

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,
v.
SMARTFLASH LLC,
Patent Owner.

Cases

CBM2014-00102, CBM2015-00015 (Patent 8,118,221 B2)¹
CBM2014-00106, CBM2015-00016 (Patent 8,033,458 B2)
CBM2014-00108, CBM2015-00017 (Patent 8,061,598 B2)
CBM2014-00112, CBM2015-00018 (Patent 7,942,317 B2)

Before RAMA G. ELLURU, JEREMY M. PLENZLER, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

CLEMENTS, *Administrative Patent Judge*.

DECISION

Petitioner's Motion for *Pro Hac Vice* Admission of James R. Batchelder
37 C.F.R. § 42.10

¹ This order addresses issues that are the same in all identified cases. We exercise our discretion to issue one order to be filed in each case. The parties, however, are not authorized to use this style heading in subsequent papers.

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Apple Inc. (“Petitioner”) filed a motion for *pro hac vice* admission of Mr. James R. Batchelder. Paper 31.² Smartflash LLC (“Patent Owner”) did not file an opposition to the motion. For the reasons provided below, Petitioner’s motion is *granted*.

As set forth in 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. For example, where the lead counsel is a registered practitioner, a non-registered practitioner may be permitted to appear *pro hac vice* “upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.” 37 C.F.R. § 42.10(c). In authorizing motions for *pro hac vice* admission, the Board also requires a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* and an affidavit or declaration of the individual seeking to appear in this proceeding. Paper 3, 2 (referencing the “Order – Authorizing Motion for *Pro Hac Vice* Admission” in IPR2013-00639, Paper 7³ (setting forth requirements for *pro hac vice* admission)).

In its motion, Petitioner asserts that there is good cause for Mr. Batchelder’ *pro hac vice* admission because: (1) Mr. Batchelder is an experienced litigation attorney and has extensive experience litigating patent

² Citations are to CBM2014-00102 unless otherwise noted. Equivalent papers were filed in the other proceedings.

³ Available at http://www.uspto.gov/ip/boards/bpai/ptab_trials.jsp, “Representative Orders, Decisions, and Notices,” “Other Representative Orders and Decisions”). Supersedes IPR2013-00010, “Order – Authorizing Motion for *Pro Hac Vice* Admission,” Paper 8.

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infringement cases in many different District Courts; and (2) Mr. Batchelder is familiar with the patents-at-issue in these proceedings and has been representing Petitioner against Patent Owner as lead counsel in pending District Court litigation. Paper 31, 2–3. In support of the motion, Mr. Batchelder attests to these facts in his declaration with sufficient explanations. Paper 31, Declaration of James R. Batchelder In Support of Motion for *Pro Hac Vice* Admission, 1–3. Additionally, the motion and Mr. Batchelder’s declaration comply with the requirements set forth in the Board’s order authorizing Petitioner’s motion for *pro hac vice* admission.

Based on the record, we find that Mr. Batchelder has sufficient legal and technical qualifications to represent Petitioner in the instant proceeding. Accordingly, Petitioner has established that there is good cause for Mr. Batchelder’s admission. Mr. Batchelder will be permitted to appear *pro hac vice* in this proceeding as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

For the foregoing reasons, it is

ORDERED that Petitioner’s motions for *pro hac vice* admission of Mr. Batchelder are granted; Mr. Batchelder is authorized to represent Petitioner as back-up counsel in the above-identified proceedings;

FURTHER ORDERED that Petitioner is to continue to have a registered practitioner as lead counsel in the instant proceeding; and

FURTHER ORDERED that Mr. Batchelder is to comply with the Office Patent Trial Practice Guide and the Board’s Rules of Practice for Trials, as set forth in Title 37, Part 42 of the C.F.R., and to be subject to the Office’s disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and the

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USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.*

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