

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CLOUDFLARE, INC. AND SONICWALL INC.,

Petitioner,

v.

SABLE NETWORKS, INC.,

Patent Owner

Case IPR2021-00909

Patent 8,243,593

**PATENT OWNER SABLE NETWORKS, INC.'S
UNOPPOSED MOTION FOR *PRO HAC VICE* ADMISSION
OF ERIN McCracken
UNDER 37 C.F.R. § 42.10(c)**

EXHIBIT LIST

2001	Josh McHugh, “The <i>n</i> -Dimensional SuperSwitch,” WIRED (May 1, 2001, 12:00 am) (available at https://www.wired.com/2001/05/caspian/ (last visited Aug. 16, 2021))
2002	Email from Jun Zheng, U.S. District Court for Western District of Texas staff, to counsel for parties, with Subject “Sable Networks, Inc., et al. v. Riverbed Technology, Inc., No. 6:21-cv-00175-ADA and Sable Networks, Inc., et al. v. Cloudflare, Inc., No. 6:21-cv-00261-ADA – Request for Telephone Conference” (Aug. 20, 2021, 9:04 am)
2003	Scheduling Order, Dkt. 21, <i>Sable Networks, Inc., et al. v. Cloudflare, Inc.</i> , No. 6:21-cv-00261-ADA (June 24, 2021)
2004	Declaration of Daniel P. Hipskind in Support of Motion for <i>Pro Hac Vice</i> Admission [NEWLY ADDED]
2005	Declaration of Erin McCracken in Support of Motion for <i>Pro Hac Vice</i> Admission [NEWLY ADDED]

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I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c), Patent Owner Sable Networks, Inc. (“Patent Owner”) respectfully requests that the Board admit Erin McCracken *pro hac vice* in this proceeding as back-up counsel. Patent Owner has met and conferred with Petitioner, and Petitioner does not oppose this motion.

II. GOVERNING LAW, RULES, AND PRECEDENT

Section 42.10(c), 37 C.F.R., 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 further required that a motion for *pro hac vice* admission be filed in accordance with the “Order - Authorizing Motion for *Pro Hac Vice* Admission” entered in *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 (PTAB Oct. 15, 2013) (“*United Patents Order*”).

The *United Patents* Order requires that such motions (1) “[c]ontain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding[,]” and (2) “[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 U.S.P.T.O. 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.

III. STATEMENT OF FACTS

Based on the following statement of facts, and supported by the Declaration of Erin McCracken, submitted herewith as Exhibit 2005, Patent Owner requests the *pro hac vice* admission of Erin McCracken in this proceeding:

1. Patent Owner's lead counsel, Kenneth J. Weatherwax (the undersigned) is a registered practitioner (Reg. No. 54,528).

2. Ms. McCracken is a partner at the law firm of Berger & Hipkind LLP. Ex. 2005 ¶ 8.

3. Ms. McCracken is an experienced litigator, and a part of her practice has consisted of patent litigation and other patent related matters such as PTAB litigations. *Id.* ¶ 9. A noncomprehensive list of representative patent litigations where Ms. McCracken has been actively involved as patent litigation counsel include:

- *Sable Networks, Inc., et al. v. Cloudflare, Inc.*, No. 6:21-cv-00261-ADA (W.D. Tex.).
- *Sable Networks, Inc., et al. v. Splunk Inc., et al.*, No. 5:21-cv-00040-RWS (E.D. Tex.).
- *Castlemorton Wireless, LLC v. Ubiquiti Inc.*, No. 1:21-cv-00066-RGA (D. Del.).

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