

No. 18-252

IN THE
Supreme Court of the United States

REAL ESTATE ALLIANCE LTD.,

Petitioner,

v.

MOVE, INC., *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

MOTION TO INTERVENE

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MOTION TO INTERVENE

Comes now Movant, Mark Tornetta (“Tornetta”), inventor and original owner of patents 4,870,576 and 5,032,989 (the “Patents-in-Suit”), to respectfully move, pursuant to Fed.R.Civ.P. 24, to intervene as a Petitioner in this action, for the following reasons:

1. Intervention of right is warranted because Tornetta is the successor in interest to the Patents-in-suit, pursuant to certain Promissory Notes made by Real Estate Alliance Ltd. (“REAL”), and the subsequent default of REAL, causing a collateral assignment of all right, title and interest in and to the Patents-in-Suit to Tornetta. See Fed. R. Civ. P. 24(a)(2).
2. Intervention of right is warranted because improperly disposing of this action will impair and impede Tornetta’s ability to protect his interest, since existing parties can no longer represent that interest, as REAL, the original Defendant and Petitioner, has ceased to do business and is therefore is no longer in a position to pursue further legal remedies. See Fed. R. Civ. P. 24(a)(2).
3. Permissive intervention in this case would also be appropriate, in the alternative, because, as inventor of the Patents-in-Suit, Tornetta’s interest for patent enforcement shares a common question of law or fact with the main action in this case. See Fed. R. Civ. P. 24(b)(1)(B).

4. Permissive intervention by Mr. Tornetta meets the requirements that this intervention will not unduly delay or prejudice the adjudication of the original parties' rights, as there is only one last step open to litigants in this matter, that of a Petition for Rehearing of the denial of the Petition for Certiorari filed by original Petitioner REAL Inc. and the deadline for that filing is November 30,2018, so this intervention will not extend the matter unduly. See Fed. R. Civ. P. 24(b)(3).
5. The Notice requirement for intervention of right by Mr. Tometta is satisfied since this motion is being served in accordance with the Fed. R. Civ. P. 5(a) (1)(B) upon all the current parties in the case, as documented in the accompanying Certificate of Service. See Fed. R. Civ. P.24(c).
6. The Pleading requirement for intervention of right by Mr. Tometta is satisfied since this motion is being accompanied with the Petition for Rehearing of the denial of the Petition for Certiorari, filed under Supreme Court Rule 44.2, which pleading sets out the claim for which intervention is sought. See Fed. R. Civ. P. 24(c).
7. An intervenor of right "must meet the standing requirements of Article III if the intervenor wishes to pursue relief not requested by plaintiff." *Town of Chester, New York v. Loroe Estates, Inc.*, 137 S.Ct. 1645 (2017). Tometta does not seek relief different from Petitioner REAL in this matter, but even so, for the reasons enumerated below, does meet the standing requirements of Article III.

8. In order to have standing, a litigant must have all of the following three elements:
 - a. The intervenor suffered an injury in fact.
 - b. The injury in fact is traceable to the challenged conduct of the defendant.
 - c. The injury in fact is likely to be redressed by a favorable judicial decision.
9. Tometta meets the first requirement for standing because he has suffered an injury in that the patents for his invention have been declared invalid under 35 U.S.C. § 101.
10. Mr. Tornetta meets the second requirement for standing because his injury is directly traceable to the infringement of the patents for his invention by Plaintiff/Respondent Move, Inc. *et. al.*
 1. Mr. Tornetta meets the third requirement for standing because the injury can only be redressed by a favorable judicial decision in the Rehearing of the denial of the Petition for Certiorari.
 2. The Petition for Rehearing accompanying this Motion to Intervene has national importance and the issues raised are not limited to concerns of this Movant/Intervenor Petitioner, but are applicable to all inventors in the United States who seek protection in the Federal Courts for enforcement of patent rights.

3. This Motion to Intervene is meritorious, well-grounded, filed in good faith, and is not offered to inappropriately or unjustly delay or prejudice any party or this Honorable Court.

WHEREFORE, Movant respectfully requests that this Motion to Intervene be granted and that the accompanying Petition for Rehearing the denial of the Petition for Certiorari in matter No. 18-252 be accepted from Intervening Petitioner for consideration by this Honorable Court.

Respectfully submitted,

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November 30, 2018