

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARUBA NETWORKS, INC., HEWLETT PACKARD ENTERPRISE
COMPANY, AND HP INC.,
Petitioner

v.

MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC,
Patent Owner

Case IPR2016-00768
Patent 5,659,891

**MOTION FOR *PRO HAC VICE* ADMISSION
OF
HENNING SCHMIDT UNDER 37 C.F.R. §42.10(c)**

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

I. RELIEF REQUESTED.

Pursuant to 37 C.F.R. §42.10(c), Patent Owner Mobile Telecommunications Technologies, LLC (“MTel”), by and through its attorneys, respectfully requests that the Board admit Henning Schmidt *pro hac vice* in this proceeding.

II. GOVERNING LAW, RULES, AND PRECEDENT.

Section 42.10(c) states as follows:

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 as the Board may impose. For example, 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.

Further, the Board requires that a motion for *pro hac vice* admission be filed in accordance with the “ORDER-AUTHORIZING MOTION FOR PRO HAC VICE ADMISSION – 37 C.F.R. § 42.10” in *Motorola Mobility LLC v. Patent of Michael Arnouse*, Case No. IPR2013-00010 (“Representative Order”). The Representative Order states that the motion must “[c]ontain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding,” and “[b]e accompanied by an affidavit or declaration of the individual seeking to appear attesting to the following:”

- i. Membership in good standing of the Bar of at least one State or the District of Columbia;
- ii. No suspensions or disbarments from practice before any court or administrative body;
- iii. No application for admission to practice before any court or administrative body ever denied;
- iv. No sanctions or contempt citations imposed by any court or administrative body;
- v. The individual seeking to appear 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 the C.F.R.;
- vi. The individual will be subject to the USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§10.20 et seq.1 and disciplinary jurisdiction under 37 C.F.R. §11.19(a);
- vii. All other proceedings before the Office for which the individual has applied to appear *pro hac vice* in the last three (3) years; and
- viii. Familiarity with the subject matter at issue in the proceeding.

III. STATEMENT OF FACTS.

Based on the following statement of facts, as supported by the Declaration of Henning Schmidt submitted herewith, MTel submits that a showing of good cause has been made and respectfully requests the *pro hac vice* admission of Henning Schmidt in this proceeding:

1. Patent Owner's lead counsel, John R. Kasha, is a registered practitioner (Reg. No. 53,100).
2. Patent Owner's backup counsel, Kelly L. Kasha, is a registered practitioner (Reg. No. 47,743).
3. Mr. Schmidt is a partner at the law firm of Reed & Scardino LLP. He is an experienced litigating attorney with experience litigating patent issues. Declaration of Henning Schmidt at ¶6.
4. Mr. Schmidt is a member in good standing of the State Bar of Texas.
5. Mr. Schmidt has never been suspended or disbarred from practice before any court or administrative body. *Id.* at ¶3.
6. No application filed by Mr. Schmidt for admission to practice before any court or administrative body has ever been denied. *Id.* at ¶4.
7. No sanctions or contempt citations have been imposed against Mr. Schmidt by any court or administrative body. *Id.* at ¶5.
8. Mr. Schmidt has read and agrees to comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in part 42 of the C.F.R. *Id.* at ¶7.
9. Mr. Schmidt understands that he will be subject to the USPTO Rules of Professional Conduct 37 C.F.R. §§11.101 et seq. and disciplinary jurisdiction under 37 C.F.R. §11.19(a). *Id.* at ¶7.
10. Mr. Schmidt has applied to appear *pro hac vice* in one other proceedings (IPR2013-00306) before the United States Patent and Trademark Office in the last three (3) years. *Id.* at ¶8.
11. Mr. Schmidt has an established familiarity with the subject matter at issue in this proceeding. U.S. Patent No. 5,556,891 ("the '891 patent"). Mr. Schmidt is counsel for MTel in co-pending litigation involving '891 patent and plays a central role in the litigation. As a result, Mr. Schmidt has acquired substantial understanding of the underlying legal and technological issues at stake in this proceeding.

Patent Owner has expended significant time and resources with Mr. Schmidt as counsel in the co-pending litigation, and wishes to continue using Mr. Schmidt as counsel in this proceeding. *Id.* at ¶9.

IV. GOOD CAUSE EXISTS FOR *PRO HAC VICE* ADMISSION OF HENNING SCHMIDT.

The facts outlined above in the Statement of Facts, and contained in the Declaration of Henning Schmidt, establish that there is good cause to admit Mr. Schmidt *pro hac vice* in this proceeding under 37 C.F.R. §42.10. Patent Owner's lead and backup counsel are registered practitioners. As supported by Mr. Schmidt's Declaration, Mr. Schmidt is an experienced patent litigation attorney and represents MTel on the patent at issue here in its related matters.

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