

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HEARTLAND TANNING, INC.
Petitioner

v.

SUNLESS, INC.
Patent Owner

Case IPR2014-00018
Patent 8,201,288 B2

Before FRANCISCO C. PRATS, RAMA G. ELLURU, and JAMES A. TARTAL,
Administrative Patent Judges.

ELLURU, *Administrative Patent Judge.*

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

Patent Owner Sunless, Inc. (“Sunless”) has filed a motion to withdraw its current counsel, Messrs. Steven M. Auvil and Bryan J. Jaketic, and to designate current backup counsel, Mr. Frank M. Gasparo, as lead counsel (leaving Mr. Adam R. Hess as backup counsel). Paper 23.¹ In support of its motion, Sunless asserts that: (1) Mr. Gasparo meets the requirements of 37 C.F.R. § 42.10(c) for lead counsel and is a registered practitioner; and (2) Messrs. Gasparo and Hess have read and intend 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 the C.F.R. *Id.* Sunless further indicates that a Power of Attorney has previously been submitted appointing Messrs. Gasparo and Hess as additional counsel to transact all business in the Office related to the above-captioned *inter partes* review. *See* Paper 20. Lastly, Sunless indicates that Petitioner has no objections to the appointment of Mr. Gasparo as lead counsel. Paper 23.

Sunless will not be unrepresented after withdrawal of its current lead counsel. Mr. Gasparo, who is the current backup counsel for Sunless, will remain as lead counsel in this case.

On the basis of the foregoing, the motion is *granted*.

¹ Normally, a motion to withdraw requires Board authorization before filing. *See* 37 C.F.R. § 42.20(b). Once authorization is granted, the motion then is made by the attorneys seeking to withdraw. *See, e.g., Motorola Mobility LLC v. Arnouse Devices Corp.*, Case IPR2013-00010 (PTAB April 19, 2013) (Paper 30). Here, the motion to withdraw was filed by Sunless without prior authorization by the Board. Because there is no apparent prejudice in this instance, however, the Board will waive the requirement for prior authorization. Sunless is instructed to seek Board authorization, unless otherwise not required, prior to filing any further motions in this proceeding.

Order

It is

ORDERED that Messrs. Steven M. Auvil and Bryan J. Jaketic are no longer recognized as counsel for Sunless in this proceeding;

FURTHER ORDERED that Mr. Frank M. Gasparo is recognized as lead counsel for Sunless, effective the date of this decision;

FURTHER ORDERED that Sunless update its mandatory notices to reflect new counsel. *See* 37 C.F.R. § 42.8; and

FURTHER ORDERED that, in further filings in this proceeding, Sunless shall observe the requirement for Board approval set forth in 37 C.F.R. § 42.20(b).

FOR PETITIONER:

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