

Paper No. \_\_\_\_\_

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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FITBIT, INC.,  
Petitioner

v.

ALIPHCOM, INC. D/B/A JAWBONE  
Patent Owner

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Case IPR2016-00607  
U.S. Patent No. 8,529,811

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**PETITIONER'S UNOPPOSED MOTION FOR *PRO HAC VICE*  
ADMISSION OF MICHAEL C. HENDERSHOT**

## **I. INTRODUCTION AND PRECISE RELIEF REQUESTED**

FitBit, Inc. (“Petitioner”) requests that the Board recognize Michael C. Hendershot as counsel *pro hac vice* during this proceeding. This motion was authorized in the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response. Paper No. 3 at 2. Because this motion meets all of the Board’s requirements, Petitioner requests that the Board grant this motion. Patent Owner does not oppose this motion.

## **II. STATEMENT OF FACTS**

Petitioner has been authorized to file motions seeking admission *pro hac vice* under 37 C.F.R. §42.10(c). *See* Paper 3 at 2. Petitioner’s lead counsel and back-up counsel are registered practitioners. *See* Paper 1 at 4. As set forth in the accompanying declaration, Mr. Hendershot is an attorney at Paul Hastings LLP. Ex. 1028 at ¶ 2. He is an experienced patent litigation attorney with more than sixteen years of experience, serving as counsel in numerous patent infringement lawsuits in district court and at the Federal Circuit. *Id.*

Mr. Hendershot has an established familiarity with the subject matter at issue in this proceeding. *Id.* at ¶ 9. Mr. Hendershot has extensively reviewed U.S. Patent No. 8,529,811 (“the ’811 patent”), the patent-at-issue, and the other papers associated with this matter in detail. *Id.* He was involved with preparing the Petition and accompanying exhibits filed in this proceeding. *Id.*

In addition, Mr. Hendershot is a member in good standing of the State Bar of California. *Id.* at ¶ 1. He has never been suspended or disbarred from practice before any court or administrative body. *Id.* at ¶ 3. He has never had an application for admission to practice before any court or administrative body denied. *Id.* at ¶ 4. He has never had sanctions or contempt citations imposed by any court or administrative body. *Id.* at ¶ 5. He 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 title 37 of the Code of Federal Regulations. *Id.* at ¶ 6. He agrees to 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). *Id.* at ¶ 7. He has not applied to appear *pro hac vice* in any other proceeding before the Office in the last three (3) years. *Id.* at ¶ 8. Concurrent with this motion, Mr. Hendershot is applying to appear *pro hac vice* in IPR2016-00714 and has applied to appear *pro hac vice* in IPR2016-00545.

### **III. REASONS FOR GRANTING THE MOTION**

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.” 37 C.F.R. § 42.10(c). For example, where the lead counsel is a registered practitioner, a motion to appear *pro hac vice* may be granted upon showing that counsel who is

seeking *pro hac vice* admission is “an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.” *Id.* The motion for *pro hac vice* admission must contain a statement of facts showing good cause and be accompanied by a declaration of the individual who is seeking admission. *See Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper No. 7 at 3-4 (P.T.A.B. Oct. 15, 2013). The declaration in turn must contain certain attestations. *Id.*

This motion and the accompanying declaration meet all of the Board’s requirements. The lead counsel in this proceeding, Naveen Modi, is a registered practitioner. *See* Paper 1 at 4. Mr. Hendershot is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding. *See* Exhibit 1028 at ¶¶ 2, 9. As noted above, Mr. Hendershot was involved in preparing the petition and accompanying exhibits filed in this proceeding. *Id.* at ¶ 9. Mr. Hendershot’s declaration makes the necessary attestations. *Id.* Finally, Patent Owner does not oppose this motion.

#### **IV. CONCLUSION**

For the foregoing reasons, Petitioner submits that there is good cause for the Board to recognize Mr. Hendershot as counsel *pro hac vice* in this proceeding.

Respectfully Submitted,

Dated: January 19, 2017

By: /Naveen Modi/  
Naveen Modi (Reg. No. 46,224)

Counsel for FitBit, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on January 19, 2017, a copy of the foregoing  
Petitioner's Motion for *Pro Hac Vice* Admission of Michael C. Hendershot was  
served by e-mail upon the following:

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Dated: January 19, 2017

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