

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SCHRADER-BRIDGEPORT INTERNATIONAL, INC. et al.

Petitioner

v.

CONTINENTAL AUTOMOTIVE SYSTEMS US, INC.

Patent Owner

Case IPR2013-00014

Patent 6,998,973

MOTION FOR *PRO HAC VICE* ADMISSION

UNDER 37 C.P.R. § 42.10

1. Relief Requested

Pursuant to 37 C.P.R. § 42.10, the Patent Owner (“Continental”) respectfully requests that the Board recognize Mr. Boyd T. Cloern and Mr. Benjamin J. Warlick as counsel *pro hac vice* during this proceeding. Continental seeks Mr. Cloern’s and Mr. Warlick’s assistance because of their experience assisting Continental on patent-related matters and their experience on the substantive and technical issues involved in this proceeding. This motion is authorized by the Order entered April 16, 2013 authorizing motions for *pro hac vice* admission.¹ (Paper 16.) This motion is also being filed in accordance with the “ORDER—AUTHORIZING MOTION FOR PRO HAC VICE ADMISSION” in Case IPR2013-00010 (MPT) as required by the Board.

2. Time For Filing

This Motion for *Pro Hac Vice* Admission is being filed no sooner than twenty one (21) days after service of the petition.

3. Statement of Facts

The following statement of facts shows that there is good cause for the Board to recognize Mr. Cloern and Mr. Warlick *pro hac vice*.

Continental’s lead counsel, Timothy R. Baumann, is a registered practitioner (Reg. No. 40,502).

Mr. Cloern is an experienced patent litigation attorney, and has been involved in numerous litigations involving patent infringement in District Courts across the country. He has

¹ As preferred by the Board, Continental files this single motion for *pro hac vice* admission of Mr. Cloern and Mr. Warlick. (Paper 16, n.3.)

experience in jury and bench trials, Markman hearings, and Federal Circuit oral arguments in patent infringement litigation matters. Mr. Cloern's biography is attached hereto as Exhibit A.

Mr. Warlick is an experienced patent litigation attorney, and has been involved in numerous litigations involving patent infringement in District Courts across the country. He has experience in patent infringement litigation matters, including *Markman* hearings. Mr. Warlick's biography is attached hereto as Exhibit B.

U.S. Patent No. 6,998,973 is currently asserted by Patent Owner Continental Automotive Systems US, Inc. in a co-pending litigation, *Continental Automotive Systems US, Inc. v. Schrader Electronics, Inc.*, bearing USDC Eastern District of Michigan Case No. 2:11-cv-14525-SJM-MJH ("the co-pending litigation"). Mr. Cloern is lead counsel for Continental in the co-pending litigation and, as such, has an established familiarity with the subject matter at issue in this proceeding. In the co-pending litigation Mr. Cloern has reviewed prior art references for invalidity contentions, and was heavily involved in forming claim construction positions and drafting claim construction briefs, all of which are relied in on the petition requesting inter partes review of U.S. Patent No. 6,998,973. Mr. Warlick is also counsel for Continental in the co-pending litigation and, as such, also has an established familiarity with the subject matter at issue in this proceeding. In the co-pending litigation Mr. Warlick reviewed prior art references for invalidity contentions, which are relied on in the petition requesting inter partes review of U.S. Patent No. 6,998,973.

In view of Mr. Cloern's and Mr. Warlick's extensive knowledge of the precise subject matter at issue in this proceeding, and in view of the interrelatedness of this proceeding and its district court litigation, Continental has a substantial need for Mr. Cloern's and Mr. Warlick's *pro hac vice* admissions and their involvement in the continued prosecution of this proceeding.

Admission of Mr. Cloern and Mr. Warlick *pro hac vice* will enable Continental to avoid unnecessary expense and duplication of work between this proceeding and the co-pending district court litigation. See 77 Fed. Reg. 157 (Aug. 14, 2012), at 48661 (Office's comment on final rule discussing concerns about efficiency and costs where an entity has already engaged counsel for parallel district court litigation). Continental has expended significant financial resources in the co-pending litigation with Mr. Cloern and Mr. Warlick as counsel, and Continental wishes to continue using Mr. Cloern and Mr. Warlick as counsel in this proceeding.

Mr. Cloern and Mr. Warlick will be subject to the USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§ 10.20 et seq. and disciplinary jurisdiction under 37 C.F.R. § 11.19(a). Further, Mr. Cloern and Mr. Warlick will be subject to the Office's Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 et seq., which became effective on May 3, 2013 (see *Changes to representation of others Before the United States Patent and Trademark Office; Final Rule*, 78 Fed. Reg. 20180 (Apr. 3, 2013)).

Further, counsel for Petitioner does not oppose Mr. Cloern and Mr. Warlick appearing *pro hac vice* during this proceeding.

Therefore, Continental respectfully submits that there is good cause for the Board to recognize Mr. Cloern and Mr. Warlick as counsel *pro hac vice* during this proceeding.

4. Affidavit or Declaration of Individual Seeking to Appear

This Motion for *Pro Hac Vice* Admission is accompanied by an Affidavit of Mr. Cloern and an Affidavit of Mr. Warlick as required by the Order entered April 16, 2013 authorizing motions for *pro hac vice* admission. (Paper 16.)

Respectfully submitted,

By: /Timothy R. Baumann/

Timothy R. Baumann
Registration No. 40,502
Lead Counsel for Patent Owner

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