

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AVI NETWORKS, INC.,
Petitioner,

v.

CITRIX SYSTEMS, INC.,
Patent Owner.

Case IPR2019-00844 (Patent 8,631,120 B2)
Case IPR2019-00845 (Patent 9,148,493 B2)¹

Before JUSTIN T. ARBES, PATRICK M. BOUCHER, and
FREDERICK C. LANEY, *Administrative Patent Judges*.

LANEY, *Administrative Patent Judge*.

DECISION
Granting Petitioner's Motions for
Pro Hac Vice Admission of Josh Krevitt
37 C.F.R. § 42.10(c)

¹ This Decision addresses issues pertaining to both cases. Therefore, we exercise our discretion to issue a single Decision to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

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In each of the instant proceedings, Petitioner filed a motion requesting *pro hac vice* admission of Josh Krevitt, a supporting declaration from Mr. Krevitt, and an updated power of attorney.² Patent Owner did not file an opposition to either motion. For the reasons stated below, Petitioner’s motions are *granted*.

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). For example, where the lead counsel is a registered practitioner, a non-registered practitioner may be permitted to appear *pro hac vice* “upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.” *Id.* In authorizing motions for *pro hac vice* admission, the Board requires the moving party to provide a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* and an affidavit or declaration of the individual seeking to appear. Paper 5, 2 (citing *Unified Patents, Inc. v. Parallel Iron, LLC*, Case IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7) (“Order – Authorizing Motion for *Pro Hac Vice* Admission”)).

In the motions, Petitioner asserts that there is good cause for *pro hac vice* admission because (1) Mr. Krevitt is an experienced litigation attorney

² Petitioner filed similar papers and exhibits in each of the instant proceedings. See IPR2019-00844, Papers 16 (“Mot.”), 3; IPR2019-00845, Papers 16, 3. We refer to those filed in Case IPR2019-00844 for convenience. Petitioner also filed each motion and declaration as a single paper in the Patent Trial and Appeal Board End to End (PTAB E2E) system. The parties are reminded that declarations must be filed as exhibits, rather than papers, and referenced by exhibit number. See 37 C.F.R. § 42.63.

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with experience in numerous patent infringement litigations, and (2) Mr. Krevitt is counsel for Patent Owner in co-pending litigation, *Citrix Systems, Inc. v. Avi Networks, Inc.*, Case No. 17-1843-LPS (D. Del.), and, as such, has an established familiarity with the subject matter at issue in these proceedings. See Mot. 2–3. Mr. Krevitt attests to these facts in his declarations with sufficient explanations. See *id.* 5–6.

Based on the facts set forth above, we conclude that Mr. Krevitt has sufficient legal and technical qualifications to represent Petitioner in these proceedings and that there is a need for Petitioner to have its counsel in the related litigation involved in these proceedings. See IPR2013-00639, Paper 7 (setting forth the requirements for *pro hac vice* admission). Accordingly, Petitioner has established good cause for the *pro hac vice* admission of Mr. Krevitt. Mr. Krevitt will be permitted to appear *pro hac vice* in the instant proceedings as back-up counsel only. See 37 C.F.R. § 42.10(c).

In consideration of the foregoing, it is hereby:

ORDERED that Patent Owner’s motions for *pro hac vice* admission of Mr. Krevitt in the instant proceedings are granted, and Mr. Krevitt is authorized to represent Petitioner as back-up counsel only in the instant proceedings;

FURTHER ORDERED that Petitioner is to continue to have a registered practitioner as lead counsel in the instant proceedings;

FURTHER ORDERED that Mr. Krevitt is to comply with the Office Patent Trial Practice Guide and the Board’s Rules of Practice for Trials, as set forth in Title 37, Part 42 of the Code of Federal Regulations; and

FURTHER ORDERED that Mr. Krevitt is subject to the USPTO

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Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101–11.901 and the Office’s disciplinary jurisdiction under 37 C.F.R. § 11.19(a).

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PETITIONER:

Y. Ernest Hsin
EHsin@gibsondunn.com

Ryan Iwahashi
RIwahashi@gibsondunn.com

PATENT OWNER:

Stephen J. Tytran
stephen.tytran@citrix.com

Lesley A. Hamlin
lesley.hamlin@citrix.com