

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY CORPORATION, SONY MOBILE COMMUNICATIONS (USA) INC.,
SONY MOBILE COMMUNICATIONS AB & SONY MOBILE
COMMUNICATIONS INC.
Petitioners

v.

CREATIVE TECHNOLOGY LIMITED
Patent Owner

U.S. Patent No. 6,928,433

Inter Partes Review Case No. 2016-01407

**CREATIVE TECHNOLOGY LIMITED MOTION FOR *PRO HAC VICE*
ADMISSION OF MICHAEL D. SAUNDERS UNDER 37 C.F.R. § 42.10(c)**

I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c), Patent Owner respectfully requests that the Board admit Michael D. Saunders *pro hac vice* in this proceeding.

II. GOVERNING LAW, RULES, AND PRECEDENT

Section 42.10(c) of C.F.R. 37 provides:

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.

In the Notice of Filing Date Accorded to Petition (“Notice”) mailed on July 19, 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”).

The Order states that the “time for filing *pro hac vice* motions is no sooner than twenty one (21) days after service of the petition...” The Order further states that motions for *pro hac vice* 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 C.F.R.;
- vi. The individual will be subject to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.01 *et. seq.* 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. TIME FOR FILING

As required by the Order, this motion for *pro hac vice* admission was filed no sooner than twenty-one (21) days after service of the petition.

IV. STATEMENT OF FACTS

Patent Owner submits that the following statement of facts, supported by the accompanying Declaration of Michael D. Saunders, shows that there is good cause for the Board to recognize Mr. Saunders *pro hac vice* in this proceeding:

1. Patent Owner's lead counsel, Jonathan Baker, is a registered practitioner (Reg. No. 45708);
2. Patent Owner's backup counsel, Gurtej Singh, is a registered practitioner (Reg. No. 71020);
3. Mr. Saunders is an experienced litigation attorney. He has been involved in numerous litigations involving patent infringement in District Courts across the country and has experience in *Markman* hearings.
4. U.S. Patent No. 6,928,433 was at issue in the International Trade Commission's Investigation No. 337-TA-994, in which Patent Owner was a complainant. That investigation is currently on appeal in the U.S. Court of Appeals for the Federal Circuit, Appeal No. 16-2105. Mr. Saunders is and was counsel of record for Patent Owner in both the International Trade Commission investigation and its appeal. In those cases, Mr. Saunders has developed infringement contentions, reviewed and responded to invalidity theories, defended an expert deposition,

- engaged in written discovery, and drafted several substantive briefs. Mr. Saunders also participated at the evidentiary hearing in the ITC matter.
5. Patent Owner has expended significant financial resources in the International Trade Commission litigation and with the Federal Circuit Court of Appeals with Mr. Saunders as counsel, and Patent Owner wishes to continue using Mr. Saunders as counsel in this proceeding.

V. NO OPPOSITION TO THIS MOTION

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

VI. DECLARATION OF INDIVIDUAL SEEKING TO APPEAR

This Motion for *Pro Hac Vice* Admission is accompanied by the Declaration of Michael D. Saunders, as required by the Order.

VII. CONCLUSION

In light of the foregoing, Patent Owner respectfully requests that the Board admit Michael D. Saunders *pro hac vice* in this proceeding.

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