

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner

v.

SMARTFLASH LLC,
Patent Owner

Case CBM2015-00123
Patent 8,033,458

Before the Honorable JENNIFER S. BISK, RAMA G. ELLURU, JEREMY M. PLENZLER, and MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

**UNOPPOSED MOTION FOR *PRO HAC VICE* ADMISSION OF
JAMES R. BATCHELDER**

Pursuant to Rule 42.10(c), and as authorized in the Board's Notice of Filing Date Accorded to Petition (Paper 3), Petitioner Apple Inc. ("Apple") respectfully requests *pro hac vice* admission of James R. Batchelder as counsel in this proceeding.

I. Time for Filing

This Motion is timely because it is being filed no sooner than twenty one (21) days after service of the Petition in this proceeding, which occurred on May 6, 2015.

II. Statement of Facts

The following statement of facts demonstrates that there is good cause for the Board to recognize James R. Batchelder as counsel *pro hac vice* in this proceeding.

Mr. Batchelder is an experienced litigation attorney and has an established familiarity with the subject matter at issue in this proceeding. Mr. Batchelder has been practicing law since 1988 and has extensive experience litigating patent infringement cases in many different District Courts across the country. Among his experience in patent litigation matters, Mr. Batchelder has been lead counsel in multiple trials, *Markman* hearings, patent summary judgment proceedings, and other patent-related hearings and pleadings concerning, *inter alia*, patent validity and infringement issues. Mr. Batchelder has also been recognized as a leading patent litigation attorney by several different organizations, including *The Best Lawyers in America*, *Northern California Super Lawyers*, *IAM Patent 100 – The World’s Leading Patent Practitioners*, and *Managing IP – “IP Star”*.

Mr. Batchelder is familiar with U.S. Patent No. 8,033,458 (“the ‘458 Patent”) and the issues involved in this case. Mr. Batchelder has been representing Apple against Patent Owner Smartflash LLC (“Smartflash”) as lead counsel in pending District Court litigation—where Smartflash filed its infringement action asserting the ‘458 Patent and the related U.S. Patent Nos. 7,334,720; 7,942,317; 8,061,598; 8,118, 221; and 8,336,772 against Apple—since 2013, and has been actively involved as lead counsel for Apple since that time. As lead counsel in the District Court litigation, Mr. Batchelder has, among other things, been heavily involved with forming invalidity positions against Smartflash’s patents. Mr. Batchelder was also admitted *pro hac vice* and participated in related proceedings, including CBM2014-00102/103/106-109/112/113 and CBM2015-00015-18/28/29/31-33. Accordingly, Apple prefers that Mr. Batchelder continue as counsel in this CBM proceeding as well; and, further, Smartflash does not oppose Mr. Batchelder’s admission *pro hac vice*.

III. Declaration of James R. Batchelder

As directed by the Board, this Motion is also accompanied by the Declaration of James R. Batchelder in Support of Motion for *Pro Hac Vice* Admission (Exhibit 1038) attesting to the requirements laid out in the Board’s Order Authorizing Motion for *Pro Hac Vice* Admission in Case IPR2013-00639 (Paper 7).

For the foregoing reasons as well as the reasons contained in the attached declaration, Apple respectfully requests admission of James R. Batchelder as counsel *pro hac vice*.

Respectfully submitted,

Dated: January 25, 2016

By: /J. Steven Baughman/
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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing UNOPPOSED MOTION FOR PRO HAC VICE ADMISSION OF JAMES R. BATCHELDER and DECLARATION OF JAMES R. BATCHELDER IN SUPPORT OF MOTION FOR PRO HAC VICE ADMISSION was served on January 25, 2016, to the following Counsel for Patent Owner via e-mail, pursuant to the parties' agreement concerning service:

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