

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner

v.

WILDSEED MOBILE LLC,
Patent Owner

Case IPR2023-00247
U.S. Patent No. 10,869,169

PATENT OWNER WILDSEED MOBILE LLC'S MOTION FOR *PRO HAC VICE* ADMISSION OF ZACK HIGGINS UNDER 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

PATENT OWNER'S EXHIBIT LIST

Exhibit No.	Description
2001	<i>Intentionally Left Blank</i>
2002	Case No. 3:22-cv-04928, Plaintiff Wildseed Mobile, LLC'S Patent L.R. 3-1 Disclosure of Asserted Claims and Infringement Contentions
2003	U.S. Patent No. 10,869,169 Invalidity Contentions
2004	<i>Intentionally Left Blank</i>
2005	U.S. Patent No. 6,411,685 to O'Neal
2006	U.S. Patent No. 6,473,609 to Schwartz <i>et al.</i>
2007	Declaration of Zack Higgins In Support Of <i>Pro Hac Vice</i> Admission Under 37 C.F.R. § 42.10(c)

I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c), the undersigned, on behalf of the Patent Owner Wildseed Mobile LLC (“Patent Owner”), hereby respectfully requests the *pro hac vice* admission of Zack Higgins in this proceeding.

II. GOVERNING LAW, RULES, AND PRECEDENT

Section 42.10(c) of 37 C.F.R. provides as follows:

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 any motion for *pro hac vice* admission under 37 C.F.R. § 42.10(c) must be filed in accordance with the “Order – Authorizing Motion for *Pro Hac Vice* Admission” entered in Case IPR2013-00639, Paper 7 (“*Unified Patents* Order”).

The *Unified 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 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.

See Unified Patents Order, 3.

III. STATEMENT OF FACTS

Based on the following facts, and supported by the Declaration of Zack Higgins, submitted herewith as Exhibit 2007, Patent Owner requests the *pro hac vice* admission of Mr. Higgins in this proceeding:

1. Patent Owner's lead counsel, David Alberti, is a registered practitioner (Reg. No. 43,465). Patent Owner's back-up counsel,

Jason A. Fitzsimmons, is also a registered practitioner (Reg. No. 65,367).

2. Mr. Higgins is attorney at the law firm of Kramer Alberti Lim & Tonkovich LLP (“Kramer Alberti”). EX2007, ¶3. Kramer Alberti is a firm that specializes in intellectual property law. *Id.* Mr. Higgins’s practice at Kramer Alberti is focused on patent law. *Id.*
3. Mr. Higgins is an experienced patent litigation attorney whose practice focuses on patent litigation before the district court and the Federal Circuit Court of Appeals. *Id.*, ¶4. Mr. Higgins has litigated patent cases in a variety of technology areas, and involving a variety of legal issues. *Id.*
4. Mr. Higgins is a member in good standing of the Bar of California. *Id.*, ¶5.
5. Mr. Higgins has never been suspended or disbarred from practice before any court or administrative body. *Id.*
6. No application of Mr. Higgins’s for admission to practice before any court or administrative body has ever been denied. *Id.*, ¶6.
7. No sanctions or contempt citations have ever been imposed against Mr. Higgins by any court or administrative body. *Id.*, ¶7.

8. Mr. Higgins 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. *Id.*, ¶8.
9. Mr. Higgins understands that he 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). *Id.*, ¶9.
10. Mr. Higgins has an established familiarity with the subject matter at issue in this proceeding. *Id.*, ¶¶10-11; *see also* Section IV below.

IV. GOOD CAUSE EXISTS FOR THE *PRO HAC VICE* ADMISSION OF ZACK HIGGINS 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 to any other conditions as the Board may impose.” 37 C.F.R. § 42.10(c). “[W]here 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.” *Id.*

Wildseed Mobile LLC's lead counsel, David Alberti, is a registered practitioner (Reg. No. 43,465). Wildseed Mobile LLC's back-up counsel, Jason A. Fitzsimmons, is also a registered practitioner (Reg. No. 65,367). Based on the facts

contained herein, as supported by Mr. Higgins's Declaration, good cause exists to admit Mr. Higgins *pro hac vice* in this proceeding.

As set forth in his Declaration, Mr. Higgins is an experienced patent litigation attorney who began working as an attorney at Kramer Alberti in September 2021. EX2007, ¶4. Mr. Higgins has litigated patent cases in a variety of technology areas, and involving a variety of legal issues. *Id.* Mr. Higgins has been involved in patent-related district court and Federal Circuit Court of Appeals actions. *Id.*

Mr. Higgins also has an established familiarity with the subject matter at issue in this proceeding. *Id.*, ¶¶10-12. Mr. Higgins is versed in the records, facts, legal theories, and procedural issues involved. *Id.* Mr. Higgins has reviewed in detail U.S. Patent No. 10,869,169. *Id.* Mr. Higgins has also reviewed the references and exhibits discussed in the Petition for *Inter Partes* Review. *Id.* Mr. Higgins has reviewed in detail the pleadings submitted in this proceeding and has engaged in strategic and substantive discussions regarding this proceeding. *Id.*, ¶11. Mr. Higgins is versed in both the legal and technical issues involved in this proceeding through his understanding of the litigation in the related district court proceedings. *Id.*, ¶¶10-11.

Based on the facts contained herein, as supported by Mr. Higgins's Declaration, good cause exists to admit Mr. Higgins *pro hac vice* in this proceeding.

V. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that Zack Higgins be admitted *pro hac vice* in this proceeding.

The Patent Trial and Appeal Board is hereby authorized to charge any fees associated with this filing to Deposit Account 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

/Jason A. Fitzsimmons/

Jason A. Fitzsimmons
Registration No. 65,367
Counsel for Patent Owner

Date: August 3, 2023

1101 K Street, NW, 10th Floor
Washington, DC 20005
(202) 371-2600

CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

The undersigned hereby certifies that the foregoing **PATENT OWNER**
WILDSEED MOBILE LLC'S MOTION FOR *PRO HAC VICE* ADMISSION
OF ZACK HIGGINS UNDER 37 C.F.R. § 42.10(c) and associated **EXHIBIT**
2007 were electronically served via e-mail on August 3, 2023 in their entirety on
the following:

Andrew S. Ehmke (Lead Counsel) andy.ehmke.ipr@haynesboone.com
Raghav Bajaj (Back-up Counsel) raghav.bajaj.ipr@haynesboone.com
Calmann J. Clements (Back-up Counsel) calmann.clements.ipr@haynesboone.com

HAYNES AND BOONE LLP

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

/Jason A. Fitzsimmons/

Jason A. Fitzsimmons
Registration No. 65,367
Counsel for Patent Owner

Date: August 3, 2023

1101 K Street, NW, 10th Floor
Washington, DC 20005
(202) 371-2600