

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
Petitioner,

v.

OPENTV, INC.,
Patent Owner.

Cases IPR2014-00252 (Patent 8,107,786 B2)
IPR2014-00267 (Patent 7,409,437 B2)
IPR2014-00269 (Patent 6,233,736 B1)

Before SALLY C. MEDLEY, *Administrative Patent Judge*.

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

On August 6, 2014, Petitioner filed motions for *pro hac vice* admission of Mr. Clement S. Roberts. The motions are unopposed.¹ For the reasons provided below, Petitioner's motions are *granted*.

¹ Patent Owner did not file an opposition within one week from the filing of Petitioner's motions.

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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 be 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 4, Notice of Filing Date Accorded to Petition, 2 (incorporating requirements in the “Order – Authorizing Motion for *Pro Hac Vice* Admission” in IPR2013-00639).²

In this proceeding, lead counsel for Petitioner, Mr. Andrew Ehmke, is a registered practitioner. Petitioner’s motions indicate that there is good cause for the Board to recognize Mr. Roberts *pro hac vice* during these proceedings, and is supported by the affidavit of Mr. Roberts. Ex. 1006.

In particular, the motions explain that Mr. Roberts is an experienced litigating attorney, and Mr. Roberts declares that he has an established familiarity with the subject matter at issue in this proceeding, as he is counsel in a related district case involving the same patents involved in these proceedings. Paper 21, 1–2; Ex. 1006.

Upon consideration, Petitioner has demonstrated that Mr. Roberts possesses sufficient legal and technical qualifications to represent Petitioner in these proceedings, and the Board recognizes that there is a need for Petitioner to have

² Citations are to IPR2014-00252.

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Mr. Roberts involved. Accordingly, Petitioner has established good cause for Mr. Roberts's admission. Mr. Roberts will be permitted to appear *pro hac vice* in this proceeding as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

For the foregoing reasons, it is

ORDERED that Petitioner's motions for *pro hac vice* admission of Mr. Clement S. Roberts are *granted*;

FURTHER ORDERED that Mr. Clement S. Roberts is authorized to represent Petitioner as back-up counsel only;

FURTHER ORDERED that Petitioner is to continue to have a registered practitioner represent Petitioner as lead counsel for these proceedings; and

FURTHER ORDERED that Mr. Clement S. Roberts 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.*

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