

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RUIZ FOOD PRODUCTS, INC.,

Petitioner,

v.

MACROPOINT LLC,

Patent Owner.

Case IPR2017-02018
U.S. Patent No. 9,429,659

**UNOPPOSED MOTION FOR *PRO HAC VICE* ADMISSION OF
KYLE B. FLEMING
UNDER 37 C.F.R. § 42.10**

UPDATED LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>
2001	Expert Declaration of David Hilliard Williams
2002	David Hilliard Williams CV
2003	“What are the differences in the technical specifications in the 1988 automatic onboard recording device (AOBRD) Rule (49 CFR 395.15) and the Electronic Logging Device (ELD) rule?”, https://www.fmcsa.dot.gov/faq/what-are-differences-specs-1988-aobrd-rule-and-eld-rule
2004	“ELD MANDATE: UPDATES, VIOLATION INFORMATION AND DEVICE INTRODUCTION PRICING & REVIEWS DRIVERS NEED TO KNOW,” https://unitedworldtransportation.com/eld-mandate-updates-violation-information-device-introduction-pricing-reviews-drivers-need-know/
2005	“Automatic On-Board Recording Devices (AOBRDs) Hand-Held, Commercial Vehicle Safety Alliance, June 6, 2012, http://www.ct.gov/dmv/lib/dmv/cv_bulletins/2012-05-automatic-on-board-recording-devices-aobrds-hand-held-created-06-06-12.pdf
2006	“Small Hardware Device Provides GPS Fleet Tracking Capabilities,” Fleet Financials, October 14, 2010, https://www.fleetfinancials.com/72619/small-hardware-device-provides-gps-fleet-tracking-capabilities
2007	“A Look at the Geotab GO Device: Past, Present, and Future,” Malene Johansen & Vincent Zhu, June 22, 2015, https://www.geotab.com/blog/geotab-go-device-past-present-future/
2008	“Announcing Geotab GO5 Premium Vehicle Tracking Device,” April 5, 2011, https://www.geotab.com/press-release/u-blox/
2009	“FMCSA Implementation of MAP-21,” Federal Motor Carrier Safety Administration, September 28, 2012, https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/FMCS

<u>Exhibit No.</u>	<u>Description</u>
	A%20Implementation%20of%20MAP-21-%20Overview-Agenda-Qs%209-28-12.pdf
2010	“The Future of Electronic On-board Recording Devices in the U.S.,” Michael Goldberg, July 3, 2011, https://www.frg-law.com/blog/the-future-of-electronic-on-board-recording-devices-in-the-u-s/
2011	Declaration of Kyle B Fleming, Esq.
2012	Kyle B. Fleming CV

Patent Owner respectfully requests that the Board recognize Kyle B. Fleming as counsel *pro hac vice* for the above-captioned proceeding in accordance with 37 C.F.R. § 42.10(c). Patent Owner is, contemporaneously, requesting the admission *pro hac vice* of Mr. Fleming in the related proceeding, IPR2017-2016.

The Lead Counsel, Mark C. Johnson, is a registered practitioner (Reg. No. 51,854). Petitioner does not oppose this Motion.

I. Timing for Filing

This Motion for *Pro Hac Vice* Admission is being filed no sooner than twenty-one (21) days after service of the Petition as set forth in the Order Authorizing Motion for Pro Hac Vice Admission, *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639 Paper 7 (“*Pro Hac Vice* Order”).

II. Statement of Facts

As required by the *Pro Hac Vice* Order, the following statement of facts demonstrates good cause for the Board to recognize Mr. Fleming *pro hac vice*.

Mr. Fleming is an experienced litigation attorney and has been involved in numerous litigations in over 24 years of practice, including numerous litigations involving patent infringement in U.S. District Courts across the country, before the U.S. Court for Appeals for the Federal Circuit, and the International Trade Commission. Mr. Fleming’s CV is attached as (Exhibit 2012) to the accompanying Declaration of Kyle B. Fleming (Exhibit 2011). As evidenced by Mr. Fleming’s

CV and Declaration (including a partial list of his cases), he has represented a wide range of clients in a wide range of technologies in patent litigation matters.

With respect to the instant dispute, Mr. Fleming has been involved in counselling and representing Patent Owner with respect to these and related patents since 2015. Mr. Fleming was first involved in evaluating and counselling the Patent Owner with respect to the related patents asserted in *MacroPoint, LLC v. FourKites, Inc.*, Case No. 1:15-cv-01002 (N.D. Ohio) and the subsequent invalidity challenges thereto.

Mr. Fleming has also been involved in evaluating and counselling the Patent Owner with respect to the subject patents. U.S. Patent Nos. 8,275,358 (IPR2017-02016) and 9,429,659 are currently being asserted by Patent Owner against Petitioner in an infringement action pending in the Eastern District of Texas, *MacroPoint, LLC v. Ruiz Food Products, Inc.*, Case No. 6:16-cv-01133-RWS-KNM, and were also the subject of another action titled *FourKites, Inc. v. MacroPoint, LLC*, Case No. 1-16-cv-02703 (N.D. Ohio). Although neither Mr. Fleming nor his Firm made any appearances in these matters, Mr. Fleming was involved in working with Patent Owner and other litigation counsel in material aspects of these other actions.

As a result of his work in connection with the aforementioned District Court litigations, Mr. Fleming is extremely familiar with the subject matter of this

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