

Filed on behalf of Valencell, Inc.
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FITBIT, INC.,
Petitioner,

v.

VALENCELL, INC.,
Patent Owner.

Case IPR2017-00319¹
U.S. Patent No. 8,923,941

***PRO HAC VICE* MOTION TO ADMIT ATTORNEY
JEFFREY R. BRAGALONE PURSUANT TO 37 C.F.R. § 42.10(c)**

EXHIBIT 2008: DECLARATION OF JEFFREY R. BRAGALONE

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

¹Case IPR2017-01555 has been joined with this proceeding.

I, Jeffrey R. Bragalone, make the following declaration based on my own personal knowledge and, if called to testify before the court, could and would testify as follows:

1. I am a shareholder with the law firm of Bragalone Conroy PC, located at 2200 Ross Avenue, Suite 4500-West, Dallas, TX 75201.
2. I am a member in good standing of the Texas State Bar.
3. I have never been subject to any suspensions or disbarments from practice before any court or administrative body.
4. None of my applications for admission to practice before any court or administrative body has ever been denied.
5. I have never been sanctioned nor had contempt citations imposed by any court or administrative body.
6. 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 37 C.F.R.
7. 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).
8. During the past six years, I have applied to appear or have appeared *pro hac vice* before the PTAB in 31 other proceedings, all of which have been granted.

In addition, I have appeared *pro hac vice* in the following proceedings:

IPR2014-00785; IPR2014-00810; IPR2014-00824; IPR2014-00825;
CBM2014-00166; IPR2014-01092; IPR2014-01094; IPR2014-01095;
IPR2014-01096; IPR2014-01097; IPR2014-01278; IPR2014-01282;
IPR2014-01283 IPR2014-01357; IPR2014-01359; IPR2014-01362;
IPR2015-00153; IPR2015-00155; IPR2015-00156; IPR2015-00487;
IPR2015-00506; IPR2015-01666 (joined); IPR2015-01717 (joined);
IPR2015-01866; IPR2015-01867; IPR2015-01868; PGR2016-0044;
IPR2016-01123; IPR2016-01220; IPR2016-01362; and CBM2017-00034.

I have familiarity with the subject matter at issue in the proceeding. I have represented Valencell in previous patent litigation, which representation allowed me to become familiar with the subject matter at issue in the proceeding, i.e., physiological monitoring technology. Specifically, in two cases in the Eastern District of North Carolina. *See, e.g., Valencell, Inc. v. Apple, Inc.*, No. 5:16-cv-00001 (E.D. N.C., filed Jan. 4, 2016); *see also Valencell, Inc. v. Fitbit, Inc.*, No. 5:16-cv-00002 (E.D. N.C., filed Jan. 4, 2016). As counsel in those actions, I have become very familiar with the subject matter at issue in this proceeding, *e.g.*, physiological monitoring technology. Furthermore, in those lawsuits, I have developed infringement allegations that assert the patent-at-issue in this proceeding against various products, including, for example watches with heart rate monitoring functionality. In my role as counsel in those litigations, I have spent significant time

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learning about physiological monitoring technology such as that found in the patent-at-issue in this proceeding. Moreover, I have analyzed the prior art involved in this petition as well as in the petitions for related patents.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 14th day of September, 2020.



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