UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THERABODY, INC.
Petitioner

v.

HYPERICE IP SUBCO, LLC
Patent Owner.

Case No. PGR2025-00013
U.S. Patent No. 11,938,082

PETITIONER'S MOTION FOR PRO HAC VICE ADMISSION PURSUANT TO 37 C.F.R. §42.10(C)

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.10(C), Therabody, Inc. ("Petitioner") respectfully requests that the Board recognize Bradley M. Berg as counsel *pro hac vice* in this proceeding. Petitioner's lead counsel in this proceeding is a registered practitioner and, as illustrated below, Mr. Berg is an experienced litigator with an established familiarity with this proceeding's subject matter. Thus, there is good cause for the Board to recognize Mr. Berg *pro hac vice* in this proceeding.

II. TIME FOR FILING

This Motion for Pro Hac Vice Admission is being filed no sooner than twenty one (21) days after service of the petition. *Unified Patents, Inc. v. Parallel Iron, LLC*, Case IPR2013-00639, Paper No. 7 (P.T.A.B. Oct. 15, 2013).

III. STATEMENT OF FACTS

This motion is authorized by the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response that was mailed on January 13, 2025 (Paper No. 3). Petitioner's lead and back-up counsel are registered practitioners.

Where lead counsel is a registered practitioner, the Board may permit a nonregistered practitioner to appear pro hac vice "upon a showing that counsel is an experienced litigating attorney and has established familiarity with the subject matter at issue in the proceeding." 37 C.F.R. §42.10(c); *Unified Patents*, Case

IPR2013-00639, Paper 7 (setting forth requirements for pro hac vice admission). As set forth in his Declaration submitted herewith (Ex. 1019), Mr. Berg is an experienced litigator. He is a Counsel with O'Melveny & Myers LLP with ten years of experience representing clients in patent and technology related litigation, including matters involving technology similar to that at issue in this proceeding.

Mr. Berg is familiar with the subject matter of this proceeding. He has reviewed and analyzed the patent at issue in this post grant review, U.S. Patent No. 11,938,082 ("the '082 Patent") as well as the prior art at issue in this proceeding. Specifically, he has assisted Petitioner in its district court litigation, *Hyper Ice, Inc. v. Therabody, Inc.*, Case No. 8:24-cv-00390-JWH-(DFMx) (C.D. Cal.), which involves the same patent and technology at issue in this PGR.

Based on his work for Petitioner in litigations and proceedings involving similar technologies, involvement with the petition in this proceeding, and the other facts detailed in his declaration, Mr. Berg has significant familiarity with the subject matter in this proceeding. Petitioner wishes to apply Mr. Berg's knowledge of the patent and litigation experience by employing him as counsel in this proceeding. Because Mr. Berg is an experienced practitioner with an established familiarity with the subject matter of this proceeding, Petitioner respectfully submits that there is good cause under 37 C.F.R. § 42.10(c) to recognize Mr. Berg as counsel pro hac vice during this proceeding.

IV. DECLARATION OF INDIVIDUAL SEEKING TO APPEAR

This motion for *Pro Hac Vice* Admission is supported by the accompanying Declaration of Bradley M. Berg (Ex. 1019), as required by Unified Patents, Case IPR2013-00639, Paper 7.

Respectfully Submitted,

/s/ *Marc J. Pensabene*
Marc J. Pensabene (Reg. No. 37,416)

UPDATED LIST OF EXHIBITS[1]

Ex. No.	Description
Ex-1001	U.S. Patent No. 11,938,082 ("the '082 Patent")
Ex-1002	Declaration of John D. Pratt, Ph.D., In Support of Petition for Post Grant Review of U.S. Patent No. 11,938,082
Ex-1003	Curriculum Vitae of Dr. John Pratt
Ex-1004	Prosecution History of the '082 Patent (Application No. 18/515,112)
Ex-1005	U.S. Patent No. 4,513,737 ("Mabuchi")
Ex-1006	U.S. Patent No. 6,432,072 ("Harris")
Ex-1007	U.S. Patent No. 6,682,496 ("Pivaroff")
Ex-1008	U.S. Patent Application Publication No. 2003/0195443 ("Miller")
Ex-1009	U.S. Patent Application Publication No. 2007/0150004 ("Colloca")
Ex-1010	Taiwanese Patent Number 9,720,7752U ("Wang")
Ex-1011	Certified English Translation of Wang
Ex-1012	U.S. Patent No. 2,550,775 ("Clark '775")
Ex-1013	Prosecution History of U.S. Patent No. 11,857,482 (Application No. 17/681,367)
Ex-1014	U.S. Patent No. 3,007,504 ("Clark")

[1] Four-digit pin citations that begin with 0 are to the page stamps added by Therabody in the bottom right corner of the exhibits. All other pin citations are to original page, column, paragraph, and/or line numbers.

Ex. No.	Description
Ex-1015	Hyperice's P.R. 4.2 Exchange of Claim Terms for Construction and Extrinsic Evidence, Hyper Ice Inc. v. Joicom Corporation, No. 8:24-cv-00098-JWH-DFM (C.D. Cal. Nov. 25, 2024)
Ex-1016	Defendant Therabody, Inc.'s First Amended P.R. 4-2 Identification of Preliminary Claim Constructions, Hyper Ice, Inc. et al v. Therabody, Inc., No. 8:24-cv-00390-JWH-DFM (C.D. Cal Dec. 17, 2024)
Ex-1017	Appendix B1 – Claim Mapping Chart
Ex-1018	Appendix B2 – Claim Mapping Chart
Ex-1019	Declaration of Bradley M. Berg In Support of Petitioner's Motion for Pro Hac Vice Admission Pursuant to 37 C.F.R. §42.10(C)
Ex-1020	Declaration of Brett J. Williamson In Support of Petitioner's Motion for Pro Hac Vice Admission Pursuant to 37 C.F.R. §42.10(C)

CERTIFICATE OF SERVICE

I hereby certify that on July 18, 2025, I caused a true and correct copy of the foregoing PETITIONER'S MOTION FOR PRO HAC VICE ADMISSION PURSUANT TO 37 C.F.R. §42.10(C) to be served electronically on counsel for Patent Owner at the following addresses:

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Dated: July 18, 2025

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