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Paper:12
Date: May 2, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SOPHOS LTD. And SOPHOS INC.,
Petitioner,

v.

WEBROOT INC.,
Patent Owner.

IPR2023-00491 (Patent 9,413,721 B2)
IPR2023-00528 (Patent 10,599,844 B2)
IPR2023-00633 (Patent 8,726,389 B2)[1]

Before PATRICK M. BOUCHER, MICHELLE N. WORMMEESTER, GARTH D. BAER, and AARON W. MOORE, *Administrative Patent Judges*.[2]

PER CURIAM.

ORDER
Granting Petitioner's Motions for *Pro Hac Vice* Admission of
Timothy P. Best, Joshua A. Krevitt, and Brian A. Rosenthal
37 C.F.R. § 42.10

[1] The parties may not use a combined-case caption, unless given permission to do so.
[2] This is not a decision by an expanded panel.

On April 26, 2023, Petitioner Sophos Ltd. and Sophos Inc. ("Petitioner") filed motions for admission *pro hac vice* of Timothy P. Best (Paper 10), Joshua A. Krevitt (Paper 8), and Brian A. Rosenthal (Paper 6) (collectively, "Motions").[3] Petitioner also filed Declarations of Mr. Best (Paper 11), Mr. Krevitt (Paper 9), and Mr. Rosenthal (Paper 7) in support of the Motions (collectively, "Declarations").[4, 5]

Pursuant to 37 C.F.R. § 42.10(c), we may recognize counsel *pro hac vice* upon a showing of good cause, subject to the condition that lead counsel be a registered practitioner. A motion for *pro hac vice* admission requires a statement of facts showing there is good cause to recognize counsel *pro hac vice*, and an affidavit or declaration of the individual seeking to appear. *See* Paper 5, 2 (citing *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 (PTAB Oct. 15, 2013) (Order Authorizing Motion for *Pro Hac Vice* Admission)).

Based on the facts set forth in the Motions and the accompanying Declarations, we conclude that Mr. Best, Mr. Krevitt, and Mr. Rosenthal (collectively, "Applicants") have sufficient legal and technical qualifications

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[3] We refer to papers and exhibits in IPR2023-00491. Similar papers and exhibits were filed in IPR2023-00528 and IPR2023-00633.
[4] The Declarations indicate they are "Pursuant to 37 C.F.R. § 1.68," but are not properly executed under § 1.68. We deem this to be harmless error because the Declarations are properly executed under 28 U.S.C. § 1746.
[5] Petitioner filed the Declarations as Papers. We deem this to be harmless error, however, we remind Petitioner that affidavits and declarations must be filed as exhibits. *See* 37 C.F.R. § 42.63(a) ("Evidence consists of affidavits, transcripts of depositions, documents, and things. All evidence must be filed in the form of an exhibit.").

to represent Petitioner in these proceedings, have demonstrated sufficient litigation experience and familiarity with the subject matter of these proceedings, and meet all other requirements for admission *pro hac vice*. We further conclude that Petitioner's interest in being represented in the instant proceedings by counsel with litigation experience weighs in favor of granting the Motions. Accordingly, Petitioner has established good cause for admission *pro hac vice* of Mr. Best, Mr. Krevitt, and Mr. Rosenthal.

Petitioner filed a Power of Attorney (Paper 2) in accordance with 37 C.F.R. § 42.10(b) for the Applicants, as well as a Mandatory Notice (Paper 1, 3) identifying the Applicants as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3).

Accordingly, it is:

ORDERED that Petitioner's motion for admission *pro hac vice* of Timothy P. Best, and in these proceedings is *granted*, and Mr. Best is authorized to represent Petitioner only as back-up counsel;

ORDERED that Petitioner's motion for admission *pro hac vice* of Joshua A. Krevitt in these proceedings is *granted*, and Mr. Krevitt is authorized to represent Petitioner only as back-up counsel;

ORDERED that Petitioner's motion for admission *pro hac vice* of Brian A. Rosenthal in these proceedings is *granted*, and Mr. Rosenthal is authorized to represent Petitioner only as back-up counsel;

FURTHER ORDERED that Petitioner is to continue to have a registered practitioner as lead counsel in these proceedings;

FURTHER ORDERED that the Applicants are to comply with the Patent Trial and Appeal Board's Consolidated Trial Practice Guide (84 Fed.

Reg. 64,280 (Nov. 21, 2019))[6] and the Board's Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations; and

FURTHER ORDERED that the Applicants are subject to the USPTO's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and the USPTO's Rules of Professional Conduct set forth at 37 C.F.R. §§ 11.101–11.901.

[6] Available at https://www.uspto.gov/TrialPracticeGuideConsolidated.

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