

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC., INSTAGRAM, LLC, WHATSAPP INC.,
Petitioners

v.

EYESMATCH LTD., MEMOMI LABS INC.,
Patent Owners

Case No. IPR2022-00489
U.S. Patent No. 8,982,109

**PATENT OWNERS EYESMATCH LTD., MEMOMI LABS, INC.'S
UNOPPOSED MOTION FOR *PRO HAC VICE* ADMISSION OF
MATTHEW D. POWERS UNDER 37 C.F.R. § 42.10(c)**

Pursuant to 37 C.F.R. § 42.10(c), Patent Owners EyesMatch Ltd., and Memomi Labs Inc. (“EyesMatch” and “Memomi”) respectfully requests that the Board recognize Matthew D. Powers as counsel *pro hac vice* in this proceeding. Patent Owners seek the counsel of Mr. Powers due to his familiarity with the ’109 patent and prior art identified in the Petition in this proceeding based on his representation of EyesMatch and Memomi before the U.S. District Court for the District of Delaware, as well as his experience in representing clients in patent cases in major patent venues, including U.S. District Courts, the U.S. Court of Appeals for the Federal Circuit, the International Trade Commission, and the International Chamber of Commerce, and would like Mr. Powers to participate in the trial of this *inter partes* review proceeding.

Petitioners have confirmed that it will not oppose this motion.

I. GOVERNING RULES AND PRECEDENT

37 C.F.R. § 42.10(c) provides:

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 specified that motions under 37 C.F.R. § 42.10(c) should be filed “in accordance with the ‘Order -- Authorizing Motion *for Pro Hac Vice* Admission’ in Case IPR2013-00639, Paper 7.” Notice at 2. That Order states that the motion must “[c]ontain a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* during the proceeding” and that it must “[b]e accompanied by an affidavit or declaration of the individual seeking to appear” that attests to the facts specified in the Order. *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper No. 7 (P.T.A.B. Oct. 15, 2013) (“*Unified Patents* Order”).

The statement of facts that follows shows there is good cause for the Board to recognize Mr. Powers as counsel *pro hac vice* during this proceeding. This Motion for *Pro Hac Vice* Admission is accompanied by the required Declaration of Mr. Powers that includes the facts specified in the *Unified Patents* Order.

II. STATEMENT OF FACTS

Patent Owners' lead counsel, Gina Cremona, is a registered practitioner (Reg. No. 74,844).

Mr. Powers is an experienced patent litigation attorney with approximately thirty-seven years of experience representing clients in patent cases involving numerous technologies. Mr. Powers has experience as a patent litigator before the U.S. District Courts, the International Trade Commission, and the United States

Court of Appeals for the Federal Circuit. Through his practice in such cases, Mr. Powers has gained substantial experience in patent litigation including jury trials, bench trials, fact discovery, expert discovery, *Markman* hearings, trials before administrative law judges, and appeals before the Federal Circuit. Petitioner provides Exhibit A of Mr. Powers's accompanying declaration as evidence.

Mr. Powers is a member in good standing of the State Bar of California. Mr. Powers has never been suspended or disbarred from practice before any court or administrative body and has never had an application for admission to practice before any court or administrative body denied. Also, no sanction or contempt citation has been imposed against Mr. Powers by any court or administrative body. Mr. Powers has read and agrees to comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in part 42 of the Code of Federal Regulations, 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). Mr. Powers's previous *pro hac vice* motions in Proceeding Nos. IPR2020-01467, IPR2020-01468, IPR2019-00565, IPR2019-00566, IPR2019-00567, IPR2019-00568, IPR2016-00303, IPR2016-00306, IPR2016-00308, IPR2016-00309, IPR2019-565, IPR2019-00566, IPR2019-00567, IPR2019-00568, IPR2020-00086, IPR2020-00087, IPR2020-00088, IPR2020-00089, IPR2020-01181 and IPR2020-01180 filed in the last three years have all been granted.

Mr. Powers's previous *pro hac vice* motions in Proceeding Nos. IPR2022-00370 and IPR2022-00371 filed in the last three years are pending. Mr. Powers is now concurrently applying to appear *pro hac vice* in Proceeding No. IPR2022-00490.

Mr. Powers also has an established familiarity with the subject matter at issue in this *inter partes* review proceeding, including the substantive and technical issues involved. Mr. Powers is trial counsel for EyesMatch Ltd., and Memomi Labs Inc., the Patent Owners in this proceeding, in the U.S. District Court for the District of Delaware, Case No. 1:21-cv-01111-RGA-JLH, which involves the same patent (U.S. Patent No. 8,982,109) and the same references identified in the Petition in this proceeding as the grounds for challenge. Should the present motion be granted, Patent Owners intend for Mr. Powers to participate in the trial of this IPR proceeding.

III. CONCLUSION

Accordingly, Patent Owners submit that there is good cause under 37 C.F.R. § 42.10(c) for the Board to recognize Matthew D. Powers as counsel *pro hac vice* during this proceeding.

Dated: February 22, 2022

Respectfully submitted,

/Gina Cremona/
Gina Cremona
USPTO Reg. No. 74,844

Tensegrity Law Group LLP
555 Twin Dolphin Drive, Suite 650
Redwood Shores, CA 94065
Telephone: 650-802-6010
Facsimile: 650-802-6001
gina.cremona@tensegritylawgroup.com
eyesmatch_service@tensegritylawgroup.com

*Attorneys for Patent Owners
EyesMatch Ltd., and Memomi Labs., Inc.*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on Dated: February 22, 2022, copies
of the foregoing were served via Electronic Mail to the following:

Petitioners' Counsel	Via Electronic Mail
Heidi L. Keefe (Reg. No. 40,673) Andrew C. Mace (Reg. No. 63,342) Mark R. Weinstein (Admission <i>pro hac vice</i> to be requested) Lowell D. Mead (Admission <i>pro hac vice</i> to be requested) COOLEY LLP ATTN: Patent Group 1299 Pennsylvania Ave. NW, Suite 700 Washington, DC 20004 Tel: (650) 843-5001 Fax: (650) 849-7400	hkeefe@cooley.com amace@cooley.com mweinstein@cooley.com lmead@cooley.com

/Gina Cremona/
Gina Cremona
USPTO Reg. No. 74,844
Tensegrity Law Group LLP
555 Twin Dolphin Drive, Suite 650
Redwood Shores, CA 94065
Telephone: 650-802-6010
Facsimile: 650-802-6001
gina.cremona@tensegritylawgroup.com
eyesmatch_service@tensegritylawgroup.com

*Attorneys for Patent Owners
EyesMatch Ltd., and Memomi Labs., Inc.*