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Paper No.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

**GARMIN INTERNATIONAL, INC. AND GARMIN USA,
INC.,**
Petitioner

v.

LOGANTREE, LP,
Patent Owner

Case IPR2018-00564

Patent 6,059,576

Before Lawrence J. Banks, Trial Paralegal

**PATENT OWNER'S MOTION FOR
ADMISSION *PRO HAC VICE* OF JAMES E.
SHERRY PURSUANT TO 37 C.F.R. §42.10**

I. RELIEF REQUESTED

Pursuant to 37 C.F.R. §42.10 and the Board's "Order Authorizing Motion for *Pro Hac Vice* Admission – 37 C.F.R. §42.10," entered December 5, 2012, Patent Owner LoganTree, LP, requests that the Board admit James E. Sherry *pro hac vice* in this proceeding.

II. STATEMENT OF FACTS

Pursuant to 37 C.F.R. §42.10(c), the Board

may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause, subject to the condition that lead counsel be a registered practitioner and to any other conditions as the Board may impose. For example, where the lead counsel is a registered practitioner, 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.

37 C.F.R. §42.10(c). The facts, supported by the attached Declaration of James E. Sherry in Support of Motion for Admission *Pro Hac Vice* ("Sherry Decl."), establish good cause to admit Mr. Sherry *pro hac vice* in this proceeding.

1. Lead counsel Christopher M. Barkley is a registered practitioner and is experienced in proceedings before the Board.

2. Mr. Sherry is an experienced litigating attorney who has been practicing for more than 12 years. (Sherry Decl. ¶ 1.) Mr. Sherry has been litigating patent cases for at least 2 years. (*Id.* ¶ 2.) Mr. Sherry is a member in good standing of the Texas State Bar, the Massachusetts State Bar, and the District of Columbia Bar, with no suspensions or disbarments from practice, nor any application for admission to practice denied, and is admitted to practice before the United States Supreme Court, the First, Second, and Fifth Circuit Courts of Appeals, and several district courts around the country. (*Id.* ¶ 3-4.)

3. Mr. Sherry has familiarity with the subject matter at issue in this proceeding based on his work as counsel in the pending district court case *LoganTree LP, vs. Garmin International, Inc., and Garmin USA, Inc.*, Case No. 6:17-cv-01217 (D. Kan.), as well as *LoganTree LP v. Fitbit Inc.*, Case No. 2:15-CV-1575-JRG (E.D. Tex.), both of which involve the same patent at issue in this proceeding. (*Id.* ¶ 5.) Mr. Sherry has been actively involved in all aspects of these district court cases, including the issue of validity of the patent-in-suit. (*Id.* ¶ 6.)

4. Mr. Sherry has read and will comply with the Office Patent Trial Practice Guide and the Board's Rules for Practice for Trials set forth in part 42 of the C.F.R., and he agrees to be subject to the USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§10.20 *et seq.*, and to disciplinary jurisdiction under 37 C.F.R. §11.19(a). (*Id.* ¶ 7-8.) Mr. Sherry has not applied to appear *pro hac vice* in any other proceedings before the Office in the last three (3) years. (*Id.* ¶ 9.)

III. ANALYSIS

The facts contained in the Statement of Facts above, and contained in the Sherry Declaration, establish that there is a good cause to admit Mr. Sherry *pro hac vice* in this proceeding under 37 C.F.R. §42.10. Lead counsel is a registered practitioner, Mr. Sherry is an experienced litigating attorney, and Mr. Sherry has an established familiarity with the subject matter at issue in the proceeding.

IV. CONCLUSION

For the foregoing reasons, Patent Owner LoganTree, LP, respectfully request that the Board admit James E. Sherry *pro hac vice* in this proceeding.

Dated: March 14, 2018

Respectfully submitted,

/Christopher M. Barkley/

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**DECLARATION OF JAMES E. SHERRY IN
SUPPORT OF PATENT OWNER'S MOTION FOR
ADMISSION *PRO HAC VICE* OF JAMES E.
SHERRY PURSUANT TO 37 C.F.R. §42.10**

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