

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION,

Petitioner

v.

SAINT REGIS MOHAWK TRIBE,

Patent Owner

IPR2018-01605

Patent No. 7,620,800

**PATENT OWNER SAINT REGIS MOHAWK TRIBE'S
AMENDED MOTION FOR *PRO HAC VICE* ADMISSION OF
CHRISTOPHER L. EVANS UNDER 37 C.F.R. § 42.10(c)**

I. RELIEF REQUESTED

Under 37 C.F.R. § 42.10(c), Patent Owner, Saint Regis Mohawk Tribe, respectfully request the *pro hac vice* admission of Christopher L. Evans in these proceedings.

II. GOVERNING LAWS, RULES, AND PRECEDENT

Section 42.10(c) states as follows:

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.

As stated in the "Order Authorizing Motion for Pro Hac Vice Admission" entered in Case IPR2013-00010 (MPT) (Paper 6) ("Motorola Order"), any motion for *pro hac vice* admission under 37 C.F.R. § 42.10(c) must be filed "no sooner than (21) days after service of the petition.

III. STATEMENT OF FACTS

Based on the following facts and supported by the Amended Declaration of Christopher Evans ("Evans Decl.") submitted herewith, Saint Regis Mohawk Tribe requests the *pro hac vice* admission of Christopher L. Evans in this proceeding.

1. Patent Owner Saint Regis Mohawk Tribe's lead counsel, Alfonso Chan, is a registered practitioner (Reg. No. 45,964).
2. Mr. Evans is a partner at the law firm Shore Chan DePumpo LLP. Evans Decl. at ¶ 3.
3. Mr. Evans is an experienced litigation attorney who has been litigating patent cases for over nine years. *Id.* at ¶ 5.
4. Mr. Evans is co-lead counsel in concurrently pending district court proceedings involving the patent at issue here: *SRC Labs, LLC and Saint Regis Mohawk Tribe v. Microsoft Corp.*, No. 2:18-cv-00321-JLR (W.D. Wash.) *Id.* In that case, Plaintiffs have accused Microsoft of infringing U.S Patent Nos. 6,076,152, 6,247,110, 6,434,687, 7,225,324, and 7,762,800. *Id.*
5. In his role as co-lead counsel, Mr. Evans has acquired unique and specialized knowledge concerning all five patents asserted against Microsoft in the district court case, the field of reconfigurable computing (the field of technology to which they all pertain), and the prior art asserted in this proceeding. *Id.*
6. Mr. Evans has been practicing since 2009 and has extensive experience litigating patent infringement cases in many different district courts across the United States. *Id.* at ¶ 4.
7. Mr. Evans has been co-lead counsel in a patent infringement trial and argued multiple *Markman* hearings and many other patent-related hearings. *Id.* at ¶ 6.

8. Mr. Evans has an established and unique familiarity with tribal sovereign immunity which is a subject matter at issue in this proceeding because he represents the Saint Regis Mohawk Tribe and has represented other sovereign entities, such as the University of Florida Research Foundation, Inc. *Id.* at ¶ 14-15.

9. As a result, Mr. Evans has unique and specialized knowledge concerning the application of tribal sovereign immunity in *inter partes* review. *Id.*

10. Mr. Evans is a member in good standing of the State Bar of Texas. *Id.* at ¶ 7.

11. Mr. Evans has never been suspended or disbarred from practice before any court or administrative body. *Id.* at ¶ 8.

12. No application of Mr. Evans for admission to practice before any court or administrative body has ever been denied. *Id.* at ¶ 9.

13. No sanctions or contempt citations have ever been imposed against Mr. Evans by any court or administrative body. *Id.* at ¶ 10.

14. Mr. Evans has read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in 37 C.F.R. § 42. *Id.* at ¶ 11.

15. Mr. Evans understands that he will be subject to the USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§ 11.101 *et seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a). *Id.* at ¶ 12.

16. Mr. Evans has appeared *pro hac vice* in one consolidated set of proceedings before the Office in the last three years: *Mylan Pharmaceuticals Inc. et al. v. Saint Regis Mohawk Tribe and Allergan, Inc.* IPR2016-01127, -01128, -01129, -01130, -01131, -01132. *Id.* at ¶ 13.

17. This motion was filed more than 21 days after service of the Petition in this proceeding.

IV. GOOD CAUSE EXISTS FOR THE *PRO HAC VICE* ADMISSION OF MR. EVANS IN THIS PROCEEDING

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. 37 C.F.R. § 42.10(c). Patent Owner's lead counsel, Alfonso Chan, is a registered practitioner. Based on the facts contained herein, as supported by Mr. Evans's Amended Declaration, good cause exists to admit Mr. Evans *pro hac vice* in this proceeding.

Mr. Evans is an experience patent litigator with unique knowledge of the application of the Saint Regis Mohawk Tribe's tribal sovereign immunity to these proceedings. And tribal sovereign immunity is a jurisdictional issue that must be decided before this case may proceed.

Mr. Evans also has unique knowledge concerning U.S. Patent Nos. 6,076,152, 6,247,110, 6,434,687, 7,225,324, and 7,762,800 because of his extensive work in the district court case where these patents have been asserted against Microsoft.

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