

Paper No. _____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC.,
Petitioner,

v.

SPHERIX INC.,
Patent Owner

Case IPR2015-00999

Patent 7,397,763

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

Cisco Systems, Inc. respectfully moves that the Board recognize Mr. Michael De Vries and Mr. Adam Alper as counsel *pro hac vice* during this proceeding.

1. 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. *See* Notice of Filing Date, IPR2015-00999, paper no. 3, at 2.

2. Statement of Facts Showing Good Cause for Counsel *Pro Hac Vice*

Petitioner has been authorized to file motions seeking admission *pro hac vice* under 37 C.F.R. 42.10(c). *Id.* Petitioner's lead and back-up counsel are registered practitioners:

Lead Counsel: David L. McCombs, USPTO Reg. No. 32,271;

Backup Counsel: Theodore M. Foster, USPTO Reg. No. 57,456; and
Michael S. Parsons, USPTO Reg. No. 58,767.

The following statement of facts shows that there is good cause for the Board to recognize Mr. De Vries and Mr. Alper *pro hac vice* on behalf of Petitioner.

Mr. De Vries and Mr. Alper are experienced litigators that have established familiarity with the subject matter at issue in this proceeding from their representation of the Petitioner in *Spherix Inc. v. Cisco Systems Inc.*, Case No.

1:14-cv-00393-SLR (D. Del. filed March 28, 2014) (“the co-pending litigation”), where the '763 patent is being asserted against the Petitioner. The co-pending litigation involves the same subject patent, and if admitted, Mr. De Vries and Mr. Alper will be involved in the depositions that occur in this proceeding.

Mr. De Vries and Mr. Alper have analyzed prior art references and claim charts in connection with invalidity contentions and have been involved in forming claim construction positions related to the claimed inventions, all of which are relevant to this *inter partes* review proceeding. Petitioner wishes to apply Mr. De Vries's and Mr. Alper's knowledge of the patent by employing them as counsel in this proceeding. Admission of Mr. De Vries and Mr. Alper *pro hac vice* will enable Petitioner to avoid unnecessary expense and duplication of work between this proceeding and the co-pending litigation.

Petitioner's lead and backup counsel are registered practitioners and Mr. De Vries and Mr. Alper are experienced litigation attorneys having familiarity with the subject matter at issue in this proceeding. Therefore, Petitioner respectfully submits that there is good cause for the Board to recognize Mr. De Vries and Mr. Alper as counsel *pro hac vice* during this proceeding.

3. Declarations of Individuals Seeking to Appear

This Motion for *Pro Hac Vice* Admission is supported by the Declarations of Mr. De Vries and Mr. Alper (Exs. 1011 and 1012).

Respectfully submitted,

/David L. McCombs/
David L. McCombs
Registration No. 32,217

Dated: May 26, 2015

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Attorney Docket No.: 43614.255

PETITIONER'S UPDATED EXHIBIT LIST

May 26, 2015

- Ex. 1001 U.S. Patent No. 7,397,763 to Bradd
- Ex. 1002 Prosecution File History of U.S. Patent App. No. 10/034,521 (the parent of the '763 patent)
- Ex. 1003 Prosecution File History of U.S. Patent No. 7,397,763
- Ex. 1004 Declaration of Dr. Oliver Ibe under 37 C.F.R. § 1.68
- Ex. 1005 U.S. Patent No. 6,907,004 to Ramsey et al.
- Ex. 1006 Cisco Media Convergence Server 7830 Data Sheet, as archived by the Wayback Machine on Oct. 27, 2000, *available at* https://web.archive.org/web/20001027155717/http://www.cisco.com/warp/public/cc/pd/mxsv/mxcvsr/prodlit/mcs78_ds.htm
- Ex. 1007 Scott Keagy, INTEGRATING VOICE AND DATA NETWORKS (2000), selected pages
- Ex. 1008 U.S. Patent No. 7,260,060 to Abaye et al.
- Ex. 1009 Copyright record for Ex. 1007
- Ex. 1010 Dated version of Cisco Media Convergence Server 7830, Ex. 1006
- Ex. 1011 Declaration of Mr. Adam R. Alper in support of Motion for Pro Hac Vice Admission
- Ex. 1012 Declaration of Mr. Michael W. De Vries in support of Motion for Pro Hac Vice Admission

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