

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BATTERY-BIZ, INC.,
Petitioner,

v.

COMARCO WIRELESS TECHNOLOGIES, INC.,
Patent Owner.

Case IPR2016-00630 (Patent 7,863,770 B2)
Case IPR2016-00632 (Patent 7,460,381 B2)¹

Before LYNNE E. PETTIGREW, *Administrative Patent Judge*.

ORDER

Denying Patent Owner's Motion for *Pro Hac Vice*
Admission of Mr. Charles Quinn
37 C.F.R. § 42.10

Patent Owner, Comarco Wireless Technologies, Inc., filed a motion for *pro hac vice* admission of Mr. Charles Quinn. Paper 6.² Patent Owner also filed a declaration from Mr. Quinn in support of its motion. Paper 7. In

¹ We use this caption in this paper to indicate that this Order applies to, and is entered in, both cases. The parties are not authorized to use this caption.

² Papers filed thus far in IPR2016-00630 and IPR2016-00632 have identical paper numbers.

Case IPR2016-00630 (Patent 7,863,770 B2)

Case IPR2016-00632 (Patent 7,460,381 B2)

addition, Patent Owner filed a request for authorization to file a motion for *pro hac vice* admission. Paper 8. Petitioner, Battery-Biz, Inc., has not opposed Patent Owner's motion.

Having reviewed the motion and the declaration of Mr. Quinn, we deny Patent Owner's motion without prejudice. As stated in the Notice of Filing Date Accorded to Petition entered in these proceedings, *pro hac vice* motions shall be filed in accordance with the requirements set forth in *Unified Patents, Inc. v. Parallel Iron, LLC*, Case IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7), which is available on the PTAB website under "Representative Orders, Decisions, and Notices." Paper 3, 2. In particular, a motion for *pro hac vice* admission must be accompanied by an affidavit or declaration of the individual seeking to appear attesting to several things, including that the individual will be subject to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a). *Unified Patents*, Case IPR2013-00639, slip op. at 3. In 2013, the USPTO Rules of Professional Conduct replaced the USPTO Code of Professional Responsibility, previously set forth in 37 C.F.R. §§ 10.20 *et seq.* *Id.* at 2.

In these proceedings, Patent Owner submitted a declaration from Mr. Quinn stating that he agrees to be subject to the USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§ 10.20 *et seq.* As explained in *Unified Patents*, a declaration from an individual seeking *pro hac vice* admission should instead refer to the USPTO Rules of Professional Conduct, 37 C.F.R. §§ 11.101 *et seq.* Accordingly, Patent Owner is authorized to file a revised motion for *pro hac vice* admission of Mr. Quinn, accompanied by a declaration in which he states he will be subject to the

Case IPR2016-00630 (Patent 7,863,770 B2)

Case IPR2016-00632 (Patent 7,460,381 B2)

USPTO Rules of Professional Conduct, 37 C.F.R. §§ 11.101 *et seq.* The declaration should be filed as a Patent Owner exhibit rather than a paper, and the revised motion should refer to the declaration by exhibit number. Patent Owner also should confer with Petitioner and indicate in the revised motion whether Petitioner plans to oppose the motion.

We also note that the Notice of Filing Date Accorded to Petition in these proceedings authorized the parties to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c). Therefore, it is unnecessary for either party to request authorization to file a motion for *pro hac vice* admission. Moreover, the proper procedure for requesting authorization to file a motion (when authorization is required) is to send an email to the Board at the address at the top of the first page of this order, requesting a conference call with the Board to obtain authorization to file a motion.

ORDER

Accordingly, it is:

ORDERED that Patent Owner's motion for *pro hac vice* admission of Charles Quinn is *denied without prejudice*;

FURTHER ORDERED that Patent Owner is authorized to file a revised motion for *pro hac vice* admission of Mr. Quinn, accompanied by a revised declaration from Mr. Quinn attesting to the items set forth in *Unified Patents, Inc. v. Parallel Iron, LLC*, Case IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7);

FURTHER ORDERED that the revised motion should indicate whether Petitioner plans to oppose the motion;

FURTHER ORDERED that Mr. Quinn's revised declaration should be filed as an exhibit;

Case IPR2016-00630 (Patent 7,863,770 B2)

Case IPR2016-00632 (Patent 7,460,381 B2)

FURTHER ORDERED that a revised motion for *pro hac vice* and a revised declaration should be filed no later than May 11, 2016; and

FURTHER ORDERED that any opposition by Petitioner must be filed no later than one week after the filing date of Patent Owner's revised motion.

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