

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent No. 8,121,904

Filed: October 11, 2009

IPR2013-00176

Issued: February 21, 2012

Attorney Docket No.: 105263.00021

Inventor(s): Johnson, Jerome D.

Assignee: Clear With Computers, LLC

Title: ELECTRONIC PROPOSAL PREPARATION SYSTEM

Mail Stop PATENT BOARD, PTAB
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**PETITIONER'S UNOPPOSED MOTION FOR ADMISSION *PRO HAC*
VICE OF JOHN W. MOSS PURSUANT TO 37 C.F.R. §42.10**

Pursuant to 37 C.F.R. §42.10 and in accordance with the Board’s “Order -- Authorizing Motion for Pro Hac Vice Admission,” in Case IPR2013-00010 (MPT) (the “Authorizing Order”), Petitioner Hyundai Motor America, Inc. (“Hyundai”) requests that the Board recognize John W. Moss as counsel *pro hac vice* for the above-captioned proceeding. Petitioner has conferred with counsel for Patent Owner and Patent Owner does not oppose this motion.

I. STATEMENT OF FACTS

Pursuant to 37 C.F.R. §42.10(c), 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.

37 C.F.R. §42.10(c). As required by the Authorizing Order, the following statement of facts shows there is good cause for the Board to recognize John W. Moss *pro hac vice*.

Mr. Moss is an experienced litigating attorney with over 15 years of experience. His biography is attached (Exhibit 1) to his accompanying declaration (Exhibit A). He has been litigating patent infringement matters in the United States District Courts since 2009. *See* Exh. A, ¶ 2.

Mr. Moss received his J.D., with honor, and a Certificate in Health Law from DePaul University College of Law in 1995. *Id.*, ¶ 4. Mr. Moss entered private practice in 1995 with Lord, Bissell and Brook and joined Winston & Strawn in 1998, where he has practiced since. *Id.*

Mr. Moss is a member in good standing of the Illinois and District of Columbia Bars, with no suspensions or disbarments from practice, nor any application for admission to practice denied, or any sanctions or contempt citations. *Id.*, ¶¶ 6-8. He is admitted to practice before the United States Court of Appeals for the Seventh Circuit and the United States District Courts for the Northern District of Illinois, Eastern District of Wisconsin, Southern District of Indiana, and Eastern District of Texas. *Id.*, ¶ 3.

Mr. Moss has intimate familiarity with the subject matter at issue in this proceeding based on his work over the past 4 years as counsel to Petitioner in the pending district court case *Clear with Computers LLC v. Hyundai Motor America, Inc.*, C.A. No. 6:09-cv-00479 (E.D. Tex), which involves the immediate parent to the patent-at-issue in this proceeding. Mr. Moss has been actively involved in all aspects of that district court case, including the issue of validity of that patent. Further, Mr. Moss is also counsel to Petitioner in the pending district court case *Clear with Computers LLC v. Hyundai Motor America, Inc.*, C.A. No. 6:12-cv-00077 (E.D. Tex), which involves the patent-at-issue in this proceeding. *Id.*, ¶ 11.

Mr. Moss has read and will comply with the Office Patent Trial Practice Guide and the Board's Rules for Practice for Trials set forth in part 42 of the C.F.R, and he agrees to be subject to the USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§10.20 *et seq.*, and to disciplinary jurisdiction under 37 C.F.R. §11.19(a). *Id.*, ¶¶ 12-13. Mr. Moss has not applied to appear *pro hac vice* in any other proceedings before the Office in the last three (3) years. *Id.*, ¶ 14. Finally, Petitioner will be concurrently represented by registered practitioners Michael J. Scheer and Matthew B. Weinstein, who each have extensive experience with PTO practice and procedure.

II. ANALYSIS

The facts contained in the Statement of Facts above, and contained in Mr. Moss's Declaration, establish that there is good cause to recognize Mr. Moss *pro hac vice* in this proceeding under 37 C.F.R. §42.10. Lead and backup counsel are registered practitioners, Mr. Moss is an experienced litigating attorney, and Mr. Moss has an established familiarity with the subject matter at issue in the proceeding.

III. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Board recognize John W. Moss as counsel *pro hac vice* in this proceeding.

Respectfully submitted,

Date: May 7, 2013

_____/Michael J. Scheer/_____
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EXHIBIT A

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**DECLARATION OF JOHN W. MOSS IN SUPPORT OF
PETITIONER HYUNDAI MOTOR AMERICA, INC.'S MOTION
FOR ADMISSION *PRO HAC VICE* OF JOHN W. MOSS
PURSUANT TO 37 C.F.R. §42.10**

I, John W. Moss, declare as follows:

1. I am an experienced litigating attorney with more than 15 years of experience.
2. I have been litigating patent cases since 2009.
3. I am a member in good standing of the Illinois and District of Columbia Bars and am admitted to practice before the United States Court of

Appeals for the Seventh Circuit and the United States District Courts for the Northern District of Illinois, Eastern District of Wisconsin, Southern District of Indiana, and Eastern District of Texas.

4. I received my J.D., with honor, and a Certificate in Health Law from DePaul University College of Law in 1995. I entered private practice in 1995 with Lord, Bissell and Brook and joined Winston & Strawn in 1998, where I have practiced since.

5. A copy of my firm biography is attached as Exhibit 1.

6. I have never been suspended or disbarred from practice before any court or administrative body.

7. I have never had an application for admission to practice before any court or administrative body denied.

8. I have had no sanctions or contempt citations imposed against me by any court or administrative body.

9. I am familiar with the subject matter at issue in this proceeding, including the patent-at-issue.

10. I am counsel for Petitioner in the pending district court case *Clear with Computers LLC v. Hyundai Motor America, Inc.*, C.A. No. 6:09-cv-00479 (E.D. Tex), which involves the immediate parent to the patent-at-issue in this

proceeding. I have been actively involved in all aspects of that district court case, including the issue of validity of that patent. That case remains on appeal.

11. I am also counsel to Petitioner in the pending district court case *Clear with Computers LLC v. Hyundai Motor America, Inc.*, C.A. No. 6:12-cv-00077 (E.D. Tex), which involves the patent-at-issue in this proceeding.

12. I have 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 the C.F.R.

13. I agree to be subject to the USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§10.20 *et seq.*, and to disciplinary jurisdiction under 37 C.F.R. §11.19(a).

14. I have not applied to appear *pro hac vice* in any proceeding before the Office in the last three (3) years.

15. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.



Dated: May 7, 2013

By: _____

John W. Moss

EXHIBIT 1



John W. Moss, Partner

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Related Legal Services

Class Actions
Patent Litigation
Complex Commercial Litigation
Insurance Coverage
Product Liability
Health Care

Related Industries

Health Care
Consumer Products and Services
Manufacturing
Pharmaceuticals and Medical
Devices

Law School

DePaul University
JD, 1995

Admissions

Illinois
District of Columbia

Court Admissions

Northern District of Illinois
Eastern District of Wisconsin
Southern District of Indiana
Eastern District of Texas
USCA - 7th Circuit

John Moss is a litigation partner in the firm's Washington, D.C. office who represents clients in state and federal courts throughout the United States. He focuses his practice on patent litigation; mass tort pharmaceutical litigation; consumer fraud class actions; high-stakes product liability litigation; and regulatory compliance counseling (CPSA, FHSA, NHTSA, FDA). Since 2000, Mr. Moss has served as national products liability counsel for global consumer-electronics and appliance manufacturers LG Electronics and Zenith. Other representative clients include Hyundai Motor America, Sony Electronics, Pfizer Inc., Wyeth Pharmaceuticals, Abbott Laboratories, and LeapFrog Enterprises Inc.

Mr. Moss' recent patent litigation engagements include representation of Hyundai Motor America in the E.D. of Texas related to its consumer Web sites and customer relationship management systems. Recent pharmaceutical company engagements include the defense of False Claims Act whistleblower litigation arising from alleged off-label drug promotion and the defense of bellwether product liability trials related to nationwide mass tort claims by thousands of plaintiffs who allege that prescription hormone products cause cancer.

Mr. Moss also provides compliance counseling related to the Consumer Product Safety Act (as amended by the CPSIA in 2008), the Federal Hazardous Substances Act, the National Highway Transportation Safety Act, FDA matters, and litigation risk management, generally, to a variety of clients in the automotive, electronics, appliance, toy, furniture, drug/device, and textile industries.

Activities

Mr. Moss is a member of the American Intellectual Property Law Association; the American Bar Association (Intellectual Property, Antitrust, and Tort and Insurance sections); the Defense Research Institute (Product Liability, Fire and Casualty, Class Action, Drug and Medical Device, Antitrust sections); the National Association of Manufacturers; and the U.S. China Business Council.

Education

Mr. Moss received a B.A. from Northwestern University in 1986. He received a J.D., with honor, and a Certificate in Health Law from DePaul University College of Law in 1995. Mr. Moss was a member of the *DePaul Law Review*, served as articles editor for the *Journal of Health and Hospital Law*, and was elected to the Order of the Coif. Since 2008, Mr. Moss has been enrolled in The George Washington University Law School's Intellectual Property LLM program.

Speeches and Publications

Mr. Moss' recent articles include "Addressing Ambiguities Under the CPSIA," *Law 360 Product Liability Section*, September 2008; "The Perfect Storm: New Consumer Protection Law Promises a Rough Ride," *Corporate Counselor*, December 2008; "Navigating New Hazards—Increased Risk of Criminal Liability Under the CPSIA," *Law 360 Product Liability Section*, Dec. 10 2008; "Consequences of the Consumer Product Safety Improvement Act of 2008," *Executive Counsel*, January 2009; "New State Product Labeling Laws – Preempted?," *Law 360 Product Liability Section*, April 2009.

His recent speaking engagements include "Product Safety & Liability—Minimizing Manufacturers' Exposure," December 2008, Chinese Manufacturers' Association of Hong Kong, Hong Kong; "Product Safety & Liability 2008—Meeting and Managing The Challenges of Product Safety in China," December 2008, Shanghai, China; "2008 Consumer Product Safety Improvement Act (CPSIA) Update," February 2009, W&S Webinar; "Product Safety Compliance—Recreational Products Specialized Litigation Group," Defense Research Institute Annual Products Liability Conference, April 2009, San Diego; "Effect of State and Foreign Regulation of Product Safety," AHAM Product Safety and Liability Conference, October 2009, Washington D.C.; "Product Liability Crises Management," July 2010, Beijing, China.

**CERTIFICATE OF SERVICE ON PATENT OWNER
UNDER 37 C.F.R. § 42.6(e)**

Pursuant to 37 C.F.R. §§ 42.6(e), the undersigned certifies that on the 7th day of May 2013 a complete and entire copy of the foregoing MOTION FOR ADMISSION PRO HAC VICE OF JOHN W. MOSS PURSUANT TO 37 C.F.R. §42.10 and supporting exhibits were provided, per the parties' agreement, via electronic means to the Patent Owner by serving Patent Owner's counsel of record.

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Respectfully submitted,

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Attorneys for Hyundai