

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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YMAX CORPORATION

Petitioner

v.

FOCAL IP, LLC

Patent Owner

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Case IPR2016-01260  
Patent Number: 8,457,113

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**PATENT OWNER FOCAL IP, LLC'S UNOPPOSED MOTION FOR  
*PRO HAC VICE* ADMISSION OF JOHN P. MURPHY UNDER  
37 C.F.R. § 42.10(C)**

## **I. RELIEF REQUESTED**

In the Notice of Filing Date Accorded to Petition (“Notice”) mailed July 5, 2016, the Board authorized the parties to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c). The Notice requires that such motions be filed in accordance with the “Order – Authorizing Motion for Pro Hac Vice Admission” in Case IPR2013-00639, Paper No. 7 (“Order”).

Patent Owner respectfully requests that the Board recognize John Murphy as counsel *pro hac vice* during this proceeding.

## **II. NO OPPOSITION TO THIS MOTION**

Patent Owner has conferred with Petitioner with regard to this Motion, and Petitioner has confirmed that they will not oppose this Motion.

## **III. GOVERNING LAWS, RULES, AND PRECEDENT**

The Board may recognize counsel *pro hac vice* during a proceeding on a showing of good cause. “[W]here lead counsel is a registered practitioner, a motion to appear *pro hac vice* may be granted upon a showing that counsel is an experienced litigation attorney and has an established familiarity with the subject matter at issue in the proceeding.” 37 C.F.R. § 42.10(c).

## **IV. STATEMENT OF FACTS**

Based on the following statement of facts, and supported by the Declaration of John Murphy submitted herewith as Exhibit 2007, Patent Owner submits that a

showing of good cause has been made and respectfully requests the *pro hac vice* admission of John Murphy in this proceeding:

1. Patent Owner's lead counsel, Brent Bumgardner, is a registered practitioner (Reg. No. 48,476).
2. Mr. Murphy is an experienced litigating attorney and has been litigating patent cases for over nine years. (Ex. 2007, ¶¶ 2-3).
3. Mr. Murphy is a member in good standing of the Texas State Bar. (Ex. 2007, ¶ 4).
4. Mr. Murphy has never been suspended or disbarred from practice before any court or administrative body, nor has he ever been the subject of any ethical grievance procedure or investigation. (Ex. 2007, ¶ 5).
5. No application filed by Mr. Murphy for admission to practice before any court or administrative body has ever been denied. (Ex. 2007, ¶ 6).
6. No sanctions or contempt citations have been imposed against Mr. Murphy by any court or administrative body. (Ex. 2007, ¶ 7).
7. Mr. Murphy 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 Title 37 of the C.F.R. (Ex. 2007, ¶ 8).

8. Mr. Murphy understands that he will be subject to the USPTO Rules of Professional Conduct as set forth in 37 C.F.R. §§ 11.101 *et seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a). (Ex. 2007, ¶ 9).

9. Mr. Murphy has appeared before the Board *pro hac vice* in the last three years in IPR2014-01131, IPR2014-01133, IPR2014-01134, IPR2014-01135, and IPR2014-01318. Mr. Murphy presented oral arguments to the Board in IPR2014-01133, IPR2014-01134, and IPR2014-01135 (Ex. 2007, ¶ 10).

10. Mr. Murphy has an established familiarity with the subject matter at issue in this proceeding. He assisted in drafting the Preliminary Response to the Petition for Inter Partes Review filed in this matter. Mr. Murphy has substantively reviewed all materials filed in this proceeding, including the Petition and all accompanying exhibits, and the Preliminary Response and all accompanying exhibits. (Ex. 2007, ¶ 11).

**V. GOOD CAUSE EXISTS FOR THE PRO HAC VICE ADMISSION OF MR. MURPHY IN THIS PROCEEDING**

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 any other conditions as the Board may impose. 37 C.F.R. § 42.10(c). Patent Owner's lead counsel, Brent Bumgardner, is a registered practitioner. Based on the facts contained herein, as supported by Mr. Murphy's

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declaration (Ex. 2007), good cause exists to admit Mr. Murphy *pro hac vice* as backup counsel in this proceeding.

Patent Owner has a substantial need for Mr. Murphy's *pro hac vice* admission and his involvement in depositions and other issues arising from this proceeding. Admission of Mr. Murphy will also ease the burden on Patent Owner's lead counsel in this proceeding.

### **VIII. CONCLUSION.**

For the foregoing reasons as well as the reasons contained in the attached declaration, Patent Owner respectfully requests admission of John Murphy as counsel *pro hac vice* as backup counsel in this proceeding.

Respectfully submitted,

Dated: October 28, 2016

/s/ Brent N. Bumgardner  
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