

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYTEMS, INC.,
Petitioner

v.

SPHERIX INC.,
Patent Owner

Cases¹

IPR2015-00999 (Patent 7,397,763 B2)
IPR2015-01001 (Patent 8,607,323 B2)

Before JUSTIN BUSCH, LYNNE E. PETTIGREW, and
MATTHEW R. CLEMENTS, Administrative Patent Judges.

BUSCH, *Administrative Patent Judge*.

DECISION

Petitioner's Motion for *Pro Hac Vice* Admission of
Michael De Vries and Adam Alper
37 C.F.R. § 42.10

¹ This Decision applies to each of the listed cases. We exercise our discretion to issue one Order to be docketed in each case. The parties, however, are not authorized to use this caption for any subsequent papers. References to papers are to those filed in IPR2015-00999.

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On May 26, 2015, Petitioner, Cisco Systems, Inc. (“Cisco”), filed a motion for *pro hac vice* admission of Michael De Vries and Adam Alper. Paper 7. We have reviewed the motion. It is hereby granted.

The Board may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause, subject to the condition that lead counsel is a registered practitioner. 37 C.F.R. § 42.10(c). If lead counsel is a registered practitioner, a non-registered practitioner may be permitted to appear *pro hac vice* “upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.” *Id.*

In this proceeding lead counsel for Cisco is David L. McCombs, a registered practitioner. Cisco’s motion is supported by the declarations of Mr. De Vries (Ex. 1012) and Mr. Alper (Ex. 1011). We have reviewed the declarations submitted by Mr. De Vries and Mr. Alper, including their statements regarding years of litigation experience, lack of discipline or denial of admission to practice before any court or administrative body, and familiarity with the legal and technical issues in this proceeding. Ex. 1011 ¶¶ 3–4, 6–8; Ex. 1012 ¶¶ 3–5, 7–9.

Mr. De Vries and Mr. Alper further each states (1) that he has read and will 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, Code of Federal Regulations, and (2) that he agrees to be subject to the USPTO Code of Professional Responsibility. Ex. 1011 ¶¶ 9–10; Ex. 1012 ¶¶ 10–11.

Paragraph 11 of Mr. De Vries’s declaration and paragraph 10 of Mr. Alper’s declaration indicate that Mr. De Vries and Mr. Alper, respectively, agree to be subject to the USPTO Code of Professional

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Responsibility. We note that, effective May 3, 2013, the USPTO Rules of Professional Conduct replaced the USPTO Code of Professional Responsibility. For purposes of Cisco's motion, we understand paragraph 11 of Mr. De Vries's declaration and paragraph 10 of Mr. Alper's declaration to indicate their compliance with the USPTO Rules of Professional Conduct. Future declarations submitted in support of a motion for *pro hac vice* admission should refer to the USPTO Rules of Professional Conduct.

Cisco has shown that Mr. De Vries and Mr. Alper have sufficient qualifications to represent Cisco in this proceeding. Cisco has established good cause for admission, *pro hac vice*, of Mr. De Vries and Mr. Alper.

ORDER

It is

ORDERED that Petitioner's unopposed motion for *pro hac vice* admission of Mr. De Vries and Mr. Alper is *granted*; Mr. De Vries and Mr. Alper are authorized to represent Petitioner only as back-up counsel in the instant proceeding;

FURTHER ORDERED that Petitioner is to continue to have a registered practitioner represent it as lead counsel for the instant proceeding;

FURTHER ORDERED that Mr. De Vries and Mr. Alper are 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, Code of Federal Regulations;

FURTHER ORDERED that Mr. DeVries and Mr. Alper are to be subject to the Office's disciplinary jurisdiction under 37 C.F.R. § 11.19(a),

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and the USPTO Rules of Professional Conduct set forth in 37 C.F.R.

§§ 11.101 *et. seq.*

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