

Paper No. _____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
Petitioner,

v.

OPENTV, INC.,
Patent Owner.

IPR2014-00267
Patent 7,409,437

**PETITIONER'S SECOND MOTION FOR *PRO HAC VICE* ADMISSION
PURSUANT TO 37 C.F.R. § 42.10(C)**

Petitioner Netflix, Inc. respectfully moves that the Board recognize Ms. Laura E. Miller as counsel *pro hac vice* during this proceeding.

1. Time for Filing

This Motion for *Pro Hac Vice* Admission is being filed no sooner than twenty one (21) days after service of the petition.

2. Statement of Facts Showing Good Cause for Counsel *Pro Hac Vice*

Petitioner has been authorized to file motions seeking admission *pro hac vice* under 37 C.F.R. 42.10(c). (Paper No. 3 at 2.). Petitioner's lead and back-up counsel are registered practitioners:

Lead Counsel: Andrew S. Ehmke, USPTO Reg. No. 50,271;

Backup Counsel: Scott T. Jarratt, USPTO Reg. No. 70,297.

The following statement of facts shows that there is good cause for the Board to recognize Ms. Miller *pro hac vice* on behalf of the Petitioner.

In summary, Ms. Miller is an experienced litigator, has established familiarity with the subject matter at issue in this proceeding from her participation in co-pending litigation involving the subject patent, and if admitted, will be involved in the depositions that occur in this proceeding. Specifically, U.S. Patent No. 7,409,437 is currently asserted against Petitioner in a co-pending litigation, *OpenTV, Inc., et al. v. Netflix, Inc.*, 3:14-cv-01525-RS, 5:14-cv-01723-RS (N.D.

Cal.) (“the co-pending litigation”). Ms. Miller is a member of the California bar in good standing, and is representing the Petitioner, Netflix, Inc., in the co-pending litigation.

Ms. Miller has analyzed prior art references and claim charts in connection with invalidity contentions and has been involved in forming claim construction positions related to the claimed inventions, all of which are relevant to the petition requesting *inter partes* review of U.S. Patent No. 7,409,437. Netflix, Inc. wishes to apply Ms. Miller's knowledge of the patent by employing her as counsel in this proceeding. Admission of Ms. Miller *pro hac vice* will enable the Petitioner to avoid unnecessary expense and duplication of work between this proceeding and the co-pending litigation.

Petitioner's lead and backup counsel are registered practitioners and Ms. Miller is an experienced litigation attorney having familiarity with the subject matter at issue in this proceeding. Therefore, Netflix, Inc. respectfully submits that there is good cause for the Board to recognize Ms. Miller as counsel *pro hac vice* during this proceeding.

3. Affidavit of Individual Seeking to Appear

This Motion for *Pro Hac Vice* Admission is supported by an Affidavit of Ms. Miller (NTFX-1011).

Respectfully submitted,

Date: August 12, 2014

By /Andrew S. Ehmke/
Andrew S. Ehmke
Registration No. 50,271
Lead Counsel for Petitioner, Netflix

PETITIONER'S EXHIBIT LIST

August 12, 2014

NTFX-1001	U.S. Patent No. 7,409,437
NTFX-1002	Prosecution History of U.S. Patent No. 7,409,437
NTFX-1003	Declaration of Richard Kramer Under 37 C.F.R. § 1.68
NTFX-1004	U.S. Patent No. 5,818,441 to Throckmorton et al.
NTFX-1005	U.S. Patent No. 5,113,259 to Romesburg et al.
NTFX-1006	U.S. Patent No. 5,724,103 to Batchelor
NTFX-1007	U.S. Patent No. 5,905,865 to Palmer et al.
NTFX-1008	U.S. Provisional Application No. 60/008,111 by Palmer et al.
NTFX-1009	Webster's New World Dictionary of Computer Terms (selected pages).
NTFX-1010	Affidavit of Clement S. Roberts In Support of Petitioner's Motion for <i>Pro Hac Vice</i> Admission
NTFX-1011	Affidavit of Laura E. Miller In Support of Petitioner's Second Motion for <i>Pro Hac Vice</i> Admission

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