

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PNY Technologies, Inc.
Petitioner

v.

PHISON ELECTRONICS CORP.
Patent Owner

Case IPR2013-00472²
Patent No. 7,518,879

**PATENT OWNER PHISON ELECTRONICS CORPORATION'S
MOTION FOR *PRO HAC VICE* ADMISSION
UNDER 37 C.F.R. § 42.10(c)**

Case ² IPR2014-00150 has been joined with this proceeding

LIST OF EXHIBITS

| Exhibit No. | Description |
|-------------|--|
| 2001 | File History of the '879 Patent |
| 2002 | U.S. Publication No. 2007/0178769 to Ni ("Ni Publication") |
| 2003 | <i>Collins English Dictionary</i> , pp. 350, 452, 725 (2005) |
| 2004 | Erik Oberg et al., <i>Machinery's Handbook</i> , 26 th Edition, pp. 720-973 (2000) |
| 2005 | <i>Liberty Mutual Ins. Co. v. Progressive Casualty Ins. Co.</i> , CBM2013-00003 (Paper 7, Oct. 25, 2012) |
| 2006 | <i>DETENTS & DIAMETERS OF SPRING LOADED DEVICES</i> , http://www.vlier.com/product_index/sld/sel_06_diam.html (2007) |
| 2007 | Affidavit of David M. Barkan In Support of Patent Owner's Motion for Pro Hac Vice Admission |

Pursuant to 37 C.F.R. § 42.10(c), the Patent Owner (“PHISON ELECTRONICS CORPORATION”) respectfully requests that the Board recognize David M. Barkan as counsel *pro hac vice* in this proceeding. Patent Owner seeks the counsel of David M. Barkan due to his experience in representing Phison Electronics Corporation in other patent-related matters and particularly due to his familiarity with the substantive and technical issues involved in this proceeding. Mr. Barkan is lead counsel for Patent Owner Phison Electronics Corp. in *Phison Electronics Corp. v. PNY Technologies Inc.*, USDC-D. Del. Case No. C. A. No. 12-1478-GMS/MPT, a co-pending district court case which has been stayed pending the outcome of the present review. This motion is authorized by the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response that was mailed on August 8, 2013.

Statement of Facts

Mr. Barkan is a patent litigation attorney with experience representing clients in patent cases spanning a broad range of computer and network technologies, including flash memory devices, semiconductor memories, computer graphics, programming theory and language, networking protocols and security, semiconductor processing, analog and digital semiconductor devices, distributed systems, and storage devices. Mr. Barkan has tried intellectual property cases

before judges and juries in US district courts, in the US International Trade Commission, and in arbitration proceedings. Through his practice in such cases, Mr. Barkan has gained substantial experience in jury trials, bench trials, discovery, Markman hearings, and appeals. Mr. Barkan has also been substantively involved in developing technical and legal arguments for patent cases, and working with technical experts and inventors.

Prior to beginning his legal career, Mr. Barkan worked as a software engineer, developing various software systems and networked databases. Mr. Barkan began his legal career as a clerk for the Honorable Judge Fern Smith on the United States District Court for the Northern District of California from 1992 to 1993. Additionally, Mr. Barkan served as Fish & Richardson's Nationwide Head of Litigation from 2001 through 2006. Phison Electronics Corporation submits as evidence Exhibit A, David M. Barkan's biography.

David M. Barkan also has particular experience and familiarity with the substantive and technical issues involved in this *inter partes* review proceeding. Mr. Barkan has been lead counsel on cases involving 17 flash memory patents in multiple courts around the country. Mr. Barkan has also served as lead counsel for Phison Electronics Corp in numerous matters. The most recent of these matters, *Phison Electronics Corp. v. PNY Technologies Inc.*, USDC-D. Del. - Case No. C.

A. No. 12-1478-GMS/MPT involves U.S. Patent No. 7,518,879 and has been stayed pending the outcome of the present review. Phison Electronics Corporation has invested significant financial resources in each of related matters in which Mr. Barkan served as lead counsel. Moreover, through his representation in these matters, Phison Electronics Corp. has developed a cordial and trusting relationship with Mr. Barkan and understandably wishes to continue to work with Mr. Barkan for the purpose of this proceeding. Mr. Barkan has served as Phison's lead counsel on various patent matters since 2007. Finally, Mr. Barkan has read and analyzed the patent-at-issue in this proceeding, the petition, the preliminary response and cited portions of the accompanying exhibits for both.

1. Affidavit of Individual Seeking to Appear

This Motion for *Pro Hac Vice* Admission is accompanied by an Affidavit of David M. Barkan as required by the Order Authorizing Motion for *Pro Hac Vice* mailed May 14, 2014.

Accordingly, Phison Electronics Corporation submits that there is good cause under 37 C.F.R. § 42.10(c) for the Board to recognize David M. Barkan as counsel *pro hac vice* during this proceeding.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.