

Petitioner's Motion for *Pro Hac Vice* Admission
of Matthew G. McAndrews under 37 C.F.R. § 42.10(c)
Post Grant Review of U.S. Pat. No. D799,100
Case No. PGR2018-00073

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LEVITATION ARTS INC.,

Petitioner

v.

FLYTE LLC,

Patent Owner

Case PGR2018-00073

Patent D799,100

**PETITIONER'S MOTION FOR *PRO HAC VICE* ADMISSION OF
MATTHEW G. McANDREWS UNDER 37 C.F.R. § 42.10(c)**

I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c), Petitioner Levitation Arts, Inc. (“Petitioner” or “Levitation Arts”), by and through its attorneys, respectfully requests that the Board admit Matthew G. McAndrews *pro hac vice* in this proceeding.

II. GOVERNING LAW, RULES, AND PRECEDENT

37 C.F.R. § 42.10(c) states as follows:

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. 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.

Further, the Board requires that a motion for *pro hac vice* admission be filed in accordance with the “Order – Authorizing Motion for *Pro Hac Vice* Admission” in Case IPR2013-00639, Paper 7 (“Representative Order”). The Representative Order states that the motion must “[c]ontain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceedings,”

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and “[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 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. STATEMENT OF FACTS

Based on the following statement of facts, and supported by the Declaration of Matthew G. McAndrews submitted herewith, Levitation Arts submits that a showing of good cause has been made and respectfully requests the *pro hac vice* admission of Matthew G. McAndrews in this proceeding:

1. Petitioner's lead counsel, Brian P. Lynch, is a registered practitioner (Reg. No. 58,794).
2. Mr. McAndrews is a partner of the law firm of Niro McAndrews, LLP. Declaration of Matthew G. McAndrews in Support of Motion for *Pro Hac Vice* Admission.
3. Mr. McAndrews is an experienced intellectual property litigation attorney, and particularly, patent litigation, with over twenty-three years of experience and has litigated over 100 intellectual property cases. *Id.* at ¶8.
4. Mr. McAndrews is a member in good standing of the Illinois State Bar. *Id.* at ¶1.
5. Mr. McAndrews has never been suspended or disbarred from practice before any court or administrative body. *Id.* at ¶2.

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6. No application for admission filed by Mr. McAndrews to the bar of any court or administrative body has ever been denied. *Id.* at ¶3.
7. No sanctions or contempt citations have been imposed against Mr. McAndrews by any court or administrative body. *Id.* at ¶4.
8. Mr. McAndrews has read and agrees to comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in part 42 of Title 37 of the C.F.R. *Id.* at ¶5.
9. Mr. McAndrews understands that he will be subject to the United States Patent and Trademark Office Code of Professional Responsibility set forth in 37 C.F.R. §§ 11.101 *et seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a). *Id.* at ¶6.
10. Mr. McAndrews has not sought *pro hac vice* admission in any other proceeding before the Board within the last three (3) years.
11. Mr. McAndrews has an established familiarity with the subject matter at issue in this proceeding. Mr. McAndrews has represented Petitioner with respect to the Petitioner's intellectual property on levitating objects since May of 2016.
12. Mr. McAndrews has engaged closely in various aspects of the case, and as a result, Mr. McAndrews has acquired substantial understanding of the

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