

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNDER ARMOUR, INC.
Petitioner,

v.

ADIDAS AG,
Patent Owner.

Case No. IPR2015-00698
U.S. Patent No. 8,092,345

**MOTION FOR *PRO HAC VICE* ADMISSION UNDER
37 C.F.R. § 42.10**

Petitioner Under Armour, Inc. (“Petitioner”) files this motion for *pro hac vice* admission under 37 C.F.R. § 42.10(c), as authorized in the Notice of Filing Date Accorded, Paper No. 3. The Board requires that such motions be filed in accordance with the “Order – Authorizing Motion for *Pro Hac Vice* Admission” in Case IPR2013-00639, Paper 7 (“Order”).

Petitioner respectfully requests that the Board recognize Mr. Zachary C. Garthe as counsel *pro hac vice* during this proceeding.

1. Time for Filing

This motion for *pro hac vice* admission is filed no sooner than twenty-one (21) days after service of the petition, as required by the Order.

2. Statement of Facts

The following statement of fact shows that there is good cause for the Board to recognize Mr. Garthe *pro hac vice*.

Mr. Garthe is an experienced litigation attorney, and has been involved in numerous litigations involving patent infringement in District Courts across the country. Mr. Garthe’s biography is attached hereto as Exhibit 1015.

U.S. Patent No. 8,092,345 is currently asserted in *adidas AG v. Under Armour et al.*, Case No. 14-130 (D. Del.) (“the co-pending litigation”). Mr. Garthe is counsel for Petitioner in the co-pending litigation and, as such, has an

established familiarity with the subject matter at issue in this proceeding. Petitioner wishes to continue using Mr. Garthe as counsel in this proceeding.

Further, counsel for Patent Owner does not oppose Mr. Garthe appearing *pro hac vice* during this proceeding.

Therefore, Petitioner respectfully submits that there is good cause for the Board to recognize Mr. Garthe as counsel *pro hac vice* during this proceeding.

3. Affidavit or Declaration of Individual Seeking to Appear

This Motion for *Pro Hac Vice* Admission is accompanied by the declaration of Mr. Zachary C. Garthe, as required by authorization of the Board.

Dated: March 11, 2016

Respectfully submitted,

/ Brian E. Ferguson /

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**DECLARATION OF MR. ZACHARY C. GARTHE IN SUPPORT
OF MOTION FOR *PRO HAC VICE* ADMISSION**

I, Zachary C. Garthe, am over eighteen years of age and would be competent to testify as to the matters set forth herein if called upon to do so.

1. I am an attorney in the law firm of Weil, Gotshal & Manges LLP. I have over two years of experience as a patent litigator and have represented clients in numerous patent litigation cases in various United States District Courts.

2. My educational and professional backgrounds make me familiar with the subject matter at hand. *See* Exhibit 1015. I am comfortable and experienced with technically and legally complex matters such as will be present in this proceeding.

3. I am a member in good standing of the state bar of Colorado and the bar of the District of Columbia.

4. I have not been suspended or disbarred from practice before any court or administrative body.

5. I have never had an application for admission to practice before any court or administrative body denied.

6. No sanction or contempt citation has been imposed against me by any court or administrative body.

7. I have 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.

8. I 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).

9. I have not applied to appear *pro hac vice* in any proceedings before the USPTO in the last three years.

10. I am familiar with the subject matter at issue in the proceeding. I am co-counsel for Petitioner in a co-pending litigation, *adidas AG v. Under Armour et al.*, Case No. 14-130 (D. Del.), in which U.S. Patent No. 8,092,345 is currently asserted. I therefore have an established familiarity with the subject matter at issue in this proceeding, including the prior art.

11. I am an experienced litigation attorney, with experience in numerous litigations involving patent infringement in District Courts across the country. My biography is attached hereto as Exhibit 1015.

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