

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

YMAX CORPORATION,
Petitioner

v.

FOCAL IP, LLC,
Patent Owner

Case IPR2016-01260
U.S. Patent No. 8,457,113

**UNOPPOSED MOTION FOR *PRO HAC VICE* ADMISSION
OF DAVID BRAFMAN UNDER 37 C.F.R. § 42.10(c)**

The Petitioner respectfully requests that the Board recognize Mr. David Brafman as counsel *pro hac vice* during this proceeding.

1. Time For Filing

This Motion for *Pro Hac Vice* Admission is being filed no sooner than twenty one (21) days after service of the petition, as required by the Order Authorizing Motion for *Pro Hac Vice* entered October 15, 2013 in Case IPR2013-000639.

2. Statement of Facts

As required by the Order Authorizing Motion for *Pro Hac Vice*, the following statement of facts shows that there is good cause for the Board to recognize Mr. Brafman *pro hac vice*.

Mr. Brafman is an experienced litigation attorney, and has been involved in numerous patent infringement litigations in District Courts across the country. His experience includes *Markman* hearings and jury trials, including as lead counsel, in patent infringement litigation matters.

Mr. Brafman is lead counsel in the pending litigation between Patent Owner and Petitioner concerning the patent at issue in this proceeding. Mr. Brafman is familiar with the subject matter at issue in this proceeding, including U.S. Patent

No. 8,457,113, the prosecution history of the patent, and the prior art relied upon in the Petition. He has spent significant time over the past 15 months analyzing U.S. Patent No. 8,457,113 and its prosecution history, as well as the prior art in the petition. He has been advising the Petitioner over the past 15 months concerning those matters in connection with the petition and this proceeding.

Therefore, the Petitioner respectfully submits that there is good cause for the Board to recognize Mr. Brafman as counsel *pro hac vice* during this proceeding.

3. Affidavit or Declaration of Individual Seeking to Appear

This Motion for *Pro Hac Vice* Admission is accompanied by a Declaration of Mr. David Brafman as required by the Order Authorizing Motion for *Pro Hac Vice*.

Respectfully submitted,

By:

/s/ Mark D. Passler

Mark D. Passler

Registration No. 40,764

Lead Counsel for Petitioner

DECLARATION OF MR. DAVID BRAFMAN IN SUPPORT OF
MOTION FOR *PRO HAC VICE* ADMISSION

I, David Brafman, hereby declare the following:

1. I am a member in good standing of the Bars of the States of Florida, New York, and New Jersey, as well as the following Federal Courts:

- a) U.S. Court of Appeals for the Federal Circuit (1996);
- b) U.S. Court of Appeals for the Eleventh Circuit (2013);
- c) U.S. Court of Appeals for the Sixth Circuit (2015);
- d) U.S. Court of Appeals for the Eighth Circuit (2014);
- e) U.S. District Court for the Southern District of Florida (2012);
- f) U.S. District Court for the Middle District of Florida (2012);
- g) U.S. District Court for the Eastern District of New York (1995);
- h) U.S. District Court for the Southern District of New York (1995);
- i) U.S. District Court for the District of New Jersey (1994); and
- j) U.S. District Court for the District of Colorado (1999).

2. I have not been suspended or disbarred from practice before any court or administrative body;

3. I have never had an application for admission to practice before any court or administrative body denied;

4. No sanction or contempt citation has been imposed against me by any court or administrative body;

5. I have 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.;

6. I will 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);

7. I have not applied to appear *pro hac vice* before the Office in any other proceeding in the last three (3) years;

8. I am an experienced litigation attorney, and have been involved in numerous patent infringement litigations in District Courts across the country. My experience includes *Markman* hearings and jury trials, including as lead counsel, in patent infringement litigation matters. I am also lead counsel in the pending litigation between Patent Owner and Petitioner concerning the patent at issue in this proceeding.

9. I am familiar with the subject matter at issue in this proceeding, including U.S. Patent No. 8,457,113, the prosecution history of the patent, and the prior art relied upon in the petition. I have spent significant time over the past 15

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