

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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WILSON ELECTRONICS, LLC,  
Petitioner

v.

CELLPHONE MATE, INC.,  
Patent Owner

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Case IPR2018-01774  
Patent 9,402,190

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

**LIST OF EXHIBITS**

Ex. 1015	Declaration of Mark M. Bettilyon in Support of Petitioner's Motion for <i>Pro Hac Vice</i> Admission
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Patent Trial and Appeal Board  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandra, Virginia 22313-1450

## **I. RELIEF REQUESTED**

Pursuant to 37 CFR §42.10(c) and the Notice of Filing Date in this proceeding (Paper 6), Petitioner Wilson Electronics, LLC (“Petitioner”) respectfully requests that the Board admit Mark M. Bettilyon *pro hac vice* in this proceeding as back-up counsel.

## **II. GOVERNING LAW, RULES, AND PRECEDENT**

Section 42.10(c), 37 CFR, provides that:

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.

The Board has further required that a motion for *pro hac vice* admission be filed in accordance with the “Order-Authorizing Motion for *Pro Hac Vice* Admission” entered in *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 (PTAB October 15, 2013) (“*United Patents* Order”).

The *United Patents* Order requires that such motions (1) “[c]ontain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding[,]” and (2) “[b]e accompanied by an affidavit or declaration of the individual seeking to appear attesting to the following:”

- i. Membership in good standing of the Bar of at least one State or the District of Columbia;
- ii. No suspensions or disbarments from practice before any court or administrative body;
- iii. No application for admission to practice before any court or administrative body ever denied;
- iv. No sanctions or contempt citations imposed by any court or administrative body;
- v. The individual seeking to appear 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 37 C.F.R.;
- vi. The individual will be subject to the USPTO Rules of Professional Conduct set forth in 37 CFR §§ 11.101 *et seq.* and disciplinary jurisdiction under 37 CFR § 11.19(a);

- vii. All other proceedings before the Office for which the individual has applied to appear *pro hac vice* in the last three (3) years; and
- viii. Familiarity with the subject matter at issue in the proceeding.

### III. STATEMENT OF FACTS

Based on the following statement of facts, and supported by the Declaration of Mark M. Bettilyon, submitted herewith as Exhibit 1015, Petitioner requests the *pro hac vice* admission of Mark M. Bettilyon in this proceeding:

1. Petitioner's lead counsel, Jed H. Hansen (the undersigned), is a registered practitioner (Reg. No. 59,106) and partner at the law firm of Thorpe North & Western, LLP.
2. Mr. Bettilyon is a partner at the law firm of Thorpe North & Western, LLP. Ex. 1015 ¶ 8.
3. Mr. Bettilyon is an experienced litigator, and a significant amount of his practice has consisted of patent litigation. *Id.* ¶ 9. Representative cases in which he has been actively involved as patent litigation counsel include, among others: *Vivint, Inc. v. Alarm.com, Inc.*, Case No. 2:15-cv-392 (D. Utah); *University of Utah Research Foundation, et al. v. Pathway Genomics Corporation*, Case No. 2:14-cv-442 (D. Utah); *Murata Machinery USA Inc. v. Daifuku Co. LTD.*, Case No. 2:13-cv-866 (D. Utah); *Idaho Technology, Inc., et*

*al. v. Corbett Life Science, et al.*, Case No. 2:07-cv-425 (D. Utah); *Brigham*

*Young University v. Pfizer, Inc.*, Case No. 2:06-cv-890 (D. Utah). *Id.*

4. Mr. Bettilyon has extensive patent litigation experience related to writing motions, taking depositions, and making oral arguments. *Id.* ¶ 11.

5. Mr. Bettilyon has an established familiarity with the subject matter at issue in this proceeding and is counsel in *Wilson, LLC v. Cellphone Mate, Inc.*, Case No. 2:17-cv-00305-DB (D. Utah). *Id.* ¶ 13. Mr. Bettilyon has reviewed the Patent at issue, U.S. Patent No. 9,402,190, as well as the Petition and the relevant art. *Id.*

6. Mr. Bettilyon is a member in good standing of the State Bar of Utah. *Id.* ¶ 1-2.

7. Mr. Bettilyon has never been suspended or disbarred from practice before any court or administrative body. *Id.* ¶ 3.

8. No application of Mr. Bettilyon for admission to practice before any court or administrative body has ever been denied. *Id.* ¶ 4.

9. No sanctions or contempt citations have ever been imposed against Mr. Bettilyon by any court or administrative body. *Id.* ¶ 5.

10. Mr. Bettilyon has read and will comply with the Office Patent Trial Practice Guide and the Board's Rule of Practice for Trials set forth in part 42 of 37 C.F.R. *Id.* ¶ 6.

11. Mr. Bettilyon understands that he will be subject to the USPTO Rules of Professional Conduct set forth in 37 CFR §§ 11.101 *et seq.* and disciplinary jurisdiction under 37 CFR § 11.19(a). *Id.* ¶ 7.

12. Mr. Bettilyon intends to apply, concurrent with this application, to appear *pro hac vice* in the following co-pending matters:

<b>Petitioner</b>	<b>Case Number</b>	<b>Patent Number</b>	<b>Filing Date</b>
Wilson Electronics, LLC	IPR2018-01771	8,867,572	September 21, 2018
Wilson Electronics, LLC	IPR2018-01772	8,867,572	September 21, 2018
Wilson Electronics, LLC	IPR2018-01776	9,402,190	September 21, 2018
Wilson Electronics, LLC	IPR2018-01778	9,100,839	September 22, 2018
Wilson Electronics, LLC	IPR2018-01779	9,100,839	September 22, 2018

*Id.* ¶ 10.

13. Other than the matters identified in paragraph 12 above, Mr. Bettilyon has not applied to appear *pro hac vice* in any other proceedings before the USPTO in the last three years. *Id.* ¶ 12.

#### **IV. GOOD CAUSE EXISTS FOR THE PRO HAC VICE ADMISSION OF MARK M. BETTILYON**

The Board may recognize counsel *pro hac vice* 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 CFR § 42.10(c).

The facts outlined above in the Statement of Facts, and contained in the Declaration of Mark M. Bettilyon (Ex. 1015), establish that there is good cause to admit Mr. Bettilyon *pro hac vice* in this proceeding. Petitioner's lead counsel is a registered practitioner. Mr. Bettilyon has extensive experience in patent litigation. He also has an established familiarity with the subject matter at issue, including the patents, petitions, and prior art references.

#### **V. CONCLUSION**

For the foregoing reasons, Petitioner respectfully requests that the Board admit Mr. Bettilyon *pro hac vice* in this proceeding.

Respectfully submitted,

Dated: October 31, 2018

By: /Jed Hansen/

Jed Hansen (Reg. No. 59,106)  
Counsel for Petitioner



**CERTIFICATE OF SERVICE**

I hereby certify that on October 31, 2018, I caused a true and correct copy of the foregoing Motion for *Pro Hac Vice* Admission, along with its accompanying Exhibit 1015, to be served via express mail on the Patent Owner at the following correspondence address of record as listed on PAIR:

CELLPHONE-MATE, INC.  
48346 MILMONT DRIVE  
FREMONT, CALIFORNIA 94538

A courtesy copy was also sent via electronic mail to the Patent Owner's litigation counsel listed below:

JON GURKA  
BRIAN CLAASSEN  
KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN STREET  
FOURTEENTH FLOOR  
IRVINE CA 92614

Respectfully submitted,

Dated: October 31, 2018

By: /Jed Hansen/

Jed Hansen (Reg. No. 59,106)  
Counsel for Petitioner