

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ACTIVISION BLIZZARD, INC.; ELECTRONIC ARTS INC.; TAKE-TWO
INTERACTIVE SOFTWARE, INC.; 2K SPORTS, INC.; AND ROCKSTAR
GAMES, INC.
Petitioners

v.

ACCELERATION BAY LLC
Patent Owner

Case: IPR2016-00747
U.S. PATENT NO. 6,732,147

**PETITIONERS' MOTION FOR *PRO HAC VICE* ADMISSION OF
KATHLEEN B. BARRY UNDER 37 C.F.R. § 42.10**

Before SALLY C. MEDLEY, LYNNE E. PETTIGREW, and
WILLIAM M. FINK, Administrative Patent Judges.
FINK, Administrative Patent Judge.

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
United States Patent and Trademark Office
PO Box 1450
Alexandria, Virginia 22313-1450
Submitted Electronically via the Patent Review Processing System

Pursuant to 37 C.F.R. § 42.10, and pursuant to the authorization provided by the United States Patent and Trademark Office’s Patent Trial and Appeal Board (“Board”) in the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response (Paper Number 4, March 28, 2016) (“the Notice”), Petitioners Activision Blizzard, Inc., Electronic Arts Inc.; Take-Two Interactive Software, Inc.; 2K Sports, Inc.; And Rockstar Games, Inc.

(“Petitioners”) submits this motion for Kathleen B. Barry to appear *pro hac vice*. Petitioner respectfully requests the Board to recognize Ms. Barry as counsel *pro hac vice* during this proceeding and demonstrates good cause for doing so as shown below.

I. TIME FOR FILING

Pursuant to the authorization provided in the Notice, as well as the “Order – Authorizing Motion for *Pro Hac Vice* Admission” in *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 (Oct. 15, 2013) (“the Order”), this motion for *pro hac vice* admission is being filed no sooner than twenty-one (21) days after service of the Petition.

II. STATEMENT OF FACTS

Pursuant to the Order, the following statement of facts shows that good cause exists for the Board to recognize Ms. Barry *pro hac vice*.

Lead counsel for this proceeding, Andrew R. Sommer, is a registered practitioner (Reg. No. 53,932).

Ms. Barry is an experienced litigation attorney with approximately 13 years of litigation experience. Ex. 1104, ¶ 8. She has been involved in numerous patent infringement cases in federal district courts across the country. *Id.* She has experience in various aspects of patent infringement matters, including all aspects of litigation leading up to jury trials and bench trials, *Markman* hearings, and other dispositive hearings. *Id.* Ms. Barry has also received a Bachelor of Arts in Mathematics and History from Dartmouth College. *Id.*, ¶ 9.

Ms. Barry is a member in good standing of the Illinois Bar and the State Bar of Michigan and is admitted to practice before the Supreme Court of the United States, United States Court of Appeals for the Federal Circuit; United States Court of Appeals for the Sixth Circuit; United States Court of Appeals for the Seventh Circuit; United States Court for the Northern District of Illinois; United States District Court for the Western District of Michigan; and United States District Court for the Eastern District of Texas. *Id.*, ¶ 1.

Ms. Barry has not been suspended or disbarred from practice, has never had any application for admission to practice denied, and has never had any sanctions or contempt citations imposed against him. *Id.*, ¶¶ 2-4.

Ms. Barry has obtained substantial familiarity with the involved patent, the prior art, and the various issues raised in this proceeding. Moreover, Ms. Barry has reviewed the involved patent, the Petition, the prior art, and all other cited materials and was involved in the preparation of the Petition upon which the Board instituted trial. *Id.*, ¶ 8. Given her patent litigation experience and her familiarity with the instant Petition, the cited materials, and the patent, Ms. Barry has established familiarity with the subject matter at issue in this proceeding. *Id.*

Ms. Barry 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 she agrees to be subject to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.*, and to disciplinary jurisdiction under 37 C.F.R. § 11.19(a). *Id.*, ¶¶ 5-6.

Ms. Barry has not applied to appear *pro hac vice* in the last three years in any other matter before the Board. *Id.*, ¶ 7. She is currently applying to appear *pro hac vice* in another related matter before the Board specifically *Activision Blizzard et al. v. Acceleration Bay, LLC*, Case: IPR2016-00747. *Id.*

Given that Ms. Barry's familiarity with the subject matter at issue in this proceeding, Petitioner respectfully submit that they have shown good cause for the Board to recognize Ms. Barry as counsel *pro hac vice* during this proceeding.

III. AFFIDAVIT OR DECLARATION OF INDIVIDUAL SEEKING TO APPEAR

This Motion is accompanied by a Declaration of Ms. Barry as required by the Order.

Dated: October 31, 2016

Respectfully submitted,

/s/ Andrew R. Sommer

Andrew R. Sommer

Reg. No. 53,932

Lead Counsel for Petitioner

WINSTON & STRAWN LLP
1700 K Street NW
Washington, DC 20006
Telephone: (202) 282-5000
Fax: (202) 282-5100
Email: ASommer@winston.com

§ 42.6(e)—CERTIFICATION OF SERVICE

In accordance with § 42.6(e)(1), the undersigned certifies that on the 31st day of October 2016, **PETITIONERS' MOTION FOR PRO HAC VICE ADMISSION OF KATHLEEN B. BARRY UNDER 37 C.F.R. § 42.10** was served by electronic mail upon the following counsel for Patent Owner

James Hannah
Michael Lee
Kramer Levin Naftalis & Frankel LLP
990 Marsh Road
Menlo Park, CA 94025 (
650) 752-1700
jhannah@kramerlevin.com
mhlee@kramerlevin.com
svdocketing@kramerlevin.com

Shannon Hedvat
Jeffrey Price
Kramer Levin Naftalis & Frankel LLP
1177 Avenue of the Americas
New York, NY 10036
(212) 715-9100
shedvat@kramerlevin.com
jprice@kramerlevin.com

Respectfully submitted,

Dated: October 31, 2016

/Andrew R. Sommer/
Andrew R. Sommer
(Reg. No. 53,932)

*Counsel for Petitioners Activision Blizzard,
Inc., Electronic Arts Inc., Take-Two
Interactive Software, Inc., 2K Sports, Inc.,
and Rockstar Games, Inc.*

WINSTON & STRAWN LLP
1700 K Street NW
Washington, DC 20006