

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE MANGROVE PARTNERS MASTER FUND, LTD. and APPLE, INC.,
Petitioner,

v.

VIRNETX INC.,
Patent Owner.

Case IPR2015-01046 (Patent 6,502,135 B1)
Case IPR2015-01047 (Patent 7,490,151 B1)¹

Before MICHAEL P. TIERNEY, KARL D. EASTHOM, and STEPHEN C. SIU,
Administrative Patent Judges.

SIU, *Administrative Patent Judge.*

DECISION

Petitioner's Motion for *Pro Hac Vice* Admission of Scott M. Border
37 C.F.R. § 42.10

Apple Inc. ("Petitioner") filed a motion for *pro hac vice* admission of Mr. Scott M. Border, which was accompanied by Exhibit 1028, a declaration of Scott

¹ Apple Inc., who filed a petition in IPR2016-00062 and IPR2016-00063, has been joined as a Petitioner in the instant proceedings.

IPR2015-01046 (Patent 6,502,135 B1)

IPR2015-01047 (Patent 7,490,151 B1)

M. Border. Paper 31 (“Mot.” Or “Motion”).² Patent Owner allegedly has indicated that “VirnetX opposes the pro hac vice motion to the extent that it continues to oppose Apple’s involvement in IPR2015-01046 and IPR2015-01047.” Mot. 2.

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 its notice authorizing motions for *pro hac vice* admission, the Board requires a statement of facts showing there is 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.

Upon review of Petitioner’s Motion and supporting evidence, we determine that Petitioner has demonstrated that Scott M. Border has sufficient legal and technical qualifications to represent Petitioner in the above-identified proceedings. We also recognize that there is a need for Petitioner to have Mr. Border involved in these proceedings.

Accordingly, Petitioner has established that there is good cause for admitting Scott M. Border.

It is

ORDERED that the Petitioner’s motion for *pro hac vice* admission of Mr. Scott M. Border is granted; Mr. Border is authorized to represent Petitioner Apple Inc. only as back-up counsel in the instant proceeding;

FURTHER ORDERED that Petitioner is to continue to have a registered practitioner represent it as lead counsel for the instant proceeding;

² Petitioner filed a similar Motions in both of the captioned proceedings. For brevity, we refer here to the papers in IPR2015-01046.

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FURTHER ORDERED that Scott M. Border 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;

FURTHER ORDERED that Mr. Border is to be subject to the Office's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and that USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.*; and

FURTHER ORDERED that a copy of this Order shall be filed in IPR2015-01046 and IPR2015-01047.

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