

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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EBAY ENTERPRISE, INC. and EBAY, INC.

Petitioner

v.

LAWRENCE B. LOCKWOOD

Patent Owner

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Case CBM2014-00026

Patent No. 5,576,951

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**AFFIDAVIT OF MARK P. WINE**

EBAY 1015  
EBAY v LOCKWOOD  
CBM2014-0026

1. I, Mark P. Wine, am competent to present this affidavit, and have personal knowledge of the facts set forth herein.

2. This affidavit is given in support of Petitioner, eBay's Motions for *Pro Hac Vice* Admission of Mark P. Wine in Case Nos. CBM-00025 and CBM2014-0026.

3. I am a partner at the law firm of Orrick, Herrington & Sutcliffe LLP. I am an experienced litigating attorney and have been a litigating attorney for more than thirty-nine years.

4. I have been litigating patent cases for over thirty years.

5. I have established familiarity with the subject matter at issue in this proceeding. (*Id.*, ¶ 6). I have litigated cases in area of electronic commerce. I have become familiar with U.S. Patent No. 5,576,951 (the "'951 Patent") and with its prosecution history. (*Id.*, ¶ 6). I also has in-depth familiarity with Lockwood's related U.S. Patent No. 7,010,508 (the "'508 Patent") and its file history.

6. I was counsel for eBay in a co-pending district court litigation against eBay Enterprise, Inc. That litigation is captioned *Landmark Technology, LLC v. iRobot Corporation*, Civil Action No. 6:13-cv-0411 (E.D. Tex.) and involved the '508 and '951 patents also at issue in these covered business method review proceedings. As counsel for eBay, I had been actively involved in all aspects of its district court litigation. (*Id.*)

7. I am a member in good standing of the State Bar of California.

8. I have never been disbarred from practice before any court or administrative body. I was once administratively suspended by the Minnesota Supreme Court for failure to pay annual registration dues. As explained below, this administrative suspension occurred without my knowledge and I promptly corrected the situation upon being made aware of it.

9. In 1976 I became a member of the Minnesota Bar after passing the bar exam in that state. I practiced law in Minnesota from 1976 until 1997 when I moved to California and passed the California Bar Exam.

10. Several years after moving to California I determined that I no longer wished to report CLE hours as required to be an active member of the Minnesota Bar and took what I believed was an “inactive” status that could be converted back to “active” upon proof that I had complied with my CLE requirements.

11. In July 2013 a staff member of my firm conducted a review of the status of all attorneys in our firm who had bar memberships in states other than the one in which they made their primary residence.

12. On July 24, 2013, I learned for the first time that I had been administratively suspended by the Minnesota Supreme Court for failure to pay annual registration dues and placed in a status referred to as “Involuntary Restricted” until I made payment of past registration dues and requested a formal

change of my status to “Voluntary Restricted” as provided in the Minnesota CLE rules.

13. I was unaware of this administrative action by the Minnesota Supreme Court until advised by my firm. I had received no communications of any sort from the Minnesota Bar authorities for more than seven years prior to this discovery and was unaware of my obligation to continue to pay registration fees.

14. Upon learning of this administrative suspension I immediately took steps to bring my account current with the Minnesota Bar and simultaneously petitioned the Minnesota Supreme Court to remove my administrative suspension and change my status to “Voluntary Restricted.” This status means that I am not permitted to practice law as a member of the Minnesota Bar until proof of CLE compliance is made. It is the recommended status for non-resident members of the Minnesota Bar who wish to maintain their membership.

15. As of August 7, 2013, the administrative suspension was removed by order of the Minnesota Supreme Court and I was placed on Voluntary Restricted status. In addition the Minnesota Board of CLE agreed to waive any requirement that I complete additional CLE coursework at this time.

16. No court or administrative body has ever denied my application for admission to practice before it.

17. No court or administrative body has ever imposed sanctions or contempt citations on me.

18. I have 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 Section 37 of the Code of Federal Regulations.

19. I understand that I 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).

20. I have applied and have been admitted to appear *pro hac vice* in IPR2013-00433 and IPR2013-00436 before the Office in the last three (3) years. Mr. Wine is concurrently applying to appear *pro hac vice* before the Office in the following covered business method review proceedings:

<b>Proceeding</b>	<b>U.S. Patent No.</b>
CBM2014-00026	5,576,951
CBM2014-00025	7,010,508

21. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine

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