

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

**PETITIONER'S MOTION FOR *PRO HAC VICE* ADMISSION OF
MATTHEW C. BERNSTEIN UNDER 37 C.F.R. § 42.10(c)**

Petitioner Netflix, Inc. (“Petitioner”) respectfully request that the Board admit Matthew C. Bernstein as backup counsel *pro hac vice* in this proceeding. Mr. Bernstein is an experienced litigation attorney and has substantial knowledge in the substantive issues of the invalidity of the challenged claims of the Patent in this proceeding. Therefore, Mr. Bernstein meets the requirements of “an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding” under 37 C.F.R. §42.10(c).

1. Time For Filing

This Motion for *Pro Hac Vice* Admission has been authorized by the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response that was mailed on September 28, 2016 (Paper 3). This Motion is filed no sooner than twenty one (21) days after service of the petition.

2. Statement of Facts

In this proceeding, lead counsel for Petitioner is Chun M. Ng, a registered practitioner. The following statement of facts shows that there is good cause for the Board to admit Mr. Bernstein *pro hac vice*.

Mr. Bernstein is a patent litigation attorney with more than 18 years of experience representing clients in cases involving cases involving computer hardware and software, semiconductors, Internet and e-commerce, hand held

computers, and other mobile devices. (Affidavit of Matthew C. Bernstein (“Bernstein Affidavit”), ¶ 8 in Exhibit 1039.)

Mr. Bernstein regularly litigates patent cases in various forums including the United States Court of Appeals for the Federal Circuit, various federal district courts, and the International Trade Commission (*Id.*) He has experience representing clients in many phases of litigation including discovery, Markman hearings, jury trials, and appeals. (*Id.*) Mr. Bernstein’s biography is attached to the Bernstein Affidavit (Exhibit 1039) as Appendix A.

Mr. Bernstein has 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.)).

Mr. Bernstein is 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. Mr. Bernstein is also 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.

3. Affidavit or Declaration of Individual Seeking to Appear

This Motion for *Pro Hac Vice* Admission is accompanied by an Affidavit of Mr. Bernstein (Exhibit 1039), which attests to the requirements for *pro hac vice* admission set forth in IPR2013-00639, Paper 7, dated Oct. 15, 2013.

4. Conclusion

Accordingly, Petitioner submits that there is good cause under 37 C.F.R. § 42.10(c) for the Board to admit Matthew C. Bernstein as counsel *pro hac vice* and to authorize Mr. Bernstein to represent Petitioner as back-up counsel in this proceeding.

Dated: March 1, 2017

Respectfully submitted,

/Chun M. Ng/

Lead Counsel

Chun M. Ng, Reg. No. 36,878

Back-up Counsel

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Patrick J. McKeever, Reg. No. 66,019

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that true copies of the foregoing
PETITIONER'S MOTION FOR *PRO HAC VICE* ADMISSION UNDER 37
C.F.R. § 42.10(c) and EXHIBIT 1039 were served in their entirety this 1st day of
March, 2017 by electronic mail on the Patent Owner via its attorneys of record:

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Respectfully submitted,

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