

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GUARDIAN ALLIANCE TECHNOLOGIES, INC.
Petitioner

v.

TYLER MILLER,
Patent Owner

Case No. IPR2020-00031
Patent No. 10,043,188
Issued: August 7, 2018
Application No.: 14/721,707
Filed: May 26, 2015
Title: BACKGROUND INVESTIGATION MANAGEMENT SERVICE

**PETITIONER'S MOTION FOR *PRO HAC VICE* ADMISSION PURSUANT
TO 37 C.F.R. § 42.10(C)**

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.10(c), Paper 5, and the Board's authorization granted February 6, 2020 (Ex. 1026, at p. 38), Petitioner Guardian Alliance Technologies, Inc. ("Petitioner") respectfully requests that the Board recognize Evan W. Talley as counsel *pro hac vice* in this proceeding. Petitioner's lead counsel in this proceeding is a registered practitioner and, as illustrated below, Mr. Talley is an experienced litigator with an established familiarity with this proceeding's subject matter. Thus, there is good cause for the Board to recognize Mr. Talley *pro hac vice* in this proceeding.

II. TIME FOR FILING

This Motion for *Pro Hac Vice* Admission is being filed no sooner than twenty-one (21) days after service of the Petition. *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper No. 7 (PTAB Oct. 15, 2013).

III. STATEMENT OF FACTS

This motion is authorized by the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response that was mailed on October 22, 2019 (Paper No. 5). Petitioner's lead and back-up counsel are registered practitioners. Patent Owner Tyler Miller indicated during the February 6, 2020 call with the Board that it is considering opposing this motion (Ex. 1026, at p. 38:14–24).

Where lead counsel is a registered practitioner, the Board may permit a non-registered practitioner to appear *pro hac vice* “upon a showing that counsel is an experienced litigating attorney and has established familiarity with the subject matter at issue in the proceeding.” 42 C.F.R. § 42.10(c); *Unified Patents*, IPR2013-00639, Paper 7 (setting forth requirements for *pro hac vice* admission).

As set forth in his Declaration submitted herewith (Ex. 1034), Mr. Talley is an experienced litigator. (Ex. 1034, at ¶¶ 3–5). He is a senior attorney with Dunlap Coddling, P.C., with approximately ten years of experience representing clients in patent matters and complex, technology-related litigation. (*Id.* at ¶¶ 2–5). Mr. Talley has been involved in litigating patent matters through claim construction, trial, and appeal and has participated in arguing complex claim construction and invalidity issues in multiple district and appellate court proceedings. (*Id.* at ¶ 3). While never before seeking *pro hac vice* admission before the Board, Mr. Talley has been involved with and participated in multiple *inter partes* review proceedings before the Board, including several in which Petitioner’s lead counsel in this proceeding also served as lead counsel. (*Id.* at ¶ 9).

Mr. Talley is also familiar with the subject matter of this proceeding. (*Id.* at ¶¶ 4–5). He is one of the primary attorneys for Petitioner’s indemnitee, the City of Oklahoma City, Oklahoma, in the related district court litigation relating to the patent at issue in this *inter partes* review, U.S. Patent No. 10,043,188 (“the ’188

Patent”) (*Miller Mendel, Inc. et al. v. The City of Oklahoma City*, Case No. 5:18-cv-00990-JWD (W.D. Okla.)). (Ex. 1034, at ¶ 1). He has reviewed and analyzed the ’188 Patent, Patent Owner’s infringement positions, and the prior art at issue in this proceeding. (*Id.* at ¶ 4)

Based on his work in the pending district court litigation, involvement with the Petition in this proceeding, and the other facts detailed in his Declaration (Ex. 1034), Mr. Talley has significant familiarity with the subject matter in this proceeding. (Ex. 1034, at ¶¶ 1, 4–5). Petitioner wishes to apply Mr. Talley’s knowledge of the patent and litigation experience by employing him as counsel in this proceeding. Admission of Mr. Talley *pro hac vice* will enable Petitioner to avoid unnecessary expense and duplication of work in this proceeding and between it and the co-pending litigation. Because Mr. Talley is an experienced practitioner with an established familiarity with the subject matter of the proceeding, Petitioner respectfully submits that there is good cause under 37 C.F.R. § 42.10(c) to recognize Mr. Talley as counsel *pro hac vice* during this proceeding. (Ex. 1034, at ¶¶ 1–5).

IV. DECLARATION OF INDIVIDUAL SEEKING TO APPEAR

This Motion for *Pro Hac Vice Admission* is supported by the accompanying Declaration of Evan W. Talley (Petitioner Ex. 1034), as required by *Unified Patents*, IPR2013-00639, Paper 7.

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Patent 10,043,188

Attorney Docket No. 2993.003

Respectfully submitted,

Date: February 21, 2020

By: /Jordan A. Sigale/
Jordan A. Sigale, Reg. No. 39,028
Lead Counsel for Petitioner
Dunlap Coddling, P.C.
P.O. Box 16370
Oklahoma City, OK 73113
Telephone: (405) 607-8600
Facsimile: (405) 607-8686

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