

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WhatsApp Inc. and Facebook, Inc.
Petitioner

v.

TriPlay Communications Ltd.
Patent Owner

Case IPR2015-00740
U.S. Patent No. 8,332,475

**PETITIONER'S MOTION FOR *PRO HAC VICE* ADMISSION
UNDER 37 C.F.R. § 41.10(c)**

Petitioner WhatsApp Inc. and Facebook, Inc. respectfully requests that the Board recognize Mark R. Weinstein, Esq., as counsel *pro hac vice* during this proceeding.

I. BACKGROUND

Petitioner's Motion for *Pro Hac Vice* Admission is being filed in compliance with and pursuant to the "Order—Authorizing Motion for *Pro Hac Vice* Admission" in Case No. IPR2013-00639 (MPT) ["the Order"].

II. STATEMENT OF FACTS

As required by the Order, the following statement of facts shows that there is good cause for the Board to recognize Mr. Weinstein *pro hac vice*.

Mr. Weinstein is an experienced litigation attorney and has been involved in numerous complex litigations in state and federal courts. Mr. Weinstein's biography is attached hereto to this Motion.

Mr. Weinstein has reviewed U.S. Patent No. 8,332,475, and the petition already filed in this proceeding. Further, Mr. Weinstein is familiar with the pending litigation between the parties pending before the U.S. District Court for Delaware entitled *Triplay, Inc. et al. v. WhatsApp Inc.*, Case No. 1:13-cv-01703-LPS; and, as such, is familiar with the subject matter at issue in this proceeding.

Therefore, Petitioner respectfully submits that there is good cause for the

Board to recognize Mr. Weinstein as counsel *pro hac vice* during this proceeding.

III. AFFIDAVIT OR DECLARATION OF INDIVIDUAL SEEKING TO APPEAR

Petitioner's Motion for *Pro Hac Vice* Admission is accompanied by an Affidavit of Mark R. Weinstein as required by the Order.

Dated: March 18, 2015

Respectfully submitted,

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PRACTICES:

Covered Business Method Review
Intellectual Property
Intellectual Property Litigation
Inter Partes Review
Patent Office Litigation
Post-Grant Review
Trademark, Copyright & Advertising

Mark Weinstein is a partner in the Cooley Litigation department and member of the Intellectual Property practice group. He joined the Firm in 2009 and is resident in the Palo Alto office.

Mr. Weinstein's practice focuses on patent and other complex technology-related disputes. He has handled a number of high-stakes litigations throughout the United States involving a variety of technologies, including computer software and hardware, Internet applications, electronic transactions, e-commerce, computer networking, entertainment software, and medical devices.

Representative cases include:

Patents

- **Facebook, Inc.** Mark has represented and is representing Facebook in more than a dozen patent infringement actions, including *Yahoo! Inc v. Facebook, Inc.* (N.D. Cal.), *Leader Technologies, Inc. v. Facebook, Inc.* (D. Del.), *Tele-Publishing, Inc. v. Facebook, Inc.* (D. Mass.), *Mekiki Co., Ltd. v. Facebook, Inc.* (D. Del.), *Cross-Atlantic Capital Partners, Inc. v. Facebook, Inc.* (E.D. Pa.), *Unified Messaging Solutions LLC v. Facebook, Inc.* (E.D. Tex.), *Walker Digital, LLC v. Facebook, Inc.* (D. Del.), and several others.
- **HTC Corporation and HTC America.** Mark has defended and is currently defending HTC in several patent litigations including *HTC v. Technology Properties Ltd.* (N.D. Cal.), *Digitude Innovations LLC v. HTC* (D. Del. and U.S. ITC), *ADC Technology, Inc. v. HTC et al.* (N.D. Ill.), *Microunity Systems Eng'g v. HTC et al.* (E.D. Tex.) and *BandSpeed, Inc. v. HTC Corp. et al.* (W.D. Tex), *SP Technologies, Ltd. v. HTC et al.* (N.D. Ill.), *Implicit Networks, Inc. v. HTC* (N.D. Cal.), and several others.
- **LinkedIn Corporation.** Mark is representing LinkedIn in *Jaipuria v. LinkedIn Corp. et al.* (E.D. Tex.) and *Cathas Advanced Technologies LLC v. LinkedIn Corp.* (D. Del.)
- **EMC Corporation.** In *Hewlett-Packard Company et al. v. EMC Corporation* (N.D. Cal.), Mr. Weinstein represented EMC in a patent infringement suit involving thirteen patents relating to mass data storage systems, servers and printers. HP initiated the lawsuit by suing EMC for alleged infringement of seven patents. EMC counterclaimed against HP with six of its own patents. Following claim construction proceedings and motion practice, the case settled with HP

agreeing to pay EMC more than \$325 million, one of the largest patent settlements on record.

- **In-Three, Inc.** In *IMAX Corporation v. In-Three, Inc.* (C.D. Cal.), Mr. Weinstein defended In-Three in a patent infringement suit involving software for producing three dimensional motion pictures. In-Three defeated a motion for preliminary injunction filed by IMAX that threatened to shut down In-Three's operations.
- **eBay Inc.** In *Tumbleweed Communications Corp. v. eBay, Inc. et al.* (N.D. Cal.), Mr. Weinstein defended eBay and its subsidiary PayPal against allegations of infringement of three software patents related to electronic financial transactions. The case settled on favorable terms during the pendency of a summary judgment motion filed by eBay and PayPal that sought to invalidate Tumbleweed's patents in light of the prior art.

Trade Secrets

- **Cirrus Logic, Inc.** In *Silvaco Data Systems v. Cirrus Logic, Inc.* (Santa Clara Sup. Ct.), Mark represented Cirrus Logic in a trade secret lawsuit involving Electronic Design Automation technology. Cirrus Logic obtained summary judgment that it did not misappropriate any of the plaintiff's trade secrets, which was affirmed on appeal.
- **Alstom ESCA Corporation.** In *ABB Power T&D Company v. Alstom ESCA Corporation et al.* (N.D. Cal.), Mr. Weinstein was a member of a team representing Alstom in a six week federal jury trial involving claims for trade secret misappropriation, copyright infringement, breach of contract and a variety of business torts, which resulted in a unanimous verdict exonerating the client from liability. The technologies in the case related to hardware and software systems for the electric power industry.
- **Advanced Modular Sputtering (AMS).** In *Sputtered Films, Inc. v. Advanced Modular Sputtering, Inc. et al.* (Santa Barbara Sup. Ct.), Mr. Weinstein represented AMS in a trade secret case involving PVD sputtering technologies. The case generated an oft-cited decision clarifying California's statute requiring plaintiffs to identify their trade secrets, *Advanced Modular Sputtering v. Superior Court*, 132 Cal. App. 4th 826 (2005).
- **Minerva Networks, Inc.** In *Myrio, Inc. v. Minerva Networks, Inc.* (N.D. Cal.), Mark defended Minerva against trade secret, unfair competition and false advertising claims involving technologies for delivering television and multimedia services over broadband networks. The case settled favorably after the court ruled that Myrio had failed to adequately identify its trade secrets.

Technology/IP Licensing

- **DVD Copy Control Association (DVD CCA).** In *RealNetworks, Inc., et al. v. DVD Copy Control Association, Inc. et al.* (N.D. Cal.) and *DVD Copy Control Association, Inc. v. Kaleidescape, Inc.*

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