

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PALO ALTO NETWORKS, INC., CISCO SYSTEMS, INC.,
and KEYSIGHT TECHNOLOGIES, INC.,[†]
Petitioner

v.

CENTRIPETAL NETWORKS, LLC,
Patent Owner.

IPR2022-00182
Patent 9,917,856 B2

Before MICHELLE N. WORMMEESTER, NABEEL U. KHAN, and
AARON W. MOORE, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

ORDER

*Denying, Without Prejudice, Patent Owner's
Motion for Pro Hac Vice Admission of Paul Andre
37 C.F.R. § 42.10*

[†] Cisco Systems, Inc. and Keysight Technologies, Inc. filed petitions and motions for joinder in IPR2022-01151 and IPR2022-01199, respectively, and have been joined in this proceeding.

Centripetal Networks, Inc. (“Patent Owner”) filed a motion for *pro hac vice* admission of Paul Andre in the above-listed proceeding, along with a supporting declaration from Mr. Andre. *See* Paper 32 (“Motion”); Ex. 2028. The Motion stated that it was unopposed, but Petitioner has since withdrawn assent. *See* Paper 32, 1; Ex. 3017.

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. The Board requires a statement of facts showing there is good cause to recognize counsel *pro hac vice*, and a supporting affidavit or declaration of the individual seeking to appear in this proceeding. *See Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7).

Mr. Andre states that he is a member in good standing of the bars of multiple states, describes his experience as a patent litigator, and states that he is familiar with the subject matter at issue in the proceeding. *See* Ex. 2028 ¶¶ 1–2, 10–12.

Mr. Andre further relates that “[t]he District Court for the Western District of Texas issued an order for sanctions in a case in which [he] was lead counsel based on a motion filed for a new trial,” and that the Court “required that [he] complete 30 hours of legal ethics Continuing Legal Education within six months, which [he] did.” Ex. 2028 ¶ 8.

The order to which Mr. Andre refers was *Freshub, Inc. v. Amazon.com Inc.*, 576 F. Supp. 3d 458 (W.D. Tex. 2021), in which Judge Albright imposed the sanctions for “serious allegations” that were “particularly disturbing” and “nothing but baseless attacks on the integrity of this Court and the reputation of Defendants’ counsel.” *Id.* at 466. They

were “vitriolic and unsubstantiated allegations” that were “not only shocking, but also offensive to [the] Court.” *Id.* The Court further found that “accusing Defendants’ counsel of engaging in [misconduct], without any evidentiary support, is similarly unacceptable” and that “[b]y making such baseless allegations,” Mr. Andre and his colleagues had “breached their duty to the Court.” *Id.*

Judge Albright also explained that it was “not the first time [Mr. Andre and his colleagues] improperly conducted themselves before a federal district court,” identifying *Finjan, Inc. v. Juniper Networks, Inc.*, No. 3:17-cv-05659-WHA, 2021 WL 3140716 (N.D. Cal. July 26, 2021). In that case, the court declined to impose sanctions, but explained that “[i]n no way does [that] vindicate” Mr. Andre and his colleagues, whose “conduct was improper and frustrated the fairness of the proceedings.” *Id.* at *4. The court warned that “[j]udges in the future should take this into account when dealing with them in future cases.” *Id.*

Mr. Andre also attested, on December 29, 2022, that he “[had] read and will comply with the Office Patent Trial Practice Guide and the Board’s Rules of Practice for Trials set forth in Part 42 of Title 37, Code of Federal Regulations. Ex. 2028 § 8. But he did not comply with our rules and procedures. The very next day, Mr. Andre filed Patent Owner’s Motion for Recusal and Vacatur (Paper 37, “Motion to Recuse”) without authorization (*see* 37 C.F.R. § 42.20(b)), and without the meet and confer that is required before bringing matters to the Board. In addition, Mr. Andre signed that filing, as well as the Reply (Paper 54), without being admitted to practice before the Board. An attorney with Mr. Andre’s years of experience should have known better than to do that. Mr. Andre also corresponded with the

Board on behalf of Patent Owner, seeking a stay of this IPR, without being admitted. *See* Ex. 3017.

In our Order denying the Motion to Recuse signed by Mr. Andre, we found that the allegations that Judge McNamara breached the applicable ethical rules were frivolous, and that Patent Owner's argument that Judge McNamara had a personal bias against Patent Owner was a "reckless" attack by Petitioner based on nothing more than "unsupported rumor, conjecture, and speculation." *See* Paper 55, 13–14, 18–20. The arguments Mr. Andre has already presented in this case (before being admitted) thus appear to bear more than a passing resemblance to the "baseless attacks on the integrity of [the] Court" that resulted in the sanctions imposed by Judge Albright.

This information and conduct are quite troubling, and, we conclude, sufficient reason to deny Mr. Andre's motion to participate in this IPR. We are comfortable with that result given the advanced stage of this proceeding, the fact that Mr. Andre is seeking admission as backup counsel only, and the fact that Patent Owner is still represented by six other attorneys, including three from Mr. Andre's firm. *See* Paper 33, 1–3. That said, if Mr. Andre's participation is for some reason critical to Patent Owner's defense of this matter, Mr. Andre is given leave to move again for *pro hac vice* admission and explain why we should approve his participation despite the concerns identified above.

For the foregoing reasons, it is

ORDERED that the Motion for *Pro Hac Vice* Admission of Paul Andre is denied, without prejudice.

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