

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Duration Media LLC
Petitioner,

v.

Rich Media Club LLC
Patent Owner.

Case IPR2023-00953
U.S. Patent 11,443,329

**RICH MEDIA CLUB LLC'S MOTION FOR *PRO HAC VICE* ADMISSION
OF DAVID P. BERTEN PURSUANT TO 37 C.F.R. § 42.10(c)**

I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c), and as authorized in the Board’s Notice of Filing Date issued June 14, 2023 (Paper 7). Patent Owner, Rich Media Club LLC, respectfully requests that the Board admit David P. Berten *pro hac vice* in this proceeding.

II. GOVERNING LAWS, RULES, AND PRECEDENT

In accordance with 37 C.F.R. § 42.10(c), the Board may recognize counsel *pro hac vice* during a proceeding upon 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. The Board has stated that motions for *pro hac vice* admission must be filed in accordance with the “Order -- Authorizing Motion for Pro Hac Vice Admission” entered in Case IPR2013-00639 (Paper 7). The Order requires that such motions (1) be filed no sooner than twenty-one days after service of the petition, (2) “[c]ontain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding,” and (3) “[b]e accompanied by an affidavit or declaration of the individual seeking to appear.”

III. STATEMENT OF FACTS SHOWING GOOD CAUSE FOR THE BOARD TO RECOGNIZE COUNSEL PRO HAC VICE DURING THE PROCEEDING

The facts here establish good cause for the Board to recognize David P. Berten *pro hac vice* during this proceeding:

1. Lead counsel, Ragnar Olson, is a registered practitioner (Reg. No. 58,684).

2. The Petition in this case was filed on May 24, 2023, more than twenty-one days ago.

3. Counsel, David P. Berten, is an experienced patent litigator and has established familiarity with the subject matter at issue in the proceeding.

Accompanying this motion is the Declaration of David P. Berten in Support of this Motion for Admission of *Pro Hac Vice* David P. Berten (“Berten Decl.”) In his declaration, Mr. Berten attests that he is a member in good standing of the Bar of the State of Illinois, and is also admitted to practice in the United States District Courts for the Northern District of Illinois, the Northern District of California, the District of Colorado, the Western District of Michigan, the Eastern District of Michigan, the Western District of Wisconsin, and the Eastern District of Wisconsin; the United States Court of Appeals for the Federal Circuit, the Third Circuit, and the Seventh Circuit; the Supreme Court of the United States. Berten Decl. Berten Decl. ¶ 4.

4. Mr. Berten is a Partner at Global IP Law Group, LLC. Berten Decl. ¶ 1. Mr. Berten is an experienced litigating attorney. More specifically, he has over 30 years of patent litigation experience. Berten Decl. ¶ 2. Mr. Berten has been a

litigator in over 50 patent infringement cases in Federal courts across the United States. Berten Decl. ¶ 3.

5. Mr. Berten also attests that he is familiar with the subject matter and patent at issue in this proceeding. He is counsel for Rich Media Club, LLC in three related matters asserting claims for infringement of the patent at issue in this proceeding. The matters are *Rich Media Club, LLC v. Duration Media, LLC*, Case No. 2:22-cv-02086 (District of Arizona); *Rich Media Club, LLC v. DMG Media Limited*, Case No. 2:23-cv-00388 (Eastern District of Texas) (to be admitted via *Pro Hac Vice*); and *Rich Media Club, LLC v. ResearchGate GmbH*, Case No. 2:23-cv-00362 (Eastern District of Texas) (to be admitted via *Pro Hac Vice*); Berten Decl. ¶ 6.

6. Mr. Berten has never been suspended or disbarred from practice before any court or administrative body. Berten Decl. ¶ 7.

7. No application of Mr. Berten for admission to practice before any court or administrative body has even been denied. Berten Decl. ¶ 7.

8. No sanctions or contempt citations have been imposed against Mr. Berten by a court or administrative body. Berten Decl. ¶ 8.

9. Mr. Berten attests to each of the *pro hac vice* declaration requirements listed in the Board's Order in Case No. IPR2013-00639 (Paper 7). Berten Decl. ¶ 1-11.

10. Mr. Berten has read and will comply with the Office Patent Trial Practice Guide (84 Fed. Reg. 64,280 (Nov. 21, 2019)) and the Board's Rules of Practice for Trials, as set forth in Part 42 of 37 C.F.R Berten Decl. ¶ 9.

11. Mr. Berten agrees to 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). Berten Decl. ¶ 10.

12. Mr. Berten has requested *pro hac vice* admission in the following proceedings before the Office in the last three years: IPR2020-00745 and IPR2020-00746. Berten Decl. ¶ 11.

13. Counsel for Petitioner does not oppose Mr. Berten appearing *pro hac vice* during this proceeding.

IV. CONCLUSION

The Declaration in Support of Motion for *Pro Hac Vice* admission of David P. Berten Pursuant to 37 C.F.R. § 42.10(c) is attached as Exhibit 2002. The requirements for admission *pro hac vice* being hereby established, Patent Owner respectfully requests that the Board admit Mr. Berten *pro hac vice* as back-up counsel in this proceeding.

Respectfully submitted,

Dated: September 11, 2023

/Ragnar Olson/
Ragnar Olson
Reg. No. 58,684

Global IP Law Group, LLC
55 W. Monroe Street, Suite 3400
Chicago, IL 60603
Ph.: (312) 241-1503
Lead Counsel for Patent Owner

CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e)(4) & 42.105(a))

A copy of RICH MEDIA CLUB, LLC'S MOTION FOR *PRO HAC VICE*
ADMISSION OF DAVID P. BERTEN PURSUANT TO 37 C.F.R. § 42.10 and
Declaration of David P. Berten in Support of Motion for *Pro Hac Vice* Admission (Exhibit
2002) has been served on counsel of record for Petitioner on September 11, 2023 as
follows:

Kevin Greenleaf (Reg. No. 64,062)
Dentons US LLP
233 South Wacker Drive, Suite 5800
Chicago, IL 60606
Telephone: 650-798-0381
Email: kevin.greenleaf@dentons.com; ipt.docketchi@dentons.com

Joel Bock (Reg. No. 36,456)
Dentons US LLP
233 South Wacker Drive, Suite 5800
Chicago, IL 60606
Telephone: 212-398-8484
Email: joel.bock@dentons.com

/Ragnar Olson/
Ragnar Olson, Reg. No. 58,684
rolson@giplg.com
Global IP Law Group, LLC
55 W. Monroe Street
Suite 3400

Case No. IPR2023-00953

U.S. Patent 11,443,329

Chicago, IL 60603