

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SIEMENS MOBILITY, INC., GROUND TRANSPORTATION SYSTEMS USA,
INC., HUMATICS CORP., and PIPER NETWORKS, INC.,
Petitioners

v.

METROM RAIL, LLC,
Patent Owner

IPR2023-00470
U.S. Patent No. 8,812,227

**DECLARATION OF MARK M. SUPKO
IN SUPPORT OF MOTION FOR *PRO HAC VICE* ADMISSION**

I, Mark M. Supko, do hereby declare as follows:

1. I am a member in good standing of the Bar of the State of New York and the Bar of the District of Columbia, as well as the following Federal Courts:

- a. U.S. Supreme Court
- b. U.S. Court of Appeals for the Federal Circuit
- c. U.S. Court of Appeals for the Second Circuit
- d. U.S. Court of Federal Claims
- e. U.S. District Court for the District of Columbia
- f. U.S. District Court for the Southern District of New York
- g. U.S. District Court for the Eastern District of New York
- h. U.S. District Court for the Eastern District of Michigan
- i. U.S. District Court for the Eastern District of Texas

2. I have not been suspended or disbarred from practice before any court or administrative body.

3. I have never had an application for admission to practice before any court or administrative body denied.

4. I have never had any sanctions or contempt citations imposed against me by any court or administrative body.

5. I have read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials as set forth in Part 42, Title 37 of the Code of Federal Regulations.

6. I will 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).

7. I have not applied to appear *pro hac vice* before the Office in any other proceedings within the last three (3) years (having last been admitted *pro hac vice* as counsel for the patent owner in *Westinghouse Air Brake Technologies Corporation (d/b/a/ Wabtec Corporation), v. Siemens Industry, Inc.*, Cases IPR2017-00580 (PTAB), IPR2017-00581 (PTAB), IPR2017-00584 (PTAB), IPR2017-00650 (PTAB), and IPR2017-00981 (PTAB) on May 1, 2017 and *Westinghouse Air Brake Technologies Corporation (d/b/a/ Wabtec Corporation), v. Siemens Industry, Inc.*, IPR2017-02104 (PTAB) on November 22, 2017). However, I will be applying to appear *pro hac vice* in another pending proceeding at the Office, IPR2023-00468, that implicates another of Patent Owner's patents asserted in the District Court Litigation (as defined below).

8. I have substantial familiarity with the subject matter at issue in the *inter partes* review proceeding, specifically U.S. Patent No. 8,812,227 ("the '227

Patent”) and the various prior art references cited in the Petition. My familiarity with the subject matter at issue is based on the following experiences.

9. The ‘227 Patent is currently one of three patents being asserted by the Patent Owner against Petitioners in an infringement suit pending in the U.S. District Court for the Southern District of New York, styled *Metrom Rail, LLC, v. Siemens Mobility, Inc., et al.*, No. 1:23-cv-03057-MKV (S.D.N.Y.) (“the District Court Litigation”). The Patent Owner filed its original Complaint initiating the District Court Litigation on January 13, 2022, in the U.S. District Court for the District of Delaware. I am lead counsel for Petitioner Siemens Mobility, Inc. (“Siemens”) in the District Court Litigation, and I have served in that role since the beginning of the case.

10. As a result of my work in connection with the District Court Litigation, I am familiar with the subject matter of the current Petition. For example, I was involved in meetings with engineers and in-house attorneys for Siemens regarding the technology described and claimed in the ‘227 Patent and Siemens’ allegedly infringing products subsequent to the filing of the original Complaint. I have also been involved in analyzing the scope and meaning of the asserted claims of the ‘227 Patent and alleged application of those claims to the accused products. I have also been involved in studying prior art references,

specifically including prior art references cited in the Petition, in the context of assessing Siemens' potential invalidity defenses in the District Court Litigation.

11. In addition to the foregoing litigation experience, I have relevant technical knowledge and experience, having worked as a systems engineer for a major U.S. automaker developing computer-based control systems prior to becoming a lawyer, and having served as lead trial counsel in a prior district court litigation involving automated train control technology that spawned numerous IPR petitions in which I was admitted *pro hac vice* to represent Siemens Mobility, Inc.

12. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Respectfully submitted,

Dated: October 27, 2023

/Mark M. Supko/

Mark M. Supko