

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DATASPEED INC.,

Petitioner,

v.

SUCXESS LLC,

Patent Owner.

Case IPR2020-00116

Patent 9,871,671

**PATENT OWNER'S MOTION FOR *PRO HAC VICE* ADMISSION OF
MAXWELL GOSS**

Pursuant to 37 C.F.R. § 42.10(c), Patent Owner Success LLC (“Patent Owner”) respectfully requests the *pro hac vice* admission of attorney Maxwell Goss in this proceeding. Patent Owner has conferred with Petitioner Dataspeed Inc. (“Petitioner”), and Petitioner does not oppose this motion.

I. Applicable Rules

The Board may recognize counsel *pro hac vice* during an *inter partes* review 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 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.” *Id.* The PTAB set forth the required contents of a motion for admission *pro hac vice* in *Unified Patents, Inc. v. Parallel Iron, LLC*, Case IPR2013-00639, Paper 7 (“Order – Authorizing Motion for Pro Hac Vice Admission – 37 C.F.R. §42.10”) (PTAB Oct. 15, 2013). Such a motion must contain a statement of facts showing good cause for the Board to recognize counsel *pro hac vice* during the proceeding, and must be accompanied by a declaration or affidavit of the individual seeking *pro hac vice* admission attesting to the

following: (1) membership in good standing of the Bar of at least one State or the District of Columbia; (2) no suspensions or disbarments from any practice before any court or administrative body; (3) no application for admission to practice before any court or administrative body ever denied; (4) no sanctions or contempt citations imposed by any court or administrative body; (5) the individual seeking to appear 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.; (6) 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); (7) all other proceedings before the Office for which the individual has applied to appear *pro hac vice* in the last three (3) years; and (8) familiarity with the subject matter at issue in the proceeding. *Id.* at 3.

II. Statement of Facts Showing Good Cause

Petitioner filed its Petition for Inter Partes Review on October 31, 2019. The Petition relates to U.S. Patent No. 9,871,671 ("671 Patent"). Lead counsel for Patent Owner, Bernd Axel Nix, is a registered practitioner (Reg. No. 59184). Maxwell Goss seeks admission *pro hac vice* on behalf of Patent Owner. As set forth herein and in the accompanying Declaration of Maxwell Goss in Support of Motion to Appear *Pro Hac Vice* ("Goss Decl.," Exhibit 2001), the facts here

establish good cause for the Board to recognize Mr. Goss pro hac vice in this proceeding.

Mr. Goss is a member in good standing of the State Bar of Michigan (Bar No. P78594). and the State Bar of Texas (Bar No. 24069813). Mr. Goss is also a member in good standing of the United States District Court for the Eastern District of Michigan; the United States District Court for the Western District of Michigan; the United States District Court for the Eastern District of Texas; the United States District Court for the Western District of Texas; the United States District Court for the Northern District of Texas; the United States District Court for the Southern District of Texas; the United States District Court for the District of Colorado; the United States District Court for the Northern District of Illinois; the United States District Court for the Northern District of Ohio; and the United States Court of Appeals for the Sixth Circuit. *See* Exhibit 2001, ¶ 2.

Mr. Goss has never been suspended or disbarred from practice before any court or administrative body. *See* Exhibit 2001, ¶ 3. None of Mr. Goss' applications for admission to practice before any court or administrative body have ever been denied. *See id.*, ¶ 4. Mr. Goss has not been sanctioned nor has he had a contempt citation imposed on him by any court or administrative body. *See id.*, ¶ 5.

Mr. Goss has declared that he has read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trial set forth in part 42 of 37 C.F.R. *See* Exhibit 2001, ¶ 6. Mr. Goss has acknowledged and agrees that he 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). *See id.*, ¶ 7. Mr. Goss has not applied to appear *pro hac vice* before the Patent Trial and Appeal Board in the last three years. *See id.*, ¶ 8.

Mr. Goss has been a practicing attorney for ten years in the area of patent litigation. He has been involved in numerous patent infringement cases in district courts across the country, including the United States District Courts for the Eastern District of Texas, the Northern District of California, the District of Delaware, the District of Colorado, the District of Minnesota, and elsewhere. He has worked with infringement, validity, claim construction, fact and expert discovery, and other issues. *See* Exhibit 2001, ¶ 9.

Mr. Goss is familiar with the subject matter at issue. He represented Patent Owner in *Sucxess LLC v. Voyage Auto, Inc.*, Civil Action No. 1:19-cv-00679, in the United States District Court for the District of Delaware, which related to U.S. Patent No. 9,871,671, the patent at issue in this proceeding. Mr. Goss represents the Patent Owner in five lawsuits now pending in the United States District Court

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