

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

UNIVERSAL SECURE REGISTRY, LLC,
Patent Owner.

Case IPR2018-00812
U.S. Patent No. 8,856,539

**PETITIONER'S UNOPPOSED MOTION FOR *PRO HAC VICE*
ADMISSION OF MARK D. SELWYN
PURSUANT TO 37 C.F.R § 42.10(c)**

I. STATEMENT OF RELIEF REQUESTED

Petitioner Apple Inc. (“Petitioner”) respectfully requests that the Patent Trial and Appeal Board (“Board”) enter an order granting the *pro hac vice* admission of Mark D. Selwyn as back-up counsel for Apple in Case IPR2018-00812. Apple has conferred with counsel for Patent Owner, who does not oppose this motion.

II. APPLICABLE RULE

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.” “[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.”

The PTAB set forth requirements for filing motions for *pro hac vice* admission in *Unified Patents, Inc. v. Parallel Iron, LLC*, Case IPR2013-00639, Paper 7 (“Order – Authorizing Motion For *Pro Hac Vice* Admission – 37 C.F.R. §42.10”) (PTAB Oct. 15, 2013). A motion seeking *pro hac vice* must be filed no sooner than twenty-one (21) days after service of the petition, 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 a declaration or

affidavit of the individual seeking *pro hac vice* admission. *Id.* at 2-3. The affidavit or declaration must attest to: (1) membership in good standing of the Bar of at least one State or the District of Columbia; (2) no suspensions or disbarments from any 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 37 C.F.R.; (6) the individual 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); (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. *Id.*

III. FACTS SHOWING GOOD CAUSE FOR THE BOARD TO RECOGNIZE COUNSEL *PRO HAC VICE* DURING THE PROCEEDING

On April 12, 2018, Petitioner filed an *inter partes* review petition in IPR2018-00812 directed to U.S. Patent No. 8,856,539 (“’539 patent”). Patent Owner was served on the same day. Petitioner’s lead counsel, Monica Grewal, is a registered practitioner (Registration No. 40,056). Mark D. Selwyn, a partner at Wilmer Cutler Pickering Hale and Dorr LLP, seeks *pro hac vice* admission in this

proceeding. Accompanying this motion as Exhibit 1134 is the Declaration of Mark Selwyn in Support of Motion for Admission *Pro Hac Vice* (“Selwyn Decl.”).

Mr. Selwyn is a member of good standing of the State Bar of California, the Bar of the Commonwealth of Massachusetts, and the New York State Bar. *See* Selwyn Decl. ¶¶ 2-3 (Ex. 1134). He has never been suspended or disbarred from practice before any court or administrative body, and has never been denied admission to practice before any court or administrative body. Selwyn Decl. ¶¶ 5-6 (Ex. 1134). No court or administrative body has ever imposed sanctions or contempt citations on Mr. Selwyn. *See* Selwyn Decl. ¶ 7.

Mr. Selwyn 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. Mr. Selwyn understands that he 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). *See* Selwyn Decl. ¶¶ 8-9.

Within the past three years, Mr. Selwyn has been admitted to appear *pro hac vice* in twelve proceedings before the United States Patent and Trademark Office including IPR2017-0700, IPR2017-00701, IPR2017-00728, IPR2017-00210, IPR2017-00219, IPR2017-00297, IPR2018-01033, IPR2018-01144, IPR2018-01040, IPR2018-00809, IPR2018-00810, and IPR2018-00813. *See* Selwyn Decl. ¶ 10.

As his accompanying declaration demonstrates, Mr. Selwyn has an established familiarity with the subject matter at issue in this proceeding. Mr. Selwyn is an experienced patent litigator with more than 20 years of experience. *See Selwyn Decl.* ¶ 1. Mr. Selwyn has reviewed the '539 patent and its file history, as well as the Petition, Institution Decision, and the exhibits in this proceeding. *See Selwyn Decl.* ¶ 11. Mr. Selwyn has been involved in numerous patent litigations and has litigated matters that concerned PTO rules and regulations. *See Selwyn Decl.* ¶¶ 1, 12. Furthermore, Mr. Selwyn represents Apple in *Universal Secure Registry LLC v. Apple Inc.*, No. 17-cv-00585-VAC-MPT (D. Del. 2017) (“USR litigation”), one of the Related Matters identified in Apple’s Petition for *Inter Partes* Review of U.S. Patent No. 8,856,539¹. *See Selwyn Decl.* ¶ 12. Through those litigations, Mr. Selwyn developed extensive experience with the subject matter at issue in this proceeding. For example, he was involved in drafting and arguing a motion to dismiss related to 35 U.S.C. § 101 issues for the '539 patent in the USR litigation. He has also been admitted to appear *pro hac vice* in three proceedings before the United States Patent and Trademark Office relating to patents at issue in the USR litigation, including IPR2018-00809, IPR2018-00810, and IPR2018-00813. *See Selwyn Decl.* ¶ 12.

¹ IPR2018-00812, Paper 3.

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