

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ALIVECOR, INC.,  
Petitioner

v.

APPLE INC.,  
Patent Owner

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Case No. IPR2023-00948  
Patent. No. 10,866,619

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**PETITIONER’S MOTION FOR PRO HAC VICE ADMISSION OF PHILIP  
DUCKER 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

**LIST OF EXHIBITS**

| <b>Exhibit</b> | <b>Short Name</b>  | <b>Description</b>                                   |
|----------------|--------------------|------------------------------------------------------|
| Ex. 1001       | '619 Patent        | U.S. Patent No. 10,866,619 B2 (“the ’619 Patent”)    |
| Ex. 1002       | '619 File History  | Prosecution History of U.S. Patent No. 10,866,619 B2 |
| Ex. 1003       | Berger Declaration | Declaration of Dr. Ronald D. Berger                  |
| Ex. 1004       | Kim                | U.S. Patent No. 10,620,828                           |
| Ex. 1005       | Jung               | U.S. Patent Pub. No. 2016/0100499                    |
| Ex. 1006       | Dunlap             | U.S. Patent No. 9,651,513                            |
| Ex. 1007       | Meyers             | U.S. Patent Pub. No. 2015/0071509                    |
| Ex. 1008       | Evans              | U.S. Patent No. 8,694,793                            |
| Ex. 1009       | Pare               | U.S. Patent No. 6,131,464                            |
| Ex. 1010       | Chaudhri           | U.S. Patent No. 9,740,381                            |
| Ex. 1011       | Choung             | U.S. Patent Pub. No. 2015/0245514                    |
| Ex. 1012       | Hwang              | U.S. Patent No. 8,750,919                            |
| Ex. 1013       | Polany             | U.S. Patent No. 7,535,799                            |
| Ex. 1014       | Choi               | U.S. Patent Pub. No. 2017/0099742                    |
| Ex. 1015       | Chang              | U.S. Patent No. 10,133,910                           |
| Ex. 1016       | Mittleman          | U.S. Patent No. 8,367,958                            |
| Ex. 1017       | Aapro              | U.S. Patent No. 7,486,517                            |
| Ex. 1018       | Vittu              | U.S. Patent No. 9,973,669                            |
| Ex. 1019       | Wagman             | U.S. Patent No. 9,973,840                            |

| <b>Exhibit</b> | <b>Short Name</b>                  | <b>Description</b>                                                                                                                                                                                                                                  |
|----------------|------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ex. 1020       | Dave                               | U.S. Patent Pub. No. 2013/0108082                                                                                                                                                                                                                   |
| Ex. 1021       | Berger CV                          | Curriculum vitae of Dr. Ronald Berger                                                                                                                                                                                                               |
| Ex. 1022       | Kim-KR                             | KR 10-2016-0162565 and certified translation thereof                                                                                                                                                                                                |
| Ex. 1023       | Kim-KR-Pub.                        | KR 10-2018-0062654 and certified translation thereof                                                                                                                                                                                                |
| Ex. 1024       | National Judicial Caseload Profile | U.S. District Courts – National Judicial Caseload Profile (accessed via <a href="https://www.uscourts.gov/sites/default/files/fcms_na_distprofile0331.2022.pdf">https://www.uscourts.gov/sites/default/files/fcms_na_distprofile0331.2022.pdf</a> ) |
| Ex. 1025       | Complaint                          | Complaint for Patent Infringement, Apple Inc., v. AliveCor, Inc., Case No. 4:22-cv-07608-HSG (N.D. Cal. 2022)                                                                                                                                       |
| Ex. 1026       | Ducker Declaration                 | Declaration of Philip Ducker                                                                                                                                                                                                                        |

Pursuant to 37 CFR § 42.10(c), Petitioner AliveCor, Inc. (“AliveCor” or “Petitioner”) requests that the Board admit Philip Ducker *pro hac vice* in this proceeding.

## **I. TIME FOR FILING**

This Motion is timely because it is being filed after the Notice of Filing Date Accorded to the Petition and no sooner than twenty-one days after service of the petition. *See Unified Patents, Inc. v. Parallel Iron, LLC*, Case No. IPR2013-00639, Paper 7 at 2-3 (PTAB Oct. 15, 2013) (“Time for Filing”).

## **II. STATEMENT OF FACTS SHOWING GOOD CAUSE FOR THE BOARD TO RECOGNIZE COUNSEL PRO HAC VICE**

The Board may recognize counsel *pro hac vice* during a proceeding upon showing of good cause, subject to the condition that lead counsel is a registered practitioner, and any other conditions the Board may impose. 37 C.F.R. § 42.10(c). Section 42.10(c) states “where lead counsel is a registered practitioner, a motion to appear *pro hac vice* may be granted upon a showing that counsel is an experienced litigation attorney and has an established familiarity with the subject matter at issue in the proceeding.” In this proceeding, the Board has advised Petitioner to file this motion in accordance with the additional requirements listed in “Order – Authorizing Motion for Pro Hac Vice Admission” in Case IPR2013-00639 (the “Order”). (IPR2023-00948, Paper No. 6). This Motion is made in furtherance of that

Order. The facts here establish good cause for the Board to recognize Philip Ducker *pro hac vice*.

1. Lead Counsel, Christopher TL Douglas, of the Law Firm Alston & Bird, LLP is a registered practitioner.

2. The Declaration of Philip Ducker (Ex. 1026 (“Ducker Decl.”)) accompanies this Motion. In his declaration, Mr. Ducker attests to all facts required by the Order. For example, Mr. Ducker attests that he is a member in good standing of the State Bar of California. Ex. 1026, ¶ 2. Mr. Ducker also attests that he has not been suspended, disbarred, had his application denied, been sanctioned, or had a contempt citation imposed on him by any court or administrative body. Ex. 1026, ¶¶ 4-5. Mr. Ducker is an experienced litigator and has reviewed U.S. Patent No. 10,866,619, and the Petition as well as the accompanying exhibits, and as such has established familiarity with the subject matter at issue in this proceeding. Ex. 1026, ¶¶ 9-10. Moreover, Mr. Ducker is counsel of record for AliveCor in parallel district court proceedings. Ex. 1026, ¶ 9-10. Mr. Ducker has not applied to appear *pro hac vice* before the Board in any other proceedings in the last three years. Ex. 1026, ¶8.

3. Mr. Ducker also attests to each of the additional listed items required by the Order. (*See* Ex. 1026, ¶¶ 1-10).

### III. CONCLUSION

For the foregoing reasons as well as the reasons contained in the attached declaration, Petitioner respectfully moves for the admission of Mr. Ducker to designate him as back-up counsel in this IPR, in view of his knowledge, familiarity, and experience with the relevant subject matter. Thus, there is good cause to recognize Mr. Ducker in this case. Although Mr. Ducker is not a registered USPTO practitioner, Petitioner's undersigned lead counsel is registered.

Dated: February 23, 2024

Respectfully submitted,

/ Christopher TL Douglas /  
Christopher TL Douglas  
Reg. No. 56,950

*Lead Counsel for Petitioner  
AliveCor, Inc.*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing **PETITIONER'S MOTION FOR PRO HAC VICE ADMISSION OF PHILIP DUCKER UNDER 37 C.F.R. § 42.10(c)** was served electronically via e-mail on February 23, 2024, in its entirety on the following counsel of record for Patent Owner:

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Date: February 23, 2024

By: / Christopher TL Douglas /  
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