

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION.
Petitioner,

v.

B.E. TECHNOLOGY, LLC,
Patent Owner

Patent No. 6,628,314

Issued: September 30, 2003

Filed: October 30, 2000

Inventor: Martin David Hoyle

Title: COMPUTER INTERFACE METHOD AND APPARATUS WITH
TARGETED ADVERTISING

Inter Partes Review No. IPR2014-0039

**PETITIONER'S MOTION FOR ADMISSION *PRO HAC VICE* OF SCOTT
M. BORDER PURSUANT TO 37 C.F.R. § 42.10(c)**

Petitioner, Microsoft Corporation (“Microsoft”) respectfully requests that the Board recognize Scott M. Border, Esq. as counsel *pro hac vice* during this proceeding.¹

I. BACKGROUND

Microsoft’s Motion for *Pro Hac Vice* Admission is being filed pursuant to and in compliance with the Notice of Filing Date Accorded to Petition and Notice For Setting The Time Period For Filing Patent Owner Preliminary Response for this Petition, which was mailed October 24, 2013 (Paper 4) (the “Notice”). The Notice authorizes the parties to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c). Further to the Notice, such “motions shall be filed in accordance with the ‘Order – Authorizing Motion for *Pro Hac Vice* Admission’ in Case IPR2013-00639” (the “Order”).

II. TIME OF FILING

This Motion for *Pro Hac Vice* admission is being filed in accordance with the Notice authorizing the immediate filing of the Motion for *Pro Hac Vice* admission.

¹ A corresponding motion for *Pro Hac Vice* admission is being concurrently filed in co-pending *Inter Partes* Review Case No. IPR2014-00040.

III. STATEMENT OF FACTS

As required by the Order, the following statement of facts, supported by the attached Declaration of Scott M. Border in Support of Motion for *Pro Hac Vice* Admission (“Border Decl.”), shows that there is good cause for the Patent Trial and Appeal Board (“Board”) to recognize Mr. Border *pro hac vice* in this proceeding.

Lead counsel, Jeffrey P. Kushan, is a registered practitioner and is experienced in proceedings before the USPTO.

Mr. Border is an experienced litigation attorney. Mr. Border has been a litigating attorney for more than six years, and has been involved in numerous patent litigation cases in federal courts. Mr. Border’s experience includes representing a wide range of clients in complex intellectual property litigation, and he has appeared as counsel for Microsoft in a number of litigation matters before the International Trade Commission and various District Courts over the span of his career. Mr. Border is a member in good standing of the Virginia State Bar and the District of Columbia Bar, with no suspensions or disbarments from practice, nor any application for admission to practice denied, nor any sanctions or contempt citations, and is admitted to practice in the United States Court of Appeals for the Federal Circuit, as well as the United States District Courts for the Northern District of Florida, Eastern District of Texas, and Eastern District of

Virginia. His mailing address is at Sidley Austin LLP, 1501 K Street, N.W., Washington, D.C. 20005, his email address is sborder@sidley.com, and his direct dial is (202) 736-8818.

Mr. Border has worked with lead counsel in all aspects of preparing Microsoft's Petition and the Declaration of Dr. Henry Houh filed in support of its Petition. As such, he has reviewed and is familiar with (i) U.S. Patent No. 6,628,314, the patent at issue in this matter, (ii) the prior art relied upon in Microsoft's Petition, and (iii) the legal and factual arguments made by Microsoft. Mr. Border has also been involved in a number of other proceedings before the Board and is familiar with its established practices. Accordingly, he has established familiarity with the subject matter at issue in this proceeding and the conduct of the proceeding to date.

Mr. Border has read and will comply with the Office Patent Trial Practice Guide and the Board's Rules for Practice for Trials set forth in part 42 of 37 C.F.R., and he agrees to be subject to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§11.01 *et seq.*, and to disciplinary jurisdiction under 37 C.F.R. §11.19(a). Mr. Border has not applied to appear *pro hac vice* in any other proceedings before the Office in the last three years.

IV. ANALYSIS

The facts contained in the Statement of Facts above, and contained in the Border Declaration, establish that there is good cause to admit Mr. Border *pro hac vice* in this proceeding under 37 C.F.R. § 42.10(c). Lead counsel is a registered practitioner, Mr. Border is an experienced litigating attorney, and Mr. Border has an established familiarity with the subject matter at issue in the proceeding.

V. CONCLUSION

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

Microsoft's Motion for *Pro Hac Vice* Admission is accompanied by a Declaration of Scott M. Border as required by the Order.

In light of the foregoing, Microsoft respectfully submits there is good cause for the Board to recognize Mr. Border as counsel *pro hac vice* during this proceeding.

Dated: October 25, 2013

Respectfully submitted,

/Jeffrey P. Kushan/

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