UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,

Petitioner

v.

LBT IP I LLC,

Patent Owner

Case IPR2020-01189
U.S. Patent No. 8,497,774

PATENT OWNER'S REPLY IN SUPPORT OF IT'S MOTION FOR ADMISSION PRO HAC VICE OF BRIAN S. SEAL

PATENT OWNER'S EXHIBIT LIST

Exhibit Number	**Description**
2014	Revised Declaration of Brian S. Seal in support of Patent Owner's Unopposed Motion For *Pro Hac Vice* Admission

Petitioner Apple Inc.'s ("Apple") opposition to Patent Owner LBT IP I LLC's ("LBT") mischaracterizes the facts about the status of the district court case and presents a story premised on a proverbial boogeyman theory, and nothing more. Mr. Seal has not accessed the documents or information Apple characterizes as highly confidential technical documents, he will not have reason to access such documents and information until conclusion of this IPR proceeding, he does not engage in patent prosecution activities in this case or any other, and he is not engaged in the claim amendment process here. See Apple's Opposition, page 1.

Apple further misrepresents the specifics of the protective order in the district court case, in that it does not "expressly forbid[]" counsel from the district court case from being counsel of record in the IPR. Because there is no risk of involving, nor reason to exclude, Mr. Seal from being added as counsel of record in this IPR, and because good cause exists for entry of Mr. Seal *pro hac vice* into this proceeding, Patent Owner LBT requests that this board grant its *pro hac vice* motion.

I. MR. SEAL SHOULD BE ADMITTED TO AVOID PREJUDICE TO LBT AND MAY BE ADDED WITHOUT RISK TO APPLE

Above all else, Mr. Seal is an experienced litigating attorney, he has an established relationship with LBT, familiarity with the subject matter at issue in the proceeding, and Apple admits this insofar as its recognition of Mr. Seal as lead trial counsel in the related district court proceeding. Therefore, the only question

to be answered is whether Mr. Seal can be admitted without contravening the requirements of the protective order in said related district court case, (*LBT IP I LLC v. Apple Inc*., No. 1-19-cv-01245 (D. Del.)) and Mr. Seal can be admitted in this proceeding without issue in that regard.

LBT's work on the pending motion to amend was without access to any of Apple's proprietary information. The ongoing work required for the amendment process will continue as such. This is the case even if Mr. Seal is granted admission *pro hac vice* into this proceeding because, despite Apple's unfounded boogeyman theory, Mr. Seal has not, and will not access any of the proprietary material until after conclusion of this IPR and certainly until after conclusion of the amendment process in this proceeding. See **Exhibit 1**. Curiously, Apple references the fact that the proprietary material likely "will be" used by LBT in the district court case as if there will be any need to litigate Apple's infringement in that case until after the conclusion of this IPR, considering the district court stayed that proceeding until after conclusion of the related PTAB proceedings. Whether LBT will access the material designated as highly confidential at some point in the distant future, after resolution of this proceeding, is of no consequence. Further, Apple's reading of the terms of the protective order is inaccurate, such that it reads "access" in the terms for Patent Prosecution Bar to mean the ability to access—which it does not—and it reads the Patent Prosecution Bar to preclude access to

proceedings rather than only "advising on, consulting on, preparing, prosecuting, drafting, editing, and/or amending of patent [] claims"—which it does not.

First, the operative word in the protective order restriction is "access." Mr. Seal should be granted access *pro hac vice* and should be granted the ability to participate in prosecution, having never actually received access to the purported highly confidential materials. The materials were received by Butzel Long, but Mr. Seal does not have access to the materials.

Second, assuming *arguendo* that "receipt", not "access", is the operative word triggering the Patent Prosecution Bar, Mr. Seal's role regarding patent prosecution in this proceeding obfuscates any protective order concerns. Mr. Seal has no role in any of the prosecution activities identified in the Patent Prosecution Bar of the protective order. Specifically, Mr. Seal will not be "advising on, consulting on, preparing, prosecuting, drafting, editing, and/or amending of patent [] claims" in this proceeding. Mr. Seal is not a patent attorney. He does not draft or otherwise prosecute patents. Mr. Seal is a litigator. Conversely, Mr. Zajac and Mr. Gregory are patent attorneys, who otherwise have never had access to the purported highly confidential material, and who are dually responsible for all aspects of patent prosecution, specifically claim amendment, in this proceeding.

The protective order narrowly precludes involvement in prosecution, not access to PTAB proceedings, not involvement in IPRs, and no other restrictions—

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