

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
Petitioner,

v.

COPY PROTECTION LLC,
Patent Owner.

Case IPR2015-00921
Patent 7,079,649

Before TRENTON A. WARD, LYNNE E. PETTIGREW, and
WILLIAM M. FINK, *Administrative Patent Judges*.

FINK, *Administrative Patent Judge*.

ORDER
Conduct of Proceeding
37 C.F.R. § 42.5

On December 4, 2015, Patent Owner, Copy Protection LLC, filed a substitute power of attorney designating practitioners of Volpe and Koenig, P.C., as counsel for Patent Owner (“Substitute Counsel”). Paper 23. On

December 7, 2015, by email to the Board, Substitute Counsel requested authorization to file a Motion to Substitute Counsel for Patent Owner.

Previously, Patent Owner had designated practitioners of Lerner, David, Littenberg, Krumholz & Mentlik, LLP, as lead and backup counsel for Patent Owner. Papers 4, 6. Because Paper 23 purports to *substitute* new lead and backup counsel, it is effectively an attempt to withdraw previously-designated counsel from the proceeding. Under 37 C.F.R. § 42.10(e), however, counsel may not withdraw from a proceeding before the Board unless the Board authorizes such a withdrawal. Moreover, a party may only move to withdraw after having obtained Board authorization to file a motion to withdraw. 37 C.F.R. § 42.20(b). A party may not simply give notice that it has designated substitute counsel as it did here.

Under these circumstances, Patent Owner's Substitute Power of Attorney is an unauthorized paper and should not be entered. However, we authorize Patent Owner to file a Motion for Withdrawal and Substitution of Counsel in the above identified proceeding. Such Motion must be made by a designated practitioner in accordance with 37 C.F.R. §§ 42.8(b)(3) and 42.10(b).¹ In its Motion, Patent Owner is instructed to indicate whether Petitioner opposes the Motion and to verify no extensions of time will be sought by Substitute Counsel.

ORDER

Accordingly, it is

¹ Because we are expunging Patent Owner's Substitute Power of Attorney, Substitute Counsel is not a designated practitioner in accordance with 37 C.F.R. § 42.10(b).

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ORDERED that Patent Owner's Substitute Power of Attorney (Paper 23) be expunged from the record; and

FURTHER ORDERED that the Board authorizes Patent Owner to file a Motion for Withdrawal and Substitution of Counsel in the above identified proceeding.

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