

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
Petitioner,

v.

VL COLLECTIVE IP LLC,
Patent Owner.

IPR2023-00630 (Patent 7,440,559 B2)
IPR2023-00891 (Patent 8,605,794 B2)¹

Before KARL D. EASTHOM, JEFFREY S. SMITH, DAVID C. McKONE,
STACEY G. WHITE, and STEPHENE. BELISLE, *Administrative Patent
Judges.*

PER CURIAM

ORDER
Granting Petitioner's Motions for
Pro Hac Vice Admission of Stephen A. Marshall
37 C.F.R. § 42.10

¹ The combined caption is for administrative convenience only and does not indicate that IPR2023-00630 and IPR2023-00891 have been joined. The parties are not authorized to use this caption without express permission of the Board. This is not an expanded panel.

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Petitioner filed a motion in IPR2023-00630 requesting *pro hac vice* admission of Stephen A. Marshall. Paper 15. The motion is supported by a declaration of Mr. Marshall. Ex. 1024.²

Petitioner indicates Patent Owner does not oppose the Motions. Paper 15, 1.

In accordance with 37 C.F.R. § 42.10(c), 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. In authorizing a motion for *pro hac vice* admission, the Board requires the moving party to provide a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* and an affidavit or declaration of the individual seeking to appear in the proceeding. *See Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 (PTAB Oct. 15, 2013) (representative “Order – Authorizing Motion for *Pro Hac Vice* Admission”).

Based on the facts set forth in the Motions and the accompanying Declarations, we conclude that Mr. Marshall has sufficient legal and technical qualifications to represent Petitioner in each respective proceeding, that Mr. Marshall has demonstrated sufficient litigation experience and familiarity with the subject matter of each respective proceeding, and that Mr. Marshall meets all other requirements for admission *pro hac vice*. *See*

² For purposes of expediency, we refer to the papers and exhibit filed in IPR2023-00630. Petitioner filed a similar motion (Paper 15), declaration of Mr. Marshall (Ex. 1020), power of attorney (Paper 13), and mandatory notice (Paper 14) in IPR2023-00891. We refer to the motions filed in both proceedings as “Motions” and the declarations filed in both proceedings as “Declarations.”

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Ex. 1024 ¶¶ 1–5, 8, 9. Accordingly, Petitioner has established good cause for *pro hac vice* admission of Mr. Marshall. Mr. Marshall will be permitted to serve as back-up counsel only. See 37 C.F.R. § 42.10(c).

We note that Petitioner filed a Power of Attorney including Mr. Marshall in accordance with 37 C.F.R. § 42.10(b) as Paper 1. Petitioner has also submitted a Mandatory Notice identifying Mr. Marshall as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3) as Paper 14.³

In consideration of the foregoing, it is hereby

ORDERED that Petitioner’s Motions for *pro hac vice* admission of Stephen A. Marshall are *granted*.

FURTHER ORDERED that Petitioner is to continue to have a registered practitioner represent Petitioner as lead counsel for each proceeding;

FURTHER ORDERED that Mr. Marshall is authorized to represent Petitioner as back-up counsel only in each proceeding;

FURTHER ORDERED that Mr. Marshall comply with the Patent Trial and Appeal Board’s Consolidated Trial Practice Guide⁴ (84 Fed. Reg. 64,280 (Nov. 21, 2019)), and the Board’s Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations; and

FURTHER ORDERED that Mr. Marshall is subject to the Office’s

³ In connection with the Board's Rules of Practice for Trials the Declarations refer to “part 42 of the Code of Federal Regulations” (Ex. 1024 ¶ 5) instead of “part 42 of 37 C.F.R.” (*Unified Patents* at 3) (emphasis added). We excuse these occurrences in these instances.

⁴ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et. seq.*

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