

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FACEBOOK, INC., LINKEDIN CORP., and TWITTER, INC.
Petitioners,

v.

SOFTWARE RIGHTS ARCHIVE, LLC
Patent Owner.

Case IPR2013-00478 (Patent 5,544,352)
Case IPR2013-00479 (Patent 5,832,494)
Case IPR2013-00480 (Patent 5,832,494)
Case IPR2013-00481 (Patent 6,233,571)¹

Before SALLY C. MEDLEY, CHRISTOPHER L. CRUMBLEY, and
BARBARA A. PARVIS, *Administrative Patent Judges*.

CRUMBLEY, *Administrative Patent Judge*.

DECISION
Motion for *Pro Hac Vice* Admission
37 C.F.R. § 42.10

¹ This decision addresses motions for *pro hac vice* admission submitted in each of the four cases. We exercise our discretion to issue one decision to be entered in each case. The parties are not authorized to use this style heading without authorization from the Board.

IPR2013-00478 (Patent 5,544,352)
IPR2013-00479 (Patent 5,832,494)
IPR2013-00480 (Patent 5,832,494)
IPR2013-00481 (Patent 6,233,571)

Petitioners filed motions for *pro hac vice* admission of Mr. Mark R. Weinstein in the above-identified cases on November 13, 2013. IPR2013-00478, Paper 15; IPR2013-00479, Paper 16; IPR2013-00480, Paper 15; IPR2013-00481, Paper 14.² Patent Owner did not file an opposition to the motions. For the following reasons, the motions are *granted*.

Pursuant to 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 is a registered practitioner. In authorizing motions for *pro hac vice* admission, the Board requires the moving party to provide a statement of facts showing 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 7, Notice of Filing Date Accorded to Petition, 2 (incorporating requirements in the “Order – Authorizing Motion for *Pro Hac Vice* Admission” in IPR2013-00010).³

In this proceeding, lead counsel for Petitioners is Ms. Heidi L. Keefe, a registered practitioner. In the motions, Petitioners state that there is good cause for the Board to recognize Mr. Weinstein *pro hac vice* during this proceeding, because he is an experienced litigating attorney with an established familiarity with the subject matter at issue in the proceeding. Paper 15, 1. In addition, the motion states that Mr. Weinstein is counsel of record in related litigation involving the same patents. *Id.* Mr. Weinstein submits affidavits attesting to, and explaining,

² For expediency, IPR2013-00478 is representative and all subsequent citations are to IPR2013-00478 unless otherwise noted.

³ After the Notice was entered, an expanded panel of the Board updated the requirements for filing a motion for *pro hac vice* admission. *See* IPR2013-00639, Paper 7.

IPR2013-00478 (Patent 5,544,352)
IPR2013-00479 (Patent 5,832,494)
IPR2013-00480 (Patent 5,832,494)
IPR2013-00481 (Patent 6,233,571)

these facts. *Id.*, Ex. A.⁴ The motions and affidavits comply with the requirements set forth in the Notice, as well as the updated requirements set forth in the Board's order authorizing *pro hac vice* admission.

Upon consideration, Petitioners have demonstrated that Mr. Weinstein possesses sufficient legal and technical qualifications to represent Petitioners in this proceeding, and the Board recognizes that there is a need for Petitioners to have related litigation counsel involved. Accordingly, Petitioners have established good cause for Mr. Weinstein's admission. Mr. Weinstein will be permitted to appear *pro hac vice* in this proceeding as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

We direct Mr. Weinstein's attention to the Office's Final Rule that took effect on May 3, 2013 adopting new Rules of Professional Conduct. *See Changes to Representation of Others Before the United States Patent and Trademark Office*; Final Rule, 78 Fed. Reg. 20179 (Apr. 3, 2013). The Final Rule also removes Part 10 of Title 37, Code of Federal Regulations. The motion is granted with the understanding that Mr. Weinstein is subject to the Office's 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).

For the foregoing reasons, it is

ORDERED that Petitioners' motions for *pro hac vice* admission of Mr. Mark R. Weinstein for these proceedings are *granted*;

FURTHER ORDERED that Mr. Weinstein is authorized to represent Petitioners as back-up counsel;

⁴ Petitioners are again reminded that each exhibit must be uniquely numbered sequentially and must be appropriately labeled. *See* 37 C.F.R. § 42.63.

IPR2013-00478 (Patent 5,544,352)
IPR2013-00479 (Patent 5,832,494)
IPR2013-00480 (Patent 5,832,494)
IPR2013-00481 (Patent 6,233,571)

FURTHER ORDERED that Petitioners are to continue to have a registered practitioner represent them as lead counsel for these proceedings; and

FURTHER ORDERED that Mr. Weinstein is to comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations, and to be subject to the Office's disciplinary jurisdiction under 37 C.F.R. § 11.19(a) and the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.*

IPR2013-00478 (Patent 5,544,352)
IPR2013-00479 (Patent 5,832,494)
IPR2013-00480 (Patent 5,832,494)
IPR2013-00481 (Patent 6,233,571)

FOR PETITIONERS:

Heidi L. Keefe
COOLEY, LLP
hkeefe@cooley.com
dcpatentdocketing@cooley.com

David Silbert
KEKER & VAN NEST, LLP
djs@kvn.com
efiling@kvn.com

FOR PATENT OWNER:

Martin M. Zoltick
Nancy J. Linck
ROTHWELL, FIGG, ERNST & MANBECK, P.C.
mzoltick@rfem.com
nlinck@rfem.com
SRA-IPR@rfem.com