UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

UNDER ARMOUR, INC.
Petitioner

v.

ATHALONZ, LLC
Patent Owner

_____

Case No. IPR2024-00640
Patent No. 11,510,456

_____

PETITIONER'S MOTION FOR PRO HAC VICE ADMISSION OF ERIC T. HARMON UNDER 37 C.F.R. § 42.10

EXHIBIT LIST

Exhibit No.	Description
1001	U.S. Patent No 11,510,456 ("the '456 patent")
1002	Declaration of Grant Delgatty
1003	Curriculum Vitae of Grant Delgatty
1004	Prosecution History Excerpts of U.S. Patent Application No. 17/327,054
1005	U.S. Patent No. 6,158,151 ("Won")
1006	U.S. Patent Publication No. 2007/0107258 ("Umezawa")
1007	U.S. Patent No. 7,464,428 ("Norton")
1008	U.S. Patent No. 4,642,911 ("Talarico '911")
1009	U.S. Patent No. 4,615,126 ("Mathews")
1010	U.S. Patent No. 5,025,573 ("Giese")
1011	Prosecution History Excerpts of U.S. Patent Application No. 16/555,171
1012	Excerpts from Athalonz's Infringement Contentions, served in *Athalonz, LLC v. Under Armour*, Case No. 2:23-cv-00193 (E.D. Tex.).
1013	1977 Nike Boston Running Shoe

1014	FootJoy 51409
1015	FootJoy 1970 Product Catalog
1016	U.S. Patent No. D275146
1017	U.S. Patent No. D310294
1018	1971 Nike Cortez
1019	Merriam-Webster's Collegiate Dictionary Definition of "Gradient"
1020	RESERVED
1021	CAD Image of Heel Platform of UA HOVR Drive
1022	Supplemental Declaration of Grant Delgatty
1023	Transcript from the March 18, 2025, Deposition of Timothy Markison in IPR2024-00636, IPR2024-00637, IPR2024-00638, IPR2024-00639, and IPR2024-00640
1024	U.S. Patent No. 11,206,878
1025	Athalonz's Second Supplemental Infringement Contentions, served in *Athalonz, LLC v. Under Armour*, Case No. 2:23-cv-00193 (E.D. Tex.)
1026	Markison Ex. 10 - UA000000077 (redacted)
1027	"Athalonz Golf Shoes," produced in *Athalonz, LLC v. Under Armour*, Case No. 2:23-cv-00193 (E.D. Tex.) at ATHALONZ0007372

1028	"From the ground up," 2019 Sports Illustrated, M. Purkey, https://www.si.com/golf/gear/feature-2019-11-21-from-the-ground-up
1029	Transcript of Athalonz YouTube Channel Video Titled "Athalonz Technology Explained," downloaded from https://www.youtube.com/watch?v=FNLc3D-5SZg
1030	Athalonz Blog Titled "Athalonz Shoes – Leveraging the Laws of Physics," downloaded from https://www.athalonz.com/blogs/news/athalonz-shoes-leveraging-the-laws-of-physics-1?srsltid=AfmBOor1UcXLaaaGPUOPk35_JqoKeSAHebj9yRAB%E2%80%A6
1031	RESERVED
1032	RESERVED
1033	RESERVED
1034	RESERVED
1035	Markison Ex. 3 - US2847769
1036	Claim Charts for U.S. Patent No. 10,674,786; 11,013,291; and 11,064,760 for Athalonz Products, served in *Athalonz, LLC v. Under Armour*, Case No. 2:23-cv-00193 (E.D. Tex.)
1037	Declaration of Eric T. Harmon In Support Of Motion for *Pro Hac Vice* Admission

I. STATEMENT OF RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c) and Notice of Filing Date Accorded (Paper 3, "Notice") authorizing the parties to file motions for *pro hac vice* admissions under 37 C.F.R. § 42.10(c), Petitioner Under Armour, Inc. ("Petitioner") requests that the Patent Trial and Appeal Board (the "Board") admit Eric T. Harmon *pro hac vice* in this proceeding, IPR2024-00640. Patent Owner Athalonz, LLC has indicated that it does not oppose this Motion.

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

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 and to any other conditions as the Board may impose. Section 42.10(c) indicates that "where 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 a showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding." The facts here, supported by the attached Declaration of Eric T. Harmon in Support of Motion for *Pro Hac Vice* Admission, establish good cause for the Board to recognize Eric T. Harmon *pro hac vice* in this proceeding.

Lead counsel for Petitioner, Frank C. Cimino, is a registered practitioner (Reg. No. 39,945).

Mr. Harmon is an attorney at the law firm of Venable LLP and practices out of Venable's office in Washington, D.C. Ex. 1037 ¶ 3. Mr. Harmon graduated law school in 2021 from the George Washington University Law School and has been with Venable for over three years. *Id.*, ¶ 4. His practice has been focused on intellectual property litigation, and he has been involved in many cases involving patent infringement and validity in district courts across the country. *Id.* Mr. Harmon has a degree in physics, and a significant portion of his work as an attorney has involved consumer goods, software, computing technologies, and communications networks. *Id.* He has established familiarity with the legal issues involved in these proceedings based on his education and experience litigating patents. *Id.*

Mr. Harmon is a member in good standing of the Bar of the District of Columbia. *Id.*, ¶ 5. Mr. Harmon has never been suspended or disbarred from practice, has never had any application for admission to practice denied, and has never had any sanctions or contempt citations imposed against him. *Id.*, ¶¶ 6-8.

Mr. Harmon has read 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 37 C.F.R. *Id.*, ¶ 9. He will be subject to the USPTO Rules of Professional Conduct set forth in

37 C.F.R. §§ 11.101 *et. seq.*, and to disciplinary jurisdiction under 37 C.F.R. § 11.19(a). *Id.*, ¶ 10.

Mr. Harmon has applied to appear *pro hac vice* in the following other proceedings before the Office: IPR2024-00636, IPR2024-00637, IPR2024-00638, IPR2024-00639, which each concern related patents. *Id.*, ¶ 11.

Mr. Harmon has had involvement in this *Inter Partes* Review proceeding dating back to its inception in March 2024. *Id.*, ¶ 12. For example, he participated in the drafting the petitions filed, and has reviewed the papers filed, in this proceeding and the related proceedings. *Id.* Since November 2023, he has been counsel for Petitioner Under Armour, Inc., in the co-pending case *Athalonz LLC v. Under Armour, Inc.*, No. 2:23-cv-00193 (E.D. Tex.), which is related to and involves the same patent at issue in this proceeding. *Id.*

Mr. Harmon has engaged in strategic and substantive discussions regarding this proceeding with Frank C. Cimino, who is the lead counsel for Petitioner, as well as with Megan S. Woodworth, Robert E. Bugg, and Justin J. Oliver, who are designated as back-up counsel for Petitioner. *Id.*, ¶ 13. He has also engaged in substantive discussions with experts concerning issues relevant to this proceeding. *Id.*

Mr. Harmon is also familiar with the subject matter and petition at issue in this proceeding, including the patent, its prosecution history, the prior art, and the various issues raised. *Id.*, ¶ 14.

There is good cause for the Board to recognize Mr. Harmon *pro hac vice* in this proceeding based on the hearing in these proceedings being currently scheduled for June 17, due to Mr. Harmon's technical background, familiarity with the legal and technical issues in this proceeding, and his prior experience in the co-pending district court case.

III. CONCLUSION

For the foregoing reasons, Petitioner, Under Armour, Inc., respectfully requests that the Board admit Eric T. Harmon *pro hac vice* in this proceeding.

DATED: May 21, 2025

Respectfully submitted,

/Frank C. Cimino/
Reg. No. 39,945
VENABLE LLP
600 Massachusetts Ave., NW
Washington, DC 20001
T 202-344-4569
F 202-344-8300

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing MOTION FOR PRO HAC VICE ADMISSION, together with all exhibits and other documents filed therewith, was served to Patent Owner by causing it to be sent by email to counsel for Patent Owner at the following email addresses:

Michael Matulewicz-Crowley - mmatulewiczcrowley@reichmanjorgensen.com

Christine E. Lehman - clehman@reichmanjorgensen.com

Connor S. Houghton - choughton@reichmanjorgensen.com

Stephen P. Bosco – sboscolaw@pm.me

Date: May 21, 2025

/Frank C. Cimino/
Reg. No. 39,945
VENABLE LLP
600 Massachusetts Ave., NW
Washington, DC 20001
T 202-344- 4569
F 202-344-8300