Filed on behalf of: AX Wireless, LLC

Entered: May 17, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORPORATION,
Petitioner,

v.

AX Wireless, LLC,
Patent Owner.

Case IPR2023-01138
Patent 10,554,459

PATENT OWNER'S UNOPPOSED MOTION FOR *PRO HAC VICE* ADMISSION OF DAVID J. HLAVKA UNDER 37 C.F.R. § 42.10(c)

I. RELIEF REQUESTED

Under 37 C.F.R. § 42.10(c) and the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response (Paper No. 5), Patent Owner AX Wireless, LLC ("Patent Owner") respectfully requests the *pro hac vice* admission of attorney David J. Hlavka, Esq. in this proceeding. Patent Owner has conferred with counsel for Intel Corporation ("Petitioner"), and Petitioner does not oppose this motion.

II. LEGAL STANDARD

Under 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 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 Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response (Paper No. 5) further instructs:

> The parties are advised that under 37 C.F.R. § 42.10(c), recognition of counsel pro hac vice requires a showing of good cause. The parties are authorized to file motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c). Such motions shall be filed in accordance with the "Order

> -- Authorizing Motion for *Pro Hac Vice* Admission" in Case IPR2013-00639, Paper 7, a copy of which is available on the Board Web site under "Representative Orders, Decisions, and Notices."

(*Id.* at 2.) The above referenced "Order -- Authorizing Motion for *Pro Hac Vice* Admission" further provides:

> A motion for *pro hac vice* admission must:
>
> a. Contain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding.
>
> b. Be 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 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 (3) years; and

viii. Familiarity with the subject matter at issue in the proceeding.

(IPR2013-00639, Paper No. 7 at 3.) As set forth below, and in the accompanying Declaration of David J. Hlavka (AXW-2043, "Hlavka Decl."), each of these requirements is satisfied here.

III. STATEMENT OF FACTS SHOWING GOOD CAUSE FOR THE BOARD TO RECOGNIZE DAVID J. HLAVKA *PRO HAC VICE* IN THIS PROCEEDING

Mr. Hlavka is a member in good standing of the District of Columbia (Bar No. 90006630) and admitted to practice before the Eastern District of Texas (Hlavka Decl. ¶ 2.) Mr. Hlavka has never been suspended or disbarred from practice before any court or administrative body. (*Id.* ¶ 3.) No application of Mr. Hlavka for admission to practice before any court or administrative body has ever been denied. (*Id.*) Nor has any court or administrative body imposed sanctions or contempt citations against Mr. Hlavka. (*Id.*) Mr. Hlavka has read, fully understands, 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 Title 37 of the C.F.R. (*Id.* ¶ 4.) Mr. Hlavka acknowledges and agrees 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.*)

Patent Owner's lead counsel in this proceeding, S. Giri Pathmanaban, is a registered practitioner (Reg. No. 75,986). Moreover, as set forth below (and in his accompanying declaration), Mr. Hlavka is both an experienced and technically-trained litigation attorney with an established familiarity with the subject matter at issue in this proceeding.

Mr. Hlavka received a B.S. degree in Mechanical Engineering, from the University of Rochester in 2010 (*Id.* ¶ 5.) Mr. Hlavka earned a law degree from Georgetown University in 2022. (*Id.*) Mr. Hlavka joined Latham & Watkins LLP ("Latham") as an associate in 2022. (*Id.*)

Mr. Hlavka is currently a member of Latham's intellectual property group, with a focus on patent litigation. (*Id.* ¶ 6.) Mr. Hlavka has practiced in Latham's intellectual property group for over 1 year. (*Id.*)

Mr. Hlavka also has an established familiarity with the subject matter at issue in this proceeding. Mr. Hlavka has been actively involved in the related district court litigations between the Petitioner and Patent Owner, *AX Wireless LLC, v. Dell Inc., and Dell Technologies Inc.*, 2:22-cv-00277-RWS-RSP (EDTX), *AX Wireless LLC,*

v. Lenovo Group Ltd., 2:22-cv-00280-RWS-RSP (EDTX), *AX Wireless LLC, v. HP Inc.*, 2:22-cv-00279- JRG-RSP (EDTX), and *AX Wireless LLC, v. Acer Inc.*, 2:23-cv-00041-JRG-RSP (EDTX). (*Id.* ¶ 7.) U.S. Patent No. 10,554,459 ("'459 patent"), which is at issue in this proceeding, is one of the patents asserted by the Patent Owner in the district court litigations. (*Id.* ¶ 8.) Mr. Hlavka has been actively involved in all aspects of the litigation, including Patent Owner's factual investigation and development of its claim construction, validity, and infringement positions regarding the claims of the '459 patent at issue here. (*Id.*)

Mr. Hlavka has been actively involved in analyzing and assisting with responding to the Petition for *Inter Partes* Review submitted in this proceeding. (*Id.* ¶ 9.)

He is concurrently applying to appear *pro hac vice* in the following proceedings before the USPTO: Case Nos. IPR2023-01135, -01136, -01137, -01139, and -01145. (*Id.* ¶ 10.)

In view of Mr. Hlavka's extensive knowledge of the subject matter at issue in this proceeding, and in view of the interrelatedness of this proceeding and the related district court litigation, Patent Owner has a substantial need for Mr. Hlavka's *pro hac vice* admission and his involvement in the continued prosecution of this proceeding. In addition, admission of Mr. Hlavka *pro hac vice* will enable Patent Owner to avoid unnecessary expense and duplication of work between this

proceeding and the district court litigation. *See* 77 Fed. Reg. 48,612, 48,661 (Aug. 14, 2012) (Office's comment on final rule discussing concerns about efficiency and costs where an entity has already engaged counsel for parallel district court litigation).

IV. CONCLUSION

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

Respectfully submitted,

Dated: May 17, 2024

By: / S. Giri Pathmanaban /

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 17th day of May, 2024, a true and correct copy of the foregoing **Patent Owner's Unopposed Motion For *Pro Hac Vice* Admission Of David J. Hlavka Under 37 C.F.R. § 42.10(c)** was served by electronic mail on Petitioner's lead and backup counsel at the following email addresses:

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