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Paper 33
Entered: June 18, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIFECORE FITNESS, LLC d/b/a ASSAULT FITNESS,
Petitioner,

v.

WOODWAY USA, INC.,
Patent Owner.

IPR2023-00836 (Patent 9,039,580 B1)
IPR2023-00843 (Patent 10,561,884 B2)
IPR2023-00849 (Patent 10,799,745 B2)[1]

Before MEREDITH C. PETRAVICK, NEIL T. POWELL, and AMEE A. SHAH, *Administrative Patent Judges*.

PETRAVICK, *Administrative Patent Judge*.

ORDER
Conditionally Granting Petitioner's Motions for
Pro Hac Vice Admission of Seyed Reza Roghani Esfahani
37 C.F.R. § 42.10

[1] This Order addresses issues that are the same in each of these proceedings. We issue one Order to be entered in each proceeding. The parties are not authorized to use this style caption unless later permitted.

On May 30, 2024, Petitioner filed motions requesting *pro hac vice* admission of Seyed Reza Roghani Esfahani in each of the above-identified proceedings (collectively "Motions"). Paper 28.[2] Petitioner also submitted declarations from Seyed Reza Roghani Esfahani in support of the Motions (collectively "Declarations"). Ex. 1049.[3] Petitioner attests that Patent Owner does not oppose the Motions. Paper 28, 1.

For the reasons provided below, Petitioner's Motions are *conditionally 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 Motions and the accompanying Declarations,[4] we conclude that Mr. Esfahani has sufficient legal and

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[2] For purposes of expediency, we cite to Papers filed in IPR2023-00836. Petitioner filed similar Motions in IPR2023-00843 (Paper 28), and IPR2023-00849 (Paper 27).

[3] We cite to Exhibits filed in IPR2023-00836. Petitioner filed similar Declarations in IPR2023-00843 (Ex. 1049), and IPR2023-00849 (Ex. 1049).

[4] *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

technical qualifications to represent Petitioner in these proceedings, has demonstrated sufficient litigation experience and familiarity with the subject matter of these proceedings, and meets all other requirements for admission *pro hac vice*. *See* Ex. 1049. Accordingly, Petitioner has established good cause for *pro hac vice* admission of Mr. Esfahani. Mr. Esfahani 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 not been submitted for Mr. Esfahani.[5] Therefore, Petitioner's Motions are *conditionally granted*, and are to be effective after Petitioner files the aforementioned Power of Attorney.

Petitioner has not filed updated Mandatory Notices identifying Mr. Esfahani as back-up counsel. Therefore, Petitioner must file updated Mandatory Notices identifying Mr. Esfahani as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3).

In consideration of the foregoing, it is hereby

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three (3) years." *See Unified Patents*, Paper 7 at 3. The Declarations of Mr. Esfahani do not identify any other proceedings before the Office for which Mr. Esfahani has applied to appear *pro hac vice*. *See* Ex. 1049. For the purposes of this Order, we deem this harmless error, and treat the omission as a representation that Mr. Esfahani has not applied to appear *pro hac vice* in any other proceedings before the Office (aside from IPR2023-00836, IPR2023-00843, IPR2023-00849, and IPR2024-00083) in the last three years.

[5] We note that Petitioner has provided a Power of Attorney for "all practitioners associated with PTO Customer Number 22045." *See* IPR2023-00836, Paper 1; IPR2023-00843, Paper 1; and IPR2023-00849, Paper 1. Mr. Esfahani, however, is not associated with Customer Number 22045.

ORDERED that Petitioner's Motions for *pro hac vice* admission of Seyed Reza Roghani Esfahani are *conditionally granted*, provided that within ten (10) business days of the date of this order, Petitioner submits a Power of Attorney for Mr. Esfahani in accordance with 37 C.F.R. § 42.10(b);

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

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

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

FURTHER ORDERED that Mr. Esfahani be familiar with the Patent Trial and Appeal Board Consolidated Trial Practice Guide[6] (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;[7] and

[6] Available at https://www.uspto.gov/TrialPracticeGuideConsolidated.
[7] In the Declarations, Mr. Esfahani indicates compliance with the Patent Office Trial Practice Guide and the Board's Rules of Practice for Trials *set forth in part 42 of the Code of Federal Regulations* (as opposed to *part 42 of 37 C.F.R.*). *See* Ex. 1049 ¶ 5. We excuse this mistake on this occasion, but remind Mr. Esfahani that the Board's Rules of Practice for Trials are set forth in *Part 42 of 37 C.F.R.*, and it is those rules to which Mr. Esfahani will be subject.

FURTHER ORDERED that Mr. Esfahani is 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.*

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