

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.;
MICRON TECHNOLOGY, INC.; and
SK HYNIX INC.
Petitioner

v.

ELM 3DS INNOVATIONS, LLC
Patent Owner

Case No. IPR2016-00387
U.S. Patent No. 8,841,778

**PETITIONER'S MOTION FOR ADMISSION
PRO HAC VICE OF HAROLD H. DAVIS, JR.**

Petitioner SK hynix Inc.; Samsung Electronics Co., Ltd.; and Micron Technology, Inc. (collectively, “Petitioner”) requests that the Board recognize Harold H. Davis, Jr. as counsel *pro hac vice* in this proceeding. Patent Owner Elm 3DS Innovations, LLC (“Patent Owner”) has indicated that it does not oppose this motion. A Declaration of Harold H. Davis, Jr. (“Davis Decl.”) in support of this motion is provided herewith as Exhibit 1078. Because this motion meets all of the Board’s requirements for admission *pro hac vice*, Petitioner requests that the Board grant this motion.

I. TIME FOR FILING

This motion is being filed in accordance with 37 C.F.R. § 42.10(c) and the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response entered on December 28, 2015 (Paper 5). This motion is being filed more than 21 days after the date of service of the Petition (Paper 1).

II. STATEMENT OF FACTS SHOWING GOOD CAUSE

There is good cause for the Board to recognize Mr. Davis *pro hac vice*.

First, Petitioner’s lead counsel, Jason A. Engel (Reg. No. 51,654), is a registered practitioner.

Second, Mr. Davis is a partner at K&L Gates LLP and has more than sixteen years of experience as a patent litigator in District Courts across the country, before the International Trade Commission, and at the Court of Appeals for the

Federal Circuit. (Davis Decl., ¶ 2.)

Third, Mr. Davis has established familiarity with the subject matter at issue in this proceeding. (*Id.*, ¶¶ 9-11.) Patent Owner asserted the patent at issue here, U.S. Patent No. 8,841,778 (“the ’778 patent”), against Petitioner SK hynix Inc. in a parallel litigation in the United States District Court for the District of Delaware (Civil Action Nos. 14-cv-1432).¹ Mr. Davis has been actively involved in all aspects of the parallel litigation, including aspects concerning the invalidity of the ’778 patent. (*Id.*, ¶¶ 10-11.)

Fourth, Mr. Davis is a member in good standing of the Bar of California, the Bar of Florida, the Bar of Maryland, the Bar of the District of Colombia, the Bar of Illinois, the Bar of Tennessee, and at least ten federal courts. (*Id.*, ¶ 1.) He has never been suspended or disbarred from practice before any court or administrative body. (*Id.*, ¶ 3.) He has never had an application for admission to practice before any court or administrative body denied. (*Id.*, ¶ 4.) He has never had sanctions or contempt citations imposed by any court or administrative body. (*Id.*, ¶ 5.) He has

¹ Patent Owner has also asserted the ’778 patent in the United States District Court for the District of Delaware against Petitioner Micron Technology, Inc. (Civil Action No. 14-cv-1431) and Petitioner Samsung Electronics Co., Ltd. (Civil Action No. 14-cv-1430).

not previously applied to appear *pro hac vice* before the Board. (*Id.*, ¶ 8.)

Fifth, he has read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in part 42 of 37 C.F.R. (*Id.*, ¶ 6.) He also agrees to be subject to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101, *et seq.*, and disciplinary jurisdiction under 37 C.F.R. § 11.19(a). (*Id.*, ¶ 7.)

Sixth, given Mr. Davis' experience with the '778 patent, admission of Mr. Davis *pro hac vice* will enable Petitioner to avoid unnecessary expense and duplication of work between this proceeding and the parallel litigation.

For at least these reasons, good cause exists to admit Mr. Davis *pro hac vice* in this proceeding.

III. DECLARATION

The required Declaration of Harold H. Davis, Jr. in support of this motion is provided herewith as Exhibit 1078.

IV. CONCLUSION

For the foregoing reasons, Petitioner submits that there is good cause for the Board to recognize Mr. Davis as counsel *pro hac vice* in this proceeding.

Respectfully submitted,

Dated: September 30, 2016

By: /s/ Jason A. Engel
Jason A. Engel
(Reg. No. 51,654)
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2016, I caused a true and correct copy of the foregoing to be served electronically on the following counsel of record for Patent Owner at the following email addresses:

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