

UNITED STATES PATENT AND TRADEMARK OFFICE

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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APPLE INC.,  
Petitioner

v.

OPENTV, INC.,  
Patent Owner.

Case IPR2015-00969  
Patent 5,884,033

**DECLARATION OF LUANN L. SIMMONS IN SUPPORT OF  
PETITIONER'S MOTION FOR *PRO HAC VICE* ADMISSION  
PURSUANT TO 37 C.F.R. §42.10(C)**

I, Luann L. Simmons, declare as follows:

1. I am a Partner with the law firm of O'Melveny & Myers LLP. I represent and advise Petitioner Apple Inc. ("Apple") in connection with the above-captioned *inter partes* review ("IPR") proceeding, and I am co-lead counsel in the co-pending district court litigation (*OpenTV, Inc. and NagraVision, SA v. Apple Inc.*, Case No. 3:14-cv-01622-HSG (N.D. Cal.)) on the patent at issue in this IPR, U.S. Patent No. 5,884,033 ("033 Patent").
2. I have been a member in good standing of the Bar of the State of California since 1999. My California State Bar number is 203526. I am also admitted to practice before numerous state and federal courts, including:
  - a. US Supreme Court (admitted March 2003);
  - b. US Court of Appeals, Federal Circuit (admitted April 2003);
  - c. US Court of Appeals, Ninth Circuit (admitted January 2000);
  - d. US District Court, California Central (admitted March 2003);
  - e. US District Court, California Eastern (admitted June 2000);
  - f. US District Court, California Northern (admitted December 1999);
  - g. US District Court, California Southern (admitted September 2010); and
  - h. US District Court, Wisconsin Western (admitted December 2007).
3. I have over 16 years of experience practicing patent and technology related litigation. I have litigated numerous patent cases across the country, including in

California, Delaware, Wisconsin, and Texas, and litigated many of them through both trial and appeal.

4. I am familiar with the subject matter at issue in this proceeding. I have supervised and been actively involved in the present IPR proceeding regarding the '033 Patent. I represent Petitioner in the co-pending district court litigation involving the '033 Patent, and I have reviewed the patent, the Patent Owner's infringement contentions served in the district court litigation, the parties' claim construction positions, and the prior art being asserted in this IPR proceeding.

5. Moreover, I have advised Petitioner on strategy regarding Petitioner's affirmative arguments in this IPR proceeding, supervised the drafting of the petition, reviewed the accompanying Declaration of Dr. Knutson, and worked with Petitioner to find and identify the references relied upon in the petition and to draft other submissions to the Office.

6. The prior art references at issue in the IPR proceedings are also at issue in the co-pending district court litigation. I have reviewed both that art and other related prior art—all of which were disclosed in invalidity contentions that I supervised and signed.

7. I have represented clients in connection with many patent litigations regarding technology similar to that at issue in this IPR.

8. I have not been suspended or disbarred from practice before any court or administrative body. I have never had an application for admission to practice before

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

9. 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 37 C.F.R.

10. I agree to and 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).

11. I have not applied to appear *pro hac vice* before the Office in any other proceeding in the last three years. I plan to file motions for *pro hac vice* admission in IPR proceeding Nos. 2015-00971, 2015-00980, and 2015-01031, which involve patents asserted by the Patent Owner of the '033 Patent in the same co-pending district court litigation (*OpenTV, Inc. and NagraVision, SA v. Apple Inc.*, Case No. 3:14-cv-01622-HSG (N.D. Cal.)).

12. 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. I further declare that these statements were 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 and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Respectfully submitted,

Date: October 2, 2015

/s/ Luann L. Simmons  
Luann L. Simmons  
O'Melveny & Myers LLP