

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Samsung Electronics Co. Ltd., Samsung Electronics America, Inc., and
Apple, Inc.,
Petitioner

v.

Neonode Smartphone LLC,
Patent Owner

U.S. Patent No. 8,812,993

Title: USER INTERFACE

Inter Partes Review No. IPR2021-00145

**UNOPPOSED MOTION for *PRO HAC VICE* ADMISSION FOR PHILIP J.
GRAVES ON BEHALF OF PATENT OWNER NEONODE
SMARTPHONE LLC.**

I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c), Patent Owner Neonode Smartphone LLC (“Neonode”) respectfully moves the Patent Trial & Appeal Board (“Board”) for the *pro hac vice* admission of Philip J. Graves in this proceeding.

II. GOVERNING LAW, RULES, AND PRECEDENT

The Board is authorized to recognize counsel *pro hac vice* pursuant to 37 C.F.R. § 42.10(c), which provides that:

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.

The Board has stated that a motion for admission *pro hac vice* should include a “statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding” and “[b]e accompanied by an affidavit or declaration of the individual seeking to appear attesting to the following

- i. Membership in good standing of the Bar of at least one State or the District of Columbia;
- ii. No suspensions or disbarments from practice before any court or administrative body;
- iii. No application for admission to practice before any court or administrative body ever denied;
- iv. No sanctions or contempt citations imposed by any court or administrative body;

- v. The individual seeking to appear has read and will comply with the Office Patent Trial Practice Guide and the Board’s Rules of Practice for Trials set forth in part 42 of 37 C.F.R.;
- vi. The individual will be subject to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 et seq. and disciplinary jurisdiction under 37 C.F.R. § 11.19(a);
- vii. All other proceedings before the Office for which the individual has applied to appear *pro hac vice* in the last three (3) years; and
- viii. Familiarity with the subject matter at issue in the proceeding.”

Unified Patents, Inc. v. Parallel Iron, LLC, IPR 2013-00639 (MPT) (Paper 7, pages 3-4).

III. STATEMENT OF FACTS

Based on the following facts, supported by the attached declaration, Neonode submits that Mr. Graves meets the requirements for *pro hac vice* admission and requests that Mr. Graves be admitted in this proceeding.

Mr. Graves has over twenty-five years of experience as a litigation attorney specializing in patent litigation and representing clients in patent litigation matters in various United States District Courts and the United States Court of Appeals for the Federal Circuit.

Mr. Graves is very familiar with U.S. Patent No. 8,812,993, as well as the legal subject matter, technical subject matter, and prior art discussed in Petitioner’s Request for *Inter Partes* Review of U.S. Patent No. 8,812,993, which forms the basis for this proceeding. Mr. Graves has personally reviewed the patent at issue, as well as its prosecution history and the above-referenced petition, with accompanying declarations and exhibits. Mr. Graves has been and continues to be actively involved with strategic, factual, and technical aspects of this matter.

Mr. Graves is a member in good standing of the State Bar of California. Mr. Graves is admitted to practice before the United States District Courts for the Southern District of California, the Eastern District of California, the Northern District of California, and the Central District of California. Mr. Graves is also admitted to practice before the United States Courts of Appeals for the Ninth and Federal Circuits and the United States Supreme Court.

There have been no other proceedings before the Office for which Mr. Graves has applied to appear *pro hac vice* in the last three (3) years.

Mr. Graves has never been suspended or disbarred from practice before any court or administrative body, apart from an administrative suspension for non-payment of inactive bar dues by the Washington Bar Association, which was lifted upon payment of the overdue bar dues.

Mr. Graves has never had a court or administrative body deny his application for admission to practice.

Mr. Graves has never been sanctioned or cited for contempt by any court or administrative body.

Mr. Graves has read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in part 42 of 37 C.F.R.

Mr. Graves agrees to be subject to the United States Patent and Trademark Office 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).

IV. GOOD CAUSE EXISTS FOR THE *PRO HAC VICE* ADMISSION OF MR. GRAVES 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 any other conditions the Board may impose. 37 C.F.R. § 42.10(c). Neonode's lead counsel in matters before the Patent Trial and Appeals Board, Robert M. Asher (No. 30,445), is a registered practitioner. Based on the facts contained herein, good cause exists to admit Mr. Graves *pro hac vice*.

Mr. Graves has over twenty-five years of experience as a litigation attorney, specializing in patent litigation. Mr. Graves has represented clients in matters related to electrical and computer science arts, among others, and has significant experience in patent litigation matters. Mr. Graves currently represents Neonode in co-pending district court litigation, involving U.S. Patent No. 8,812,993, in *Neonode Smartphone LLC v. Apple Inc.*, 6:20-cv-00505 (W.D.Tex.) and *Neonode Smartphone LLC v. Samsung Electronics Co. Ltd. and Samsung Electronics America, Inc.*, 6:20-cv-00507 (W.D.Tex.). Mr. Graves is actively involved with the strategy and fact development in these patent litigation matters. In view of Mr. Graves' extensive knowledge of the subject matter of this proceeding, and in view of the interrelatedness of this proceeding and the co-pending district court litigation, Neonode has a substantial need for Mr. Graves' *pro hac vice* admission and his involvement in the continued prosecution of this proceeding.

Petitioners do not oppose this motion.

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