

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VMWARE, INC.,
Petitioner,

v.

CIRBA IP INC.,
Patent Owner.

IPR2021-00008 (Patent 10,523,492 B2)
IPR2021-01210 (Patent 10,951,459 B2)
IPR2021-01211 (Patent 10,951,459 B2)
PGR2021-00098 (Patent 10,951,459 B2)

Before JUSTIN T. ARBES, DAVID C. McKONE, TERRENCE W. McMILLIN,
and RUSSELL E. CASS, *Administrative Patent Judges*.

CASS, *Administrative Patent Judge*.

ORDER¹

Granting Petitioner's Motions for Admission *Pro Hac Vice*
of Andrea L. Scripa and Stephen Liu
37 C.F.R. § 42.10

¹ This Order addresses overlapping issues in the cases listed above. Therefore, we issue one Order to be filed in each case. The parties, however, are not authorized to use this style of filing. The listing of judges represents overlapping three-judge panels in the identified cases. This is not an expanded panel.

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On August 25, 2021, Petitioner filed motions for admission *pro hac vice* of Andrea L. Scripa (Paper 16) and Stephen Liu (Paper 17) in each of the above-identified proceedings (collectively “Motions”).² Petitioner also filed Declarations of Andrea L. Scripa (Ex. 1020) and Stephen Liu (Ex. 1021) in support of the Motions (collectively “Declarations”).³ Petitioner attests that Patent Owner does not oppose the Motions. Paper 16, 1; Paper 17, 1. For the reasons provided below, Petitioner’s Motions are *granted*.

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 5, 2 (citing *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 (PTAB Oct. 15, 2013) (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 Ms. Scripa and Mr. Liu each have sufficient legal and technical qualifications to represent Petitioner in the above-identified proceedings, that Ms. Scripa and Mr. Liu have each demonstrated sufficient

² For purposes of expediency, we cite to Papers filed in IPR2021-00008. Petitioner filed similar Motions in IPR2021-01210 (Papers 9 and 10), IPR2021-01211 (Papers 9 and 10), and PGR2021-00098 (Papers 6 and 7).

³ We cite to Exhibits filed in IPR2021-00008. Petitioner filed similar Declarations in IPR2021-01210 (Exs. 1024 and 1025), IPR2021-01211 (Exs. 1022 and 1023), and PGR2021-00098 (Exs. 1021 and 1022).

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familiarity with the subject matter of these proceedings, that Ms. Scripa and Mr. Liu meet 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 Ms. Scripa and Mr. Liu. Ms. Scripa and Mr. Liu will be permitted to serve as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

We note that Petitioner has filed a Power of Attorney including Ms. Scripa and Mr. Liu in accordance with 37 C.F.R. § 42.10(b). IPR2021-00008, Paper 20; IPR2021-01210, Paper 1; IPR2021-01211, Paper 1; and PGR2021-00098, Paper 1. Petitioner has also filed Mandatory Notices identifying Ms. Scripa and Mr. Liu as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3). IPR2021-00008, Paper 18; IPR2021-01210, Paper 11; IPR2021-01211, Paper 11; and PGR2021-00098, Paper 8.

Accordingly, it is:

ORDERED that Petitioner's Motions for *pro hac vice* admission of Ms. Andrea L. Scripa and Mr. Stephen Liu are *granted*;

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 Ms. Scripa and Mr. Liu are authorized to represent Petitioner as back-up counsel only in the above-identified proceedings;

FURTHER ORDERED that Ms. Scripa and Mr. Liu are to comply with the Consolidated Trial Practice Guide⁴ (84 Fed. Reg. 64,280 (Nov. 21, 2019)), and the

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

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Board's Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations; and

FURTHER ORDERED that Ms. Scripa and Mr. Liu 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.*

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