UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CAPITAL ONE, NATIONAL ASSOCIATION,
Petitioner,

v.

IMPLICIT, LLC,
Patent Owner.

Case IPR2024-00878
U.S. Patent No. 7,774,740

PETITIONER CAPITAL ONE, NATIONAL ASSOCIATION'S MOTION FOR *PRO HAC VICE* ADMISSION OF JONAH HEEMSTRA

I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c), Petitioner Capital One, National Association ("Capital One" or "Petitioner"), respectfully requests that the Board recognize Jonah Heemstra as counsel *pro hac vice* during this proceeding. The facts, supported by the attached Declaration of Jonah Heemstra in Support of Motion for *Pro Hac Vice* Admission (Ex. 1027), establish good cause to admit Mr. Heemstra *pro hac vice* in this proceeding.

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, subject to the conditions set forth therein, and any others that the Board may impose. Petitioner sets forth the following facts in support of this motion:

1. Petitioner's lead counsel, Jason Engel (Reg. No. 51,654) is a registered practitioner before the Board.
2. Mr. Heemstra is an intellectual property litigation attorney at K&L Gates LLP and has an established familiarity with the subject matter at issue in this proceeding. Mr. Heemstra has gained experience conducting technical infringement and validity analyses, briefing claim

construction issues, and preparing for *Markman* hearings. (Ex. 1027, ¶ 1).

3. Mr. Heemstra is a member in good standing of the Bar of the State of Illinois. (*Id.*, ¶ 2). He is also admitted to practice before the District Courts for the Northern and Central Districts of Illinois, and the United States Court of Appeals for the Federal Circuit (*Id.*).

4. Mr. Heemstra has never been suspended or disbarred from practice before any court or administrative body. (*Id.*, ¶ 3). Mr. Heemstra has never had an application for admission to practice before any court or administrative body denied. (*Id.,* ¶ 4). Nor has any court or administrative body imposed sanctions or contempt citations against him. (*Id.*).

5. Mr. Heemstra 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.*, ¶ 5).

6. Mr. Heemstra agrees to be subject to the United States Patent and Trademark Office's 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.*, ¶ 6).

7. In the past three years, Mr. Heemstra has applied to appear *pro hac vice* before the U.S. Patent and Trademark Office in the following matters: IPR2022-00601 and IPR2022-00602. Mr. Heemstra is concurrently applying for *pro hac vice* admission in IPR2024-00643 and IPR2024-00787 (*Id.*, ¶ 7).

8. Mr. Heemstra has established familiarity with the subject matter at issue in this proceeding, and has reviewed in detail the patent, pleadings, and exhibits in the instant proceeding (*Id.*, ¶ 8).

III. GOOD CAUSE EXISTS FOR THE *PRO HAC VICE* ADMISSION OF MR. HEEMSTRA IN THIS PROCEEDING

The Board may recognize counsel *pro hac vice* 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. 37 C.F.R. § 42.10(c).

The facts outlined above in the Statement of Facts, and contained in the Declaration of Jonah Heemstra (Ex. 1027), establish that there is good cause to admit Mr. Heemstra *pro hac vice* in this proceeding. Petitioner's lead counsel, Jason Engel, is a registered practitioner. Mr. Heemstra is familiar with the subject matter in this proceeding and is actively involved with the strategy and fact development in this matter.

Therefore, Petitioner respectfully submits that there is good cause for the

Board to recognize Mr. Heemstra as counsel *pro hac vice* in this proceeding.

Respectfully submitted,

Dated: June 6, 2024

By: /Jason A. Engel/

Jason A. Engel
Reg. No. 51,654
K&L Gates LLP
70 W. Madison Street, Suite 3100
Chicago, IL 60602
T: (312) 807-4236
F: (312) 827-8145
Jason.Engel.PTAB@klgates.com

Counsel for Petitioner

CERTIFICATE OF SERVICE

A copy of this Motion for *Pro Hac Vice* Admission has been served at the following correspondence address of record for the subject patent via Federal Express Priority Overnight® on this 6th day of June, 2024:

KOWERT, HOOD, MUNYON, RANKIN & GOETZEL, P.C.
Jeffrey Hood
1120 S. Capital of Texas Hwy
Building 2, Suite 300
Austin, TX 78746

With an electronic courtesy copy to litigation counsel:

DEVLIN LAW FIRM LLC
James M. Lennon
jlennon@devlinlawfirm.com
Timothy Devlin
tdevlin@devlinlawfirm.com
Christopher Clayton
cclayton@devlinlawfirm.com
1526 Gilpin Ave.
Wilmington, DE 19806

By: /Jason A. Engel/
Jason A. Engel
Reg. No. 51,654