

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

OpenSky Industries, LLC,
Intel Corporation,
Petitioners,

v.

VLSI Technology LLC,
Patent Owner

Case IPR2021-01064

Patent No. 7,725,759

**AMIN, TUROCY & WATSON LLP'S MOTION TO WITHDRAW
AS COUNSEL FOR PETITIONER OPENSky INDUSTRIES, LLC
and
MOTION FOR EXTENSION OF TIME TO FIND AND RETAIN
REPLACEMENT COUNSEL**

I. Introduction

Counsel for Petitioner OpenSky Industries, LLC (“OpenSky”), including Andrew T. Oliver, Vinay V. Joshi, and the law firm of Amin, Turocy & Watson LLP, respectfully request permission to withdraw as counsel for OpenSky.

Counsel also request a 30-day extension of time for OpenSky to respond to the Director’s order to show cause. This motion is supported by the Declaration of Andrew T. Oliver, filed herewith.

These motions are brought pursuant to 37 C.F.R. § 42.10(e), page 37 of the Patent Trial and Appeal Board Consolidated Trial Practice Guide November 2019, and 37 C.F.R. §11.116(a)(1).

II. Motion to Withdraw as Counsel

Counsel seeks to withdraw pursuant to 37 C.F.R. §11.116(a)(1), which states that “...a practitioner...shall withdraw from the representation of a client if: (1) The representation will result in violation of the USPTO Rules of Professional Conduct or other law.” Based upon the assessment of OpenSky’s counsel, further upon advice of outside counsel, and in view of the Director’s Order (Paper No. 102), Section 116(a)(1) mandates that counsel seek permission to withdraw from representing OpenSky. (Counsel notes that 37 C.F.R. §11.116(c) requires permission from the tribunal even when section 116(a) mandates withdrawal.)

Counsel has informed OpenSky both verbally and in writing that counsel

will seek permission to withdraw. Oliver Decl. ¶¶ 3, 4. Counsel has provided a copy of this motion and the accompanying declaration to OpenSky by email prior to filing. *Id.* ¶ 4.

OpenSky stated that it vehemently opposes this motion and does not have replacement counsel. *Id.* ¶3.

Because of the extremely short deadline to respond to the order to show cause and the intervening federal holiday (October 10), as well as the time that was needed to make an initial assessment of the Director’s 51-page order at Paper No. 102, in counsel’s assessment, it is impractical to seek prior Board authorization for this Motion. Accordingly, counsel relies upon page 37 of the Patent Trial and Appeal Board Consolidated Trial Practice Guide November 2019, stating, “Generally, a motion will not be entered without prior Board authorization. 37 C.F.R. §42.20(b). Exceptions include motions where it is impractical for a party to seek prior Board authorization...”

III. Motion for Extension

Counsel for OpenSky also requests a 30-day extension of time to respond to the Director’s order to show cause that is memorialized at Paper No. 102 pp. 50-51, to permit OpenSky an opportunity to seek replacement counsel. The Director ordered OpenSky to file a 10-page paper on or before October 18, 2022. OpenSky is expected to need counsel to prepare and file such a paper.

(Further, it is expected that replacement counsel (or current counsel if withdrawal is denied) will likely need to seek an enlargement of pages and additional extension of time, as it does not appear to be possible to formulate a reasonable reply to a 51-page order within a 10-page brief or within a period of only nine business days. But such a request can be raised separately.)

IV. Conclusion

Counsel for OpenSky respectfully requests that the Board grant permission to withdraw from representation of OpenSky in this proceeding. Additionally, said counsel requests that the Board grant OpenSky an extension of 30 days to the deadline to comply with the Director's order to show cause (Paper No. 102 pp. 50-51), so that OpenSky may seek replacement counsel.

Respectfully submitted,

Dated: October 7, 2022

By: /s Andrew T. Oliver/

Andrew T. Oliver, Reg. No. 62,764

