

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.
Petitioner,

v.

MAXELL, LTD.,
Patent Owner

Case: IPR2020-00202

U.S. Patent No. 10,212,586

**UNOPPOSED MOTION FOR *PRO HAC VICE* ADMISSION
OF MICHAEL L. LINDINGER PURSUANT TO 37 C.F.R. §
42.10(c)**

Mail Stop **Patent Board**
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Pursuant to 37 C.F.R. § 42.10(c), Patent Owner, Maxell, Ltd. (“Maxell”), hereby files this motion for Michael L. Lindinger to appear *pro hac vice* on its behalf before the Patent Trial and Appeal Board in this proceeding. This motion is being filed with the Board’s authorization (see Paper 5) and in accordance with the Board’s order in IPR2013-00639 (Paper 7) (setting forth the requirements for *pro hac vice* admission).

I. STATEMENT OF FACTS

The following facts along with the attached Declaration of Michael L. Lindinger (“Lindinger Dec.”) support admission of Mr. Lindinger *pro hac vice* in this proceeding:

1. Lead counsel Robert G. Pluta is a registered attorney (Reg. No. 50,970) and is experienced in *inter partes* proceedings in the United States Patent and Trademark Office (USPTO).

2. Michael Lindinger is an experienced litigation attorney. Mr. Lindinger is counsel at the firm Mayer Brown LLP and has been a litigator of patent cases for more than 13 years. Ex. 2030, Lindinger Dec., ¶2. Mr. Lindinger has litigated numerous high-tech, consumer goods-related patent cases and has regularly entered appearances as counsel of record in patent cases during this time. *Id.* Mr. Lindinger is a member in good standing of the Illinois and District of

Columbia State Bars, and is admitted to practice in the Courts of Appeals for the Seventh and Federal Circuits and the Northern District of Illinois, District of the District of Columbia, Southern District of Texas, Eastern District of Wisconsin, with no suspensions or disbarments from practice before any court or administrative body, nor any application for admission to practice before any court or administrative body ever denied. *Id.*, ¶¶1, 3, 4. Mr. Lindinger has never had any sanctions or contempt citations imposed against him by any court or administrative body. *Id.*, ¶5.

3. Mr. Lindinger has significant familiarity with the subject matter at issue in this proceeding based on his work as an attorney having made an appearance in the pending district court case *Maxell, Ltd. v. Apple Inc.*, Case No. 5:19-cv-00036-RWS (E.D. Tex.), which involves a variety of smartphone/tablet functionalities, including the functionality that is at issue in this proceeding. *Id.*, ¶9. Mr. Lindinger has been actively involved in all aspects of this pending district court case, including the validity of U.S. Patent No. 10,212,586, and accordingly, has gained substantive knowledge of the patent-at-issue in this proceeding, its prosecution, and the cited prior art. *Id.*, ¶10. Mr. Lindinger also has substantive knowledge of the patent-at-issue in this proceeding by virtue of his preparation for this proceeding. *Id.*

4. Mr. Lindinger 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, and he agrees to be subject to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.*, and to disciplinary jurisdiction under 37 C.F.R. §11.19(a). *Id.*, ¶¶6, 7.

5. Mr. Lindinger has not applied to appear *pro hac vice* in any other proceedings before the Office in the last three (3) years. *Id.*, ¶8. Mr. Lindinger is concurrently applying to appear *pro hac vice* in IPR2020-00200 and IPR2020-00204.

II. REASONS FOR GRANTING THE MOTION

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). Where the lead counsel is a registered practitioner, a motion to appear *pro hac vice* may be granted upon showing that counsel who is seeking *pro hac vice* admission is “an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.” *Id.*

The motion for *pro hac vice* admission must contain a statement of facts showing good cause and be accompanied by a declaration of the individual who is

seeking admission. *See Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper No. 7 at 3-4 (Oct. 15, 2013). The declaration in turn must contain certain attestations. *Id.* This motion and the accompanying declaration meet all of the Board's requirements.

As set forth above, the lead counsel in this proceeding, Robert G. Pluta, is a registered practitioner. Mr. Lindinger is an experienced patent litigation attorney and has an established familiarity with the subject matter at issue in the proceeding. *See* Exhibit 2030, ¶¶9-10. Mr. Lindinger has entered an appearance as counsel in the pending district court case *Maxell, Ltd. v. Apple Inc.*, Case No. 5:19-cv-00036-RWS (E.D. Tex.), which involves the patent-at-issue in this proceeding. *Id.*, ¶¶9, 10. Mr. Lindinger has been actively involved in all aspects of this pending district court case, including the validity of U.S. Patent No. 10,212,586, and accordingly, has gained substantive knowledge of the patent-at-issue in this proceeding, its prosecution, and the cited prior art. *Id.*, ¶10. In his declaration, Mr. Lindinger makes the necessary attestations. His admission *pro hac vice* will enable the Patent Owner to avoid unnecessary expense and duplication of work between this proceeding, other IPR proceedings, and the co-pending litigation whose trial is scheduled to begin on March 22, 2021.

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