

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JDS UNIPHASE CORPORATION
Petitioner

v.

CAPELLA PHOTONICS, INC.
Patent Owner

Case IPR2015-00731
Patent No. RE 42,368

Filed and Served: January 26, 2016

Before JOSIAH C. COCKS, KALYAN K. DESHPANDE, and JAMES A. TARTAL, *Administrative Patent Judges*.

**PETITIONER'S MOTION FOR *PRO HAC VICE* ADMISSION
OF JOEL D. SAYRES**

I. Statement of Precise Relief Requested

Pursuant to 37 C.F.R. § 42.10(c) and Paper No. 4 authorizing the parties to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c), Petitioner JDS Uniphase Corporation, requests that the Patent Trial and Appeal Board (the “Board”) admit Joel D. Sayres *pro hac vice* in this proceeding, IPR2015-00731. This motion is being filed no sooner than twenty one (21) days after service of the petition.

II. Statement of Facts Showing Good Cause for the Board to Recognize Counsel *Pro Hac Vice* During the Proceeding

In accordance with 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 and to any other conditions the Board may impose. Section 42.10(c) indicates that “where the lead counsel is a registered practitioner, a motion to appear *pro hac vice* by counsel who is not a registered practitioner may be granted upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.” The facts set forth below, supported by the Declaration of Joel D. Sayres (Exhibit 1038), establish good cause for the Board to recognize Mr. Sayres *pro hac vice* in this proceeding:

Petitioner's Motion for *Pro Hac Vice* Admission

1. Petitioner's lead counsel, Walter C. Linder, is a registered practitioner.
2. Joel D. Sayres is a partner at the law firm of Faegre Baker Daniels LLP, in Denver, Colorado. (Ex. 1038, ¶ 1.)
3. Mr. Sayres is an experienced litigation attorney. Mr. Sayres has been in practice for over twelve years, and has been litigating patent cases for over nine years. (Ex. 1038, ¶ 10.) He is a member in good standing of the Colorado and California Bars, and has been admitted to practice in several federal courts across the country. (*Id.*, ¶¶ 2-3 .) Mr. Sayres has also been admitted to appear *pro hac vice* before the United States Patent and Trademark Office in several other IPR proceedings. (*Id.*, ¶ 9.)
4. Mr. Sayres has an established familiarity with the subject matter at issue in this proceeding. Mr. Sayres has read in detail and understands the papers and evidence submitted by Petitioner in this proceeding, and is very familiar with the invalidity grounds and legal theories advanced from his years of experience litigating patent cases. (Ex. 1038, ¶ 11.) Mr. Sayres has reviewed in detail the patent challenged in this proceeding, U.S. Patent No. RE42,368 ("the '368 Patent"), as well as the exhibits to the Petition, including the file history of the '368 Patent and the prior art references and excerpts that are the basis for Petitioner's obviousness and anticipation grounds in this proceeding. (*Id.*)

5. Mr. Sayres has also invested significant time in strategic and substantive discussion regarding this proceeding with lead counsel for Petitioner, Walter C. Linder. As a result of these discussions and reviewing written materials, including the exhibits filed with the Petition, Mr. Sayres has a detailed understanding of the subject matter at issue in this proceeding . (Ex. 1038, ¶ 12.)

6. In his declaration, Mr. Sayres also attests to each of the listed items required by the “Order – Authorizing Motion for *Pro Hac Vice* Admission” 37 C.F.R. § 42.10 in IPR2013-00639, Paper 7. (Ex. 1038, ¶¶ 1-12).

III. Conclusion

For the foregoing reasons, Petitioner respectfully requests that the Board admit Joel D. Sayres *pro hac vice* in this proceeding.

Respectfully submitted,

Dated: January 26, 2016

/Walter C. Linder/
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IPR2015-00731

Petitioner's Motion for *Pro Hac Vice* Admission

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing Petitioner's Motion for *Pro Hac Vice* Admission of Joel D. Sayres to be electronically served by email on the following:

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Dated: January 26, 2016

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