

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

adidas AG
Petitioner

v.

NIKE, Inc.
Patent Owner

Case IPR2013-00067
Patent 7,347,011 B2

Before JOSIAH C. COCKS, MICHAEL J. FITZPATRICK, and
JAMES B. ARPIN, *Administrative Patent Judges*.

ARPIN, *Administrative Patent Judge*.

DECISION
Motion to Withdraw
37 C.F.R. § 42.10(e)

On July 11, 2013, Petitioner filed a motion to authorize withdrawal of its current lead counsel, Geoffrey K. Gavin, and the appointment of a new lead counsel. Motion (Paper 26) 2. Further, Petitioner contemporaneously filed a new power of attorney (Paper 27) appointing Mitchell G. Stockwell (Reg. No. 39, 389)

as the new lead counsel and maintaining Wab P. Kadaba (Reg. No. 45,865) as back-up counsel. No opposition has been filed, and Petitioner indicates that Patent Owner does not oppose the appointment of Mr. Stockwell as new lead counsel. Motion 3. For the following reasons, the motion is granted.

DISCUSSION

Counsel may withdraw from an *inter partes* review proceeding only with authorization from the Board. 37 C.F.R. § 42.10(e). Normally, this is accomplished by filing a motion to withdraw, which requires Board authorization *before* filing. *See* 37 C.F.R. § 42.20(b). Once authorization is granted, the motion then is made by the attorney(s) seeking to withdraw. *See, e.g.*, IPR2013-00010, Paper 30.

Here, Petitioner filed a motion to *authorize* withdrawal of counsel. The motion was not authorized in advance by the Board. It was accompanied by a new power of attorney that revoked the previous power of attorney and appointed new lead counsel. The motion was signed by back-up counsel, rather than by the withdrawing counsel.

Petitioner has not followed the correct procedure. Nevertheless, because there is no prejudice shown, the Board waives the requirement for authorization and treats the motion as if it were properly authorized and filed by the withdrawing counsel. Petitioner is instructed to seek Board authorization, where required, for any further motions filed in this proceeding.

Turning to the merits, the motion designates new lead counsel, who is a registered practitioner, and does not seek any time extensions. Under the circumstances, we see no reason to deny the motion.

It is therefore

ORDERED that Petitioner's Motion is granted;

FURTHER ORDERED that Geoffrey K. Gavin is permitted to withdraw as counsel in this proceeding;

FURTHER ORDERED that Mitchell G. Stockwell is recognized as Petitioner's lead counsel in these proceedings; and

FURTHER ORDERED that Petitioner shall update the Board's electronic filing system to reflect the change in lead counsel.

PETITIONER:

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