

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Facebook, Inc.
Petitioner

v.

Rembrandt Social Media, L.P.
Patent Owner

U.S. Patent No. 6,415,316
Filing Date: September 1, 1998
Issue Date: July 2, 2002

Inter Partes Review No. 2014-00415

Mailed: April 17, 2014

TITLE: METHOD AND APPARATUS FOR IMPLEMENTING A WEB PAGE DIARY

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

Petitioner Facebook, Inc. respectfully requests that the Board recognize Mark R. Weinstein, Esq., as counsel pro hac vice during this proceeding.

I. BACKGROUND

Petitioner's Motion for Pro Hac Vice Admission is being filed in compliance with and pursuant to the "Order—Authorizing Motion for Pro Hac Vice Admission" in Case No. IPR2013-00639 ["the Order"].

II. STATEMENT OF FACTS

As required by the Order, the following statement of facts shows that there is good cause for the Board to recognize Mr. Weinstein pro hac vice.

Mr. Weinstein is an experienced litigation attorney and has been involved in numerous complex litigations in state and federal courts. Mr. Weinstein's biography is attached hereto as Exhibit 1014.

Mr. Weinstein has reviewed U.S. Patent No. 6,415,316, and the petition already filed in this proceeding. Further, Mr. Weinstein is counsel of record in the pending litigation between the parties entitled *Rembrandt Social Media, L.P. v. Facebook, Inc.*, Case No. 13-cv-00158 TSE, pending in the United States District Court for the Eastern District of Virginia; and, as such, is familiar with the subject matter at issue in this proceeding.

Therefore, Petitioner respectfully submits that there is good cause for the Board to recognize Mr. Weinstein as counsel pro hac vice during this proceeding.

III. AFFIDAVIT OR DECLARATION OF INDIVIDUAL SEEKING TO APPEAR

Petitioner's Motion for Pro Hac Vice Admission is accompanied by an Affidavit of Mark R. Weinstein as required by the Order.

Respectfully submitted,

DATED: April 17, 2014

/Heidi Keefe/
Heidi Keefe
Registration No. 40,673
Counsel for Petitioner

Cooley LLP
ATTN: Patent Group
1299 Pennsylvania Ave., NW, Suite 700
Washington, DC 20004
Tel: (650) 843-5001
Fax: (650) 849-7400

**AFFIDAVIT OF MARK R. WEINSTEIN IN SUPPORT OF
MOTION FOR PRO HAC VICE ADMISSION**

I, Mark R. Weinstein, being duly sworn and upon oath, hereby attest to the following:

1. I am a member in good standing of the Bar of California as well as the U.S. District Court for the Northern District of California, U.S. District Court for the Central District of California, U.S. District Court for the Southern District of California, U.S. District Court for the Eastern District of Texas, Federal Circuit Court of Appeals, and Ninth Circuit Court of Appeals.

2. I have not been suspended or disbarred from practice before any court or administrative body.

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

4. No sanction or contempt citation has been imposed against me by any court or administrative body.

5. 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.

6. I 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. I have applied to appear pro hac vice in docket numbers IPR2013-00478, IPR2013-00479, IPR2013-00480, IPR2013-481, IPR2014-00052, IPR2014-00053, IPR2014-00093, and IPR2014-00242. I have not applied to appear pro hac vice before the Office in any other proceeding in the last three (3) years.

8. I am an experienced litigation attorney with experience with complex litigation in both state and federal courts. I am familiar with the subject matter at issue in this proceeding, including the prior art on which Petitioners rely in this request and U.S. Patent No. 6,415,316. I have also reviewed the pertinent issues of claim construction that have been briefed in this proceeding.

DATED: April 17, 2014



Mark R. Weinstein
COOLEY LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2150
T: 650-843-5007
F: 650-849-7400
mweinstein@cooley.com

CALIFORNIA JURAT WITH AFFIANT STATEMENT

- ☒ See Attached Document (Notary to cross out lines 1-6 below)
☐ See Statement Below (Lines 1-5 to be completed only by document signer[s], *not* Notary)

1 _____
2 _____
3 _____
4 _____
5 _____
6 _____

Signature of Document Signer No. 1 _____ Signature of Document Signer No. 2 (if any) _____

State of California

County of Santa Cruz

Subscribed and sworn to (or affirmed) before me on this

17th day of APRIL, 20 14, by
Date Month Year

(1) MARK R. WINSTEIN,
Name of Signer

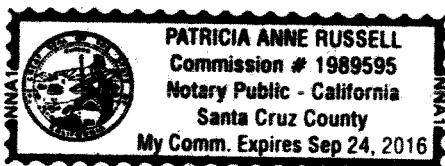
proved to me on the basis of satisfactory evidence
to be the person who appeared before me (.) ✓

(and

(2) _____,
Name of Signer

proved to me on the basis of satisfactory evidence
to be the person who appeared before me.)

Signature Patricia Anne Russell
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Further Description of Any Attached Document

Title or Type of Document: AFFIDAVIT TO MTR PROTECT VICE

Document Date: 4/17/14 Number of Pages: 4

Signer(s) Other Than Named Above: _____

RIGHT THUMBPRINT
OF SIGNER #1
Top of thumb here

RIGHT THUMBPRINT
OF SIGNER #2
Top of thumb here

MARK WEINSTEIN
PARTNER



OFFICE:

Palo Alto—Hanover Campus
3175 Hanover Street
Palo Alto, California
94304

T: +1 650 843 5007
F: +1 650 849 7400
E: mweinstein@cooley.com

PRACTICES:

Intellectual Property
Intellectual Property Litigation
Trademark, Copyright & Advertising

Mark Weinstein is a partner in the Cooley Litigation department and member of the Intellectual Property practice group. He joined the Firm in 2009 and is resident in the Palo Alto office.

Mr. Weinstein's practice focuses on patent and other complex technology-related disputes. He has handled a number of high-stakes litigations throughout the United States involving a variety of technologies, including computer software and hardware, Internet applications, electronic transactions, e-commerce, computer networking, entertainment software, and medical devices.

Representative cases include:

Patents

- **Facebook, Inc.** Mark has represented and is representing Facebook in more than a dozen patent infringement actions, including *Yahoo! Inc. v. Facebook, Inc.* (N.D. Cal.), *Leader Technologies, Inc. v. Facebook, Inc.* (D. Del.), *Tele-Publishing, Inc. v. Facebook, Inc.* (D. Mass.), *Mekiki Co., Ltd. v. Facebook, Inc.* (D. Del.), *Cross-Atlantic Capital Partners, Inc. v. Facebook, Inc.* (E.D. Pa.), *Unified Messaging Solutions LLC v. Facebook, Inc.* (E.D. Tex.), *Walker Digital, LLC v. Facebook, Inc.* (D. Del.), and several others.
- **HTC Corporation and HTC America.** Mark has defended and is currently defending HTC in several patent litigations including *HTC v. Technology Properties Ltd.* (N.D. Cal.), *Digitude Innovations LLC v. HTC* (D. Del. and U.S. ITC), *ADC Technology, Inc. v. HTC et al.* (N.D. Ill.), *Microunity Systems Eng'g v. HTC et al.* (E.D. Tex.) and *BandSpeed, Inc. v. HTC Corp. et al.* (W.D. Tex), *SP Technologies, Ltd. v. HTC et al.* (N.D. Ill.), *Implicit Networks, Inc. v. HTC* (N.D. Cal.), and several others.
- **LinkedIn Corporation.** Mark is representing LinkedIn in *Jaipuria v. LinkedIn Corp. et al.* (E.D. Tex.) and *Cathas Advanced Technologies LLC v. LinkedIn Corp.* (D. Del.)
- **EMC Corporation.** In *Hewlett-Packard Company et al. v. EMC Corporation* (N.D. Cal.), Mr. Weinstein represented EMC in a patent infringement suit involving thirteen patents relating to mass data storage systems, servers and printers. HP initiated the lawsuit by suing EMC for alleged infringement of seven patents. EMC counterclaimed against HP with six of its own patents. Following claim construction proceedings and motion practice, the case settled with HP agreeing to pay EMC more than \$325 million, one of the largest patent settlements on record.

- **In-Three, Inc.** In *IMAX Corporation v. In-Three, Inc.* (C.D. Cal.), Mr. Weinstein defended In-Three in a patent infringement suit involving software for producing three dimensional motion pictures. In-Three defeated a motion for preliminary injunction filed by IMAX that threatened to shut down In-Three's operations.
- **eBay Inc.** In *Tumbleweed Communications Corp. v. eBay, Inc. et al.* (N.D. Cal.), Mr. Weinstein defended eBay and its subsidiary PayPal against allegations of infringement of three software patents related to electronic financial transactions. The case settled on favorable terms during the pendency of a summary judgment motion filed by eBay and PayPal that sought to invalidate Tumbleweed's patents in light of the prior art.

Trade Secrets

- **Cirrus Logic, Inc.** In *Silvaco Data Systems v. Cirrus Logic, Inc.* (Santa Clara Sup. Ct.), Mark represented Cirrus Logic in a trade secret lawsuit involving Electronic Design Automation technology. Cirrus Logic obtained summary judgment that it did not misappropriate any of the plaintiff's trade secrets, which was affirmed on appeal.
- **Alstom ESCA Corporation.** In *ABB Power T&D Company v. Alstom ESCA Corporation et al.* (N.D. Cal.), Mr. Weinstein was a member of a team representing Alstom in a six week federal jury trial involving claims for trade secret misappropriation, copyright infringement, breach of contract and a variety of business torts, which resulted in a unanimous verdict exonerating the client from liability. The technologies in the case related to hardware and software systems for the electric power industry.
- **Advanced Modular Sputtering (AMS).** In *Sputtered Films, Inc. v. Advanced Modular Sputtering, Inc. et al.* (Santa Barbara Sup. Ct.), Mr. Weinstein represented AMS in a trade secret case involving PVD sputtering technologies. The case generated an oft-cited decision clarifying California's statute requiring plaintiffs to identify their trade secrets, *Advanced Modular Sputtering v. Superior Court*, 132 Cal. App. 4th 826 (2005).
- **Minerva Networks, Inc.** In *Myrio, Inc. v. Minerva Networks, Inc.* (N.D. Cal.), Mark defended Minerva against trade secret, unfair competition and false advertising claims involving technologies for delivering television and multimedia services over broadband networks. The case settled favorably after the court ruled that Myrio had failed to adequately identify its trade secrets.

Technology/IP Licensing

- **DVD Copy Control Association (DVD CCA).** In *RealNetworks, Inc., et al. v. DVD Copy Control Association, Inc. et al.* (N.D. Cal.) and *DVD Copy Control Association, Inc. v. Kaleidescape, Inc.* (Santa Clara Sup. Ct.), Mark represented the DVD CCA in two separate actions alleging breach

of the technology license that covers use of the Content Scramble System (CSS) technology that is used to prevent copying of motion picture DVDs. DVD CCA obtained an injunction from the trial courts in both actions prohibiting sales of products that did not comply with the license. The *Kaleidescape* action is currently on appeal.

- **Marshal Software.** Mark represented Marshal, a leading producer of Internet security and anti-spam software, in three trademark and unfair competition lawsuits against competing companies. All three cases resulted in the defendants agreeing to rebrand their products to avoid any use of Marshal's trademarks.

Mr. Weinstein is a frequent lecturer on all aspects of intellectual property protection and has taught classes at Santa Clara University School of Law. Prior to joining the Firm, Mr. Weinstein was a partner at a large international law firm and served as the managing partner in charge of that firm's Silicon Valley office. He is also a former law clerk for the Honorable Thomas J. Whelan, District Judge, United States District Court for the Southern District of California.

Education

- University of San Diego School of Law
JD, 1997
- University of California, San Diego
BS, 1992

Bar Admissions

- California

Court Admissions

- U.S. Court of Appeals, Federal Circuit
- U.S. District Court, Central District of California
- U.S. District Court, Eastern District of Texas
- U.S. District Court, Northern District of California
- U.S. District Court, Southern District of California

CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R. section 42.6, that a complete copy of the attached **PETITIONER'S MOTION FOR *PRO HAC VICE* ADMISSION UNDER 37 C.F.R. § 42.10(c) AND EXHIBITS** is being served via electronic mail on the 17th day of April, 2014, the same day as the filing of the above-identified document in the United States Patent and Trademark Office/Patent Trial and Appeal Board, upon the patent owner's attorneys of record:

LEAD COUNSEL

Robert H. Hillman
3200 RBC Plaza
60 South Sixth Street
Minneapolis, MN 55402
hillman@fr.com
IPR2014-00415@fr.com
[Ref. No. 37115-0002IP1]

BACK-UP COUNSEL

Lawrence K. Kolodney
3200 RBC Plaza
60 South Sixth Street
Minneapolis, MN 55402
kolodney@fr.com

John S. Goetz
3200 RBC Plaza
60 South Sixth Street
Minneapolis, MN 55402
goetz@fr.com

/ Heidi L. Keefe /
Heidi L. Keefe
Reg. No. 40,673

Cooley LLP
ATTN: Patent Group
1299 Pennsylvania Ave., NW, Suite 700
Washington, DC 20004
Tel: (650) 843-5001
Fax: (650) 849-7400