

Cain, Brigit

From: Gordon Lindeen <Gordon_Lindeen@bstz.com>
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Subject: Post Grant Review (Response to Proposed Rules) Pro Hac Vice

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I just learned at the USPTO Roadshow that there will be Pro Hac Vice representation before the PTAB during post grant reviews.

The USPTO should not go down this road. Registered agents and attorneys are subject to OED and value their reputation before the Office. They have a far greater incentive to conduct themselves in a manner that preserves their reputation and complies with the rules. They are also better able to frame issues in a manner that will be the most helpful for the PTAB. A registered agent or attorney will be able to greatly improve the conduct of these reviews and aid the PTAB in coming to a resolution.

A requirement to use a registered attorney or agent is not burdensome to the parties. It is similar to the requirement to use local counsel that is required by many state courts and some federal district courts. These state courts and many out of state litigation teams recognize the benefits of hiring at least one local counsel that is familiar with the local rules and procedures and often the judges.

The cost to parties of hiring a registered attorney or agent is very small compared to the significance of maintaining the patent. Such a person should also confer a great benefit to the team.

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