

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NETFLIX, INC. and ROKU, INC.,  
Petitioner,

v.

UNILOC 2017 LLC,  
Patent Owner.

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IPR2020-00041  
Patent 8,407,609 B2

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Before CHARLES J. BOUDREAU, DANIEL J. GALLIGAN, and  
JULIET MITCHELL DIRBA, *Administrative Patent Judges*.

DIRBA, *Administrative Patent Judge*.

ORDER

Granting Petitioner's Motion for Admission  
*Pro Hac Vice* of Matthew C. Bernstein  
*37 C.F.R. § 42.10*

On December 31, 2019, Petitioner filed a Motion for Admission *Pro Hac Vice* of Matthew C. Bernstein. Paper 7 (“Motion”). Petitioner also filed a Declaration of Mr. Bernstein in support of the Motion. Ex. 1006 (“Declaration”).<sup>1</sup> Patent Owner has not filed an opposition to the Motion.

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. In its notice authorizing motions for *pro hac vice* admission, the Board requires a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* and an affidavit or declaration of the individual seeking to appear in this proceeding. *See* Paper 4, 2 (citing *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 (PTAB Oct. 15, 2013) (representative “Order – Authorizing Motion for *Pro Hac Vice* Admission”)).

Based on the facts set forth in the Motion and the accompanying Declaration, we conclude that Petitioner has established good cause for *pro hac vice* admission of Mr. Bernstein. Mr. Bernstein will be permitted to serve as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

We note that Petitioner has filed a Power of Attorney including Mr. Bernstein in accordance with 37 C.F.R. § 42.10(b). Papers 2–3. Petitioner has also filed a Mandatory Notice identifying Mr. Bernstein as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3). Paper 1, 3.

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<sup>1</sup> Although Exhibit 1006 is incorrectly labeled as an *affidavit* (which requires the seal and signature of a notarial officer), it is a proper *declaration* under 37 C.F.R. § 1.68.

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Accordingly, it is:

ORDERED that Petitioner's Motion for *pro hac vice* admission of Mr. Matthew C. Bernstein is *granted*;

FURTHER ORDERED that Petitioner is to continue to have a registered practitioner represent it as lead counsel for this proceeding;

FURTHER ORDERED that Mr. Bernstein is authorized to represent Petitioner only as back-up counsel in this proceeding;

FURTHER ORDERED that Mr. Bernstein is to comply with the Office Patent Trial Practice Guide (84 Fed. Reg. 64,280 (Nov. 21, 2019)), and the Board's Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations; and

FURTHER ORDERED that Mr. Bernstein shall be subject to the Office's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.*

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