

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

APPLE INC.  
Petitioner,

v.

PERSONALWEB TECHNOLOGIES, LLC and  
LEVEL 3 COMMUNICATIONS, LLC,  
Patent Owners.

---

Case IPR2013-00596  
Patent 7,802,310 B2

---

Before JONI Y. CHANG *Administrative Patent Judge*.

DECISION  
Apple's Motion for *Pro Hac Vice* Admission of Michael D. Jay  
*37 C.F.R. § 42.10*

Petitioner, Apple Inc. (“Apple”), filed a Motion for *Pro Hac Vice* Admission of Mr. Michael D. Jay. Paper 27 (“Mot.”). The Motion is unopposed. Mot. 2. For the reasons provided below, Apple’s Motion is *granted*.

Pursuant to 37 C.F.R. § 42.10(c), we 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. The Order authorizing motions for *pro hac vice* admission requires a statement of facts showing there is good cause for us to recognize counsel *pro hac vice*, and an affidavit or declaration of the individual seeking to appear in the instant proceeding. Paper 7, 2.

In the instant proceeding, lead counsel for Apple, Mr. David K.S. Cornwell, is a registered practitioner. Paper 3, 2. Apple’s Motion indicates that there is good cause for us to recognize Mr. Jay *pro hac vice* during this proceeding, and is supported by the declaration of Mr. Jay (Ex. 1036). Mot. 5–7.

In particular, Mr. Jay declares that he is an experienced patent litigating attorney and has been involved in at least twenty patent infringement actions involving a variety of technologies. Ex. 1036 ¶ 4. Mr. Jay also declares that he has established familiarity with the subject matter at issue in the instant proceeding, as he has been representing Apple in the related district court proceeding that involves the same patent being challenged in the instant proceeding. *Id.* ¶¶ 10–13. Additionally, Mr. Jay’s declaration complies with the requirements set forth in the Board’s order authorizing motions for *pro hac vice* admission. *Id.* ¶¶ 4–13.

On this record, we determine that Mr. Jay has sufficient legal and technical qualifications to represent Apple in the instant proceeding. We further recognize

that there is a need for Apple to have its counsel in the co-pending litigation involved in the instant proceeding. Accordingly, Apple has established that there is good cause for Mr. Jay's admission.

It is

ORDERED that Apple's motion for *pro hac vice* admission of Mr. Michael D. Jay is *granted*; Mr. Jay is authorized to represent Apple as back-up counsel in the instant proceeding only;

FURTHER ORDERED that Apple is to continue to have a registered practitioner represent it as lead counsel for the instant proceeding;

FURTHER ORDERED that Mr. Jay 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

FURTHER ORDERED that Mr. Jay is 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.*

IPR2013-00596  
Patent 7,802,310 B2

For PETITIONER:

David K.S. Cornwell  
Mark W. Rygiel  
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.  
[davidc-PTAB@skgf.com](mailto:davidc-PTAB@skgf.com)  
[mrygiel-PTAB@skgf.com](mailto:mrygiel-PTAB@skgf.com)

For PATENT OWNER:

Joseph A. Rhoa  
Updeep S. Gill  
NIXON & VANDERHYE P.C.  
[jar@nixonvan.com](mailto:jar@nixonvan.com)  
[usg@nixonvan.com](mailto:usg@nixonvan.com)