

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON.COM, INC., HULU, LLC, AND NETFLIX, INC.,

Petitioners,

v.

DIGITAL MEDIA TECHNOLOGIES, INC.,

Patent Owner.

Case IPR2017-00284
Patent 8,964,764 B2

**AFFIDAVIT OF MARTIN E. GILMORE IN SUPPORT OF
PETITIONERS' MOTION FOR *PRO HAC VICE* ADMISSION
UNDER 37 C.F.R. §42.10(c)**

I, Martin E. Gilmore, being duly sworn and upon oath, hereby apply to appear *pro hac vice* before the Office in *inter partes* review proceedings under PTAB Case Nos. IPR2017-00284 on U.S. Patent 8,964,764 B2 and IPR2017-00285 on U.S. Patent No. 9,300,657 B2 and hereby attest to the following:

1. I am a member in good standing of the state Bar of New York, the Southern, Eastern, and Northern Districts of New York, the United States Court of Appeals for the Second Circuit, and the United States Court of Appeals for the Federal Circuit.
2. I have never been suspended or disbarred from practice before any court or administrative body.
3. I have never had an application for admission to practice before any court or administrative body denied.
4. No sanction or contempt citation has been imposed against me by any court or administrative body.
5. 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 37 C.F.R. Part 42.
6. I 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.P.R. § 11.19(a).

7. I have not applied or been admitted by the Office, to appear *pro hac vice* before the Office in the last three (3) years.
8. I am an experienced litigation attorney with more than 9 years of experience representing clients in patent cases involving semiconductor design, server technology, smart phones, medical devices, pharmaceuticals, digital signal processing, digital cameras, media systems, wireless communications and networking, voice recognition systems and website design tools. I regularly litigate patent cases in various forums including United States Court of Appeals for the Federal Circuit and various federal district courts. Through my experience in patent litigation matters, I have represented clients in all phases of litigation including discovery, Markman hearings, jury trials, and appeals. My biography is attached hereto as Appendix A.
9. I have an established familiarity with the subject matter at issue in this proceeding, having represented Petitioners in court proceedings against Patent Owner involving the same technology (*Digital Media Technologies, Inc. v. Amazon.com, Inc.*, Case No. 4:16-cv- 00244 (N.D. Fla.) (filed April 26, 2016), *Digital Media Technologies, Inc. v. Hulu, LLC*, Case No. 4:16-cv-00245 (N.D. Fla.) (filed April 26, 2016), and

Digital Media, Technologies, Inc. v. Netflix, Inc., Case No. 4:16-cv-00243 (N.D. Fla.) (filed April 25, 2016)).

10. I am familiar with the technologies and issued claims in the 8,964,764 B2 and 9,300,657 B2 Patents. I am familiar with the prior art references cited in PTAB Case Nos. IPR2017-00284 and IPR2017-00285 and the associated invalidity grounds before the PTAB.

I hereby declare that all statements made 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 the Title 18 of the United States Code.

Respectfully submitted,

Dated: March 1, 2017



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Professional Biography



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Martin Gilmore is an experienced litigator whose practice focuses on intellectual property matters. He has represented clients in patent, trademark, copyright, trade dress, trade secret and unfair competition matters, as well as in commercial disputes.

Martin advises clients in an array of technical fields, including in semiconductor design, server technology, smart phones, medical devices, pharmaceuticals, digital signal processing, digital cameras, media systems, wireless communications and networking, voice recognition systems and website design tools. He has also enforced client rights in trademark and trade dress disputes involving publishing, vehicle design and a variety of consumer services. In addition to his litigation experience, Martin has frequently represented clients in civil and criminal investigations.

Martin has a broad science background, including degrees in biomedical and electrical engineering, which support his counsel on a variety of patent matters in the chemical, biological and electrical arenas. Martin has also maintained an active pro bono practice throughout his career, including work in veterans court and family court.

PROFESSIONAL RECOGNITION

- *New York Super Lawyers* "Rising Star," 2014 - 2015

CLERKSHIPS

- Hon. Loretta A. Preska, U.S. District Court for the Southern District of New York, 2009 - 2010

NEWS

01.20.2016

Perkins Coie Expands IP Litigation Practice with Addition of Three Pros to New York Office
Press Releases

Perkins Coie is pleased to announce that William J. McCabe, Gene W. Lee, and Martin E. Gilmore have joined the firm's Intellectual Property (IP) practice in New York.

01.20.2016

William McCabe, Gene Lee and Martin Gilmore Mentioned in Law360
General News
Law360

William McCabe, Gene Lee and Martin Gilmore were mentioned in a *Law360* article titled, "Perkins Coie Bolsters New York Office With 3 IP Pros," regarding William, Gene and Martin joining the firm as intellectual property attorneys.

AREAS OF FOCUS

PRACTICES

- Intellectual Property Law
- Patent Litigation
- Trade Secrets

BAR AND COURT ADMISSIONS

- New York
- U.S. Court of Appeals for the Federal Circuit
- United States Court of Appeals for the Second Circuit
- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Southern District of New York

EDUCATION

- Fordham University School of Law, J.D., *cum laude*, 2007, Member, *Fordham Urban Law Journal*
- Vanderbilt University, M.Eng., Electrical Engineering, 2005
- Vanderbilt University, B.E., Biomedical Engineering and Electrical Engineering, *cum laude*, 1999

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