice* before the Office in *Inter Partes* Review proceeding(s) in the last three (3) years” but fails to identify all proceedings before the Office for which Mr. Dahlgren has applied to appear *pro hac vice* in the last three

qualifications to represent Patent Owner in this proceeding. *See Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 (PTAB Oct. 15, 2013) (representative “Order – Authorizing Motion for *Pro Hac Vice* Admission” setting forth the requirements for *pro hac vice* admission).

We note that Patent Owner has filed a Power of Attorney including Mr. Dahlgren in accordance with 37 C.F.R. § 42.10(b). Paper 5. Patent Owner has also filed a Mandatory Notice identifying Mr. Dahlgren as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3). Paper 4.

It is

ORDERED that Patent Owner’s Motion seeking admission *Pro Hac Vice* for Derek Dahlgren is GRANTED;

FURTHER ORDERED that Patent Owner shall continue to have a registered practitioner represent it as lead counsel in this proceeding; Mr. Dahlgren is authorized to represent Patent Owner only as back-up counsel in this proceeding;

FURTHER ORDERED that Mr. Dahlgren is to comply with the 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;³ and

years. *See* Ex. 2001 ¶ 7. For the purposes of this Order, we deem this harmless error, noting that Mr. Dahlgren has been admitted to appear *pro hac vice* at least in IPR2018-00386 and IPR2018-00437.

³ In the Declaration, Mr. Dahlgren indicates compliance with the Office Patent Trial Practice Guide and the Board’s Rules of Practice for Trials set forth in part 42 of *the C.F.R.*, as opposed to part 42 of *37 C.F.R.* Ex. 2001 ¶ 5. We deem this harmless error.

FURTHER ORDERED that Mr. Dahlgren 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

⁴ In the Declaration, Mr. Dahlgren indicates he will be subject to the *United States Patent and Trademark Office Code of Professional Responsibility*, as opposed to the *USPTO Rules of Professional Conduct*. Ex. 2001 ¶ 6. We deem this harmless error.

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