

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

HTC CORPORATION AND HTC AMERICA, INC.,

Petitioners,

v.

JOE ANDREW SALAZAR,

Patent Owner

Case IPR2018-00273

Patent 5,802,467

**PATENT OWNER'S MOTION FOR *PRO HAC VICE* ADMISSION OF
DARIUSH KEYHANI UNDER 37 C.F.R. § 42.10(c)**

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.10(c), Patent Owner Joe Andrew Salazar respectfully requests the *pro hac vice* admission of Dariush Keyhani in this proceeding. Petitioners do not oppose this motion.

II. GOVERNING LAW

37 C.F.R. § 42.10(c) governs motions for *pro hac vice* admission in IPR proceedings and provides that

The [USPTO Patent Trial and Appeal] 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. For example, where the 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 showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.

Motions for *pro hac vice* admission under 37 C.F.R. § 42.10(c) should be filed in accordance with the “Order Authorizing Motion for *Pro Hac Vice* Admission” entered in *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 (Oct. 15, 2013). In that Order, the Board explained that a motion for *pro hac vice* admission must (1) “[c]ontain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding” and (2) “[b]e accompanied by an affidavit or declaration of the individual seeking to appear attesting to the following:

- i. Membership in good standing of the Bar of at least one State or the District of Columbia;
- ii. No suspensions or disbarments from practice before any court or administrative body;

- iii. No application for admission to practice before any court or administrative body ever denied;
- iv. No sanctions or contempt citations imposed by any court or administrative body;
- v. The individual seeking to appear has read and will comply with the Office Patent Trial Practice Guide and 3 the Board's Rules of Practice for Trials set forth in part 42 of 37 C.F.R.;
- vi. The individual 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);
- vii. All other proceedings before the Office for which the individual has applied to appear *pro hac vice* in the last three (3) years; and
- viii. Familiarity with the subject matter at issue in the proceeding.”

III. GOOD CAUSE EXISTS FOR ADMITTING MR. KEYHANI *PRO HAC VICE* IN THIS PROCEEDING

“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.” 37 C.F.R. § 42.10(c). Patent Owner's lead counsel, Jennifer Meredith, is a registered practitioner (Reg. No. 47,790).

Further, based on the facts set forth in this motion, as supported by Mr. Keyhani's Declaration, there is good cause to admit Mr. Keyhani *pro hac vice* in this proceeding. Mr. Keyhani is litigation counsel representing Patent Owner Joe Andrew Salazar in parallel proceedings in federal district court for infringement of the patent claims and also defending the validity of the claims for counterclaims for invalidity brought by Petitioner HTC Corporation. For over two years, Mr. Keyhani has been preparing and prosecuting this case and has been involved

consistently and substantively in this matter. He has read in detail and understands the challenged patent, U.S. Patent No. 5,802,467 (which covers a “Wireless and Wired Communications, Command, Control and Sensing System for Sound and/or Data Transmission and Reception”), and he has reviewed in detail all of the exhibits in this proceeding. During this time, Mr. Keyhani has studied the patent specification comprehensively and worked closely with the client/inventor to learn the patent and patent technology. He has also worked with technical experts in understanding and learning the technology and the claims of the patent. Additionally, Mr. Keyhani has worked closely and extensively with co-counsel Jennifer Meredith, who is an engineer.

Thus, Mr. Keyhani has an established familiarity with the subject matter at issue in this proceeding as well as significant litigation experience and expertise. Accordingly, good cause exists to admit Mr. Keyhani *pro hac vice* in this proceeding.

IV. STATEMENT OF MATERIAL FACTS

Based on the following facts, which are supported by the Declaration of Dariush Keyhani, filed concurrently with this motion, Patent Owner requests that Mr. Keyhani be admitted *pro hac vice* in this proceeding:

- i. Patent Owner’s lead counsel, Jennifer Meredith, is a registered practitioner (Reg. No. 47,790) (Exh. ¶ 13).
- ii. Mr. Keyhani is a member of the law firm of Meredith & Keyhani, PLLC (*id.* ¶ 1).
- iii. Mr. Keyhani is a member in good standing of the bar of the State of New Jersey. He is also admitted to the bars of the United States District Court for the Southern, Eastern, and Western Districts of New York, the United States District Court for New Jersey, the Second Circuit Court of Appeals, and the Federal Circuit Court of

Appeals. He is regularly admitted *pro hac vice* in federal courts throughout the United States (*id.* ¶ 2).

- iv. Mr. Keyhani is an experienced patent litigation attorney. He has been a patent litigation attorney for more than 15 years. He has been litigating patent cases during this entire time period and has been lead litigation and trial counsel in over two dozen patent infringement cases (*id.* ¶ 3).
- v. Mr. Keyhani is regularly admitted *pro hac vice* in federal courts throughout the United States (*id.* ¶ 5).
- vi. Mr. Keyhani is currently in good standing with all states, courts, and bars in which he is admitted (*id.* ¶ 6).
- vii. Mr. Keyhani has never been suspended or disbarred from practice before any court or administrative body (*id.* ¶ 7).
- viii. No application of Mr. Keyhani for admission to practice before any court or administrative body has ever been denied (*id.* ¶ 8).
- ix. No sanctions or contempt citations have ever been imposed against Mr. Keyhani by any court or administrative body (*id.* ¶ 9).
- x. Mr. Keyhani 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.* ¶ 10).
- xi. Mr. Keyhani understands that he will be subject to the 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.* ¶ 11).

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