

Filed: December 2, 2022

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

SMART MOBILE TECHNOLOGIES LLC,
Patent Owner.

Case IPR2022-01222
Patent 8,982,863 B1

**PATENT OWNER'S UNOPPOSED MOTION FOR *PRO HAC VICE*
ADMISSION OF PHILIP J. GRAVES**

Patent Owner Smart Mobile Technologies LLC (“Patent Owner”) respectfully requests that the Board recognize Philip J. Graves, Esq. as *pro hac vice* and backup counsel for Patent Owner for this proceeding.

I. BACKGROUND

Patent Owner’s Motion for *Pro Hac Vice* Admission is being filed pursuant to and in compliance with the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response, which was filed August 4, 2022 (Paper 3) (the “Notice”). The Notice authorizes parties to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c). Further to the Notice, such “motions shall be filed in accordance with the ‘Order – Authorizing Motion for *Pro Hac Vice* Admission’ in Case IPR2013-00639, Paper 7” (the “Order”).

II. TIMING OF FILING

This Motion for *Pro Hac Vice* Admission is being filed in accordance with the Notice Authorizing the Filing of a Motion for *Pro Hac Vice* Admission, and is filed greater than twenty-one days after that Notice.

III. STATEMENT OF FACTS

As required by the Order, the following statement of facts, supported by the attached Declaration of Philip J. Graves in Support of Patent Owner’s Unopposed Motion for *Pro Hac Vice* Admission (Ex. 2001), shows that there is good cause for the Patent Trial and Appeal Board (“Board”) to recognize Mr. Graves *pro hac vice*

in this proceeding.

Mr. Graves has over twenty-five years of experience 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. (Ex. 2001 at ¶ 2.)

Mr. Graves is a member in good standing of the State Bar of California (*Id.* at ¶ 1) and is admitted to practice before the United States District Courts for the Southern, Eastern, Northern, and Central Districts 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. (*Id.* at ¶ 2)

Mr. Graves has worked with lead counsel in all aspects of his participation in this proceeding. Mr. Graves has an established deep familiarity with the subject matter at issue in this proceeding. (*Id.* at ¶ 10.) Mr. Graves has reviewed U.S. Patent No. 8,982,863 (the “’863 patent”), the patent-at-issue, and other papers associated with this matter. (*Id.*) Mr. Graves is counsel for Patent Owner in the related co-pending district court case *Smart Mobile Technologies LLC v. Apple Inc.*, 6:21-cv-00603-ADA (W.D. Tex.), in which Patent Owner has asserted the ’863 patent against Petitioner. (*Id.*)

Mr. Graves has never been suspended or disbarred from practice before any court or administrative body, apart from an administrative suspension for

nonpayment of inactive bar dues by the Washington Bar Association, which was lifted upon payment of the overdue bar dues. (*Id.* at ¶ 3.) Mr. Graves has never had an application for admission to practice before any court or administrative body denied. (*Id.* at ¶ 4.) Mr. Graves has never had any sanctions or contempt citations imposed on from any court or administrative body. (*Id.* at ¶ 5.)

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 title 37 of the Code of Federal Regulations. (*Id.* at ¶ 6.) Mr. Graves agrees to be subject to the United States Patent and Trademark Office 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). (*Id.* at ¶ 7.) Mr. Graves has applied to appear *pro hac vice* in five other proceedings before the Board within the last three years. (*Id.* at ¶ 8.)

IV. 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). For example, 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 (P.T.A.B. 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. The lead counsel in this proceeding, Rex Hwang, is a registered practitioner. (*Id.* at ¶ 9.) Mr. Graves is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding. (*Id.* at ¶¶ 2, 10.) Mr. Graves's declaration makes the necessary attestations. (*Id.* at ¶ 11.)

Petitioner does not oppose this motion.

V. CONCLUSION

For the foregoing reasons, Patent Owner respectfully submits that there is good cause for the Board to recognize Mr. Graves as *Pro Hac Vice* counsel and backup counsel for Patent Owner during this proceeding. Patent Owner's Motion for *Pro Hac Vice* Admission is accompanied by a Declaration of Philip J. Graves as required by the Order.

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