

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,

Petitioner,

v.

CONVERGENT MEDIA SOLUTIONS, LLC,

Patent Owner.

Case IPR2016-01812
Patent 8,640,183 B2

**AFFIDAVIT OF MATTHEW C. BERNSTEIN IN SUPPORT OF
PETITIONERS' MOTION FOR *PRO HAC VICE* ADMISSION
UNDER 37 C.F.R. §42.10(c)**

I, Matthew C. Bernstein, being duly sworn and upon oath, hereby apply to appear *pro hac vice* before the Office in *inter partes* review proceedings under the following PTAB Case Nos.:

- i. *Netflix, Inc. and Roku, Inc. v. Convergent Media Solutions, LLC*
Case: IPR2016-01761
- ii. *Roku, Inc. v. Convergent Media Solutions, LLC*
Case: IPR2016-01762
- iii. *Netflix, Inc. v. Convergent Media Solutions, LLC*
Cases: IPR2016-01811
IPR2016-01812
IPR2016-01813
IPR2016-01814

I hereby attest to the following:

1. I am a member in good standing of the state Bar of California, the Southern, Central, and Northern Districts of California, the Eastern District of Texas, as well as the United States Court of Appeals for the Federal Circuit.
2. I have never 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 37 C.F.R. Part 42.
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.P.R. § 11.19(a).
7. I have applied, and have been admitted by the Office, to appear *pro hac vice* before the Office in the last three (3) years. I have applied to appear before the PTAB in the following PTAB proceedings:
 - i. *HTC Corporation et al. v. Advanced Audio Devices, LLC*
Cases: IPR2014-01154 (Patent 6,587,403 B1)
IPR2014-01155 (Patent 7,289,393 B2)
IPR2014-01156 (Patent 7,817,502 B2)
IPR2014-01157 (Patent 7,933,171 B2)
IPR2014-01158 (Patent 8,400,888 B2)
 - ii. *HTC Corporation et al. v. NFC Technology, LLC*
Cases: IPR2014-01198 (Patent 6,700,551 B2)
IPR2014-01199 (Patent 7,665,664 B2)
IPR2015-00384 (Patent 7,665,664 B2)
 - iii. *Starbucks Corporation v. Ameranth, Inc.*
Cases: CBM2015-00091 (Patent 6,384,850)
CBM2015-00099 (Patent 6,871,325)
 - iv. *Microsoft Corporation v. Bradium Technologies LLC*
Cases: IPR2015-01432 (Patent 7,139,794)
IPR2016-00448 (Patent 7,908,343)
IPR2016-00449 (Patent 8,924,506)
IPR2016-01897 (Patent 9,253,239)

8. I am an experienced litigation attorney with more than 18 years of experience representing clients in patent cases involving computer hardware and software, semiconductors, Internet and e-commerce, handheld computers, and other mobile devices. I regularly litigate patent cases in various forums including United States Court of Appeals for the Federal Circuit, various federal district courts, and the International Trade Commission. Through my experience in patent litigation matters, I have represented clients in many phases of litigation including discovery, Markman hearings, jury trials, and appeals. My biography is attached hereto as Appendix A.
9. I have an established familiarity with the subject matter at issue in this proceeding, having represented Petitioner as lead counsel in court proceedings against Patent Owner involving the same technology (*Convergent Media Solutions, LLC v. AT&T, Inc.*, 3:15-cv-2156-M (N.D. Tex.)).
10. I am familiar with the technologies and issued claims in the 8,527,640; 8,640,183; 8,689,273; 8,850,507; 8,893,212 and 8,914,840 Patents. I am familiar with the prior art references cited in PTAB Case Nos. IPR2016-01761 - 01762 and IPR2016-01811 - 01814 and the associated invalidity grounds before the PTAB.

I hereby declare that all statements made of my own knowledge are true and that all statements made on information and belief are believed to be true. I further declare that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of the Title 18 of the United States Code.

Respectfully submitted,



Dated: March 1, 2017

Matthew C. Bernstein
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San Diego, CA 92130

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