

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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REACTIVE SURFACES LTD. LLP,

Petitioner,

v.

TOYOTA MOTOR CORPORATION,

Patent Owner.

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Case IPR2016-01914

Patent No. 8,394,618 B2

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**PATENT OWNER'S MOTION FOR *PRO HAC VICE* ADMISSION OF  
JOHN D. LUKEN PURSUANT TO 37 C.F.R. § 42.10**

## I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c), Patent Owner Toyota Motor Corporation (“Patent Owner”) respectfully requests the *pro hac vice* admission of John D. Luken in this proceeding. The Board has authorized Patent Owner’s *pro hac vice* motion in the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response. *See* Paper 3. As explained further below, Mr. Luken is an experienced patent litigation attorney who has an established familiarity with the subject matter at issue in this *inter partes* review. Accordingly, Patent Owner requests that Mr. Luken be admitted *pro hac vice*, such that he may be appointed additional back-up counsel for Patent Owner.

Petitioner Reactive Surfaces Ltd. LLP (“Petitioner”) does not oppose the motion.

## II. GOVERNING LAW

37 C.F.R. § 42.10(c) provides that “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.” A motion for *pro hac vice* admission must contain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding and must be accompanied by an affidavit or declaration of the individual seeking to appear

attesting to the following:

1. Membership in good standing of the Bar of at least one State or the District of Columbia;
2. No suspensions or disbarments from practice before any court or administrative body;
3. No application for admission to practice before any court or administrative body ever denied;
4. No sanctions or contempt citations imposed by any court or administrative body;
5. 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 the C.F.R.;
6. The individual will be subject to the Office's Code of Professional Responsibility set forth in 37 C.F.R. §§ 10.20 *et seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a);
7. All other proceedings before the Office for which the individual has applied to appear *pro hac vice* in the last three (3) years; and
8. Familiarity with the subject matter at issue in the proceeding.

*See Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 at 3-4 (P.T.A.B. Oct. 15, 2013).

### III. STATEMENT OF MATERIAL FACTS

Based on the following facts, which are supported by the Declaration of John D. Luken (Exhibit 2001) filed concurrently with this motion, Patent Owner requests that Mr. Luken be admitted *pro hac vice* in this proceeding:

1. Mr. Luken is a member in good standing of the State Bar of Ohio, and has practiced patent litigation since 2000. Mr. Luken has been litigating patent cases during this entire time period and has been involved in numerous cases involving patent validity and infringement in federal district courts across the country. Mr. Luken has significant trial experience in patent and non-patent cases and has argued multiple appeals before the United States Court of Appeals for the Federal Circuit. Ex. 2001 (Luken Decl.) ¶¶ 4, 5.
2. Mr. Luken has never been suspended or disbarred from practice before any court or administrative body. *Id.* ¶ 6.
3. Mr. Luken has never had any application for admission to practice before any court or administrative body denied. *Id.* ¶ 7.
4. No sanctions or contempt citations have ever been imposed against Mr. Luken by any court or administrative body. *Id.* ¶ 8.
5. Mr. Luken 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 37 C.F.R. *Id.* ¶ 9.

6. Mr. Luken will be subject to the Office's Code of Professional Responsibility. *Id.* ¶ 10.
7. In the last three (3) years, Mr. Luken has applied to appear *pro hac vice* in the following proceedings before the Office: IPR2015-01128, IPR2015-01129, IPR2015-01131, and IPR2016-01462. *Id.* ¶ 11. Mr. Luken's application was granted in each proceeding.
8. Mr. Luken has an established familiarity with the subject matter at issue in this *inter partes* review. *Id.* ¶ 12. Mr. Luken has studied the subject patent, the Petition, and the accompanying exhibits, including the prior art references relied upon by Petitioner. *Id.* In addition, Mr. Luken has engaged in extensive strategic and substantive discussions regarding this proceeding with Patent Owner's lead and back-up counsel. *Id.*

#### IV. CONCLUSION

Mr. Luken has an established familiarity with the subject matter at issue in this proceeding as well as significant litigation experience and expertise. For these reasons, good cause exists to admit Mr. Luken *pro hac vice* in this proceeding.

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