UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Sophos Ltd. and Sophos Inc.,
Petitioners

v.

Webroot Inc.,
Patent Owner.

Case No. IPR2023-00633

U.S. Patent No. 8,726,389

PETITIONERS' MOTION FOR *PRO HAC VICE* ADMISSION OF BRIAN A. ROSENTHAL UNDER 37 C.F.R. § 42.10

Pursuant to 37 C.F.R. § 42.10 and in response to the authorization provided by the United States Patent and Trademark Office's Patent Trial and Appeal Board ("Board") in the Notice of Filing date Accorded to Petitioner (Paper Number 3, entered March 16, 2023) ("the Notice") Petitioners Sophos Ltd. and Sophos Inc. submit this motion for Brian A. Rosenthal to appear *pro hac vice*. Petitioners respectfully request the Board recognize Mr. Rosenthal as counsel *pro hac vice* in this proceeding.

I. TIME FOR FILING

Pursuant to the "Order – Authorizing Motion for Pro Hac Vice Admission" in Case IPR 2013-00639, this motion for *pro hac vice* admission is being filed no sooner than twenty-one (21) days after service of the petition.

II. STATEMENT OF FACTS

Pursuant to the Order, the following statement of facts shows that there is good cause for the Board to recognize Mr. Rosenthal *pro hac vice*.

Lead counsel for this proceeding, Ryan Iwahashi, is a registered practitioner (Reg. No. 63,378).

Mr. Rosenthal is an experienced litigation attorney, and has been involved in numerous patent-infringement cases in Federal District Courts across the country. He has experience in various aspects of patent-infringement matters including jury and bench trials, *Markman* hearings, and summary judgment hearings. Mr.

Rosenthal is a member in good standing of the New York Bar and the District of Columbia Bar, and is admitted to practice before the United States Court of Appeals for the Federal Circuit, the United States Court of Federal Claims, and the United States District Courts for the Southern District of New York, Eastern District of Texas, District of Columbia and Western District of Texas. Mr. Rosenthal has not been suspended or disbarred from practice, has never had any application for admission to practice denied, and has never had any sanctions or contempt citations imposed against him.

III. GOOD CAUSE EXISTS FOR THE *PRO HAC VICE* ADMISSION OF BRIAN A. ROSENTHAL

Mr. Rosenthal is counsel for the Petitioner in a co-pending litigation, *Webroot, Inc. et al v. AO Kaspersky Lab*, No. 6:22-cv-00243-ADA-DTG, pending in the United States District Court for the Western District of Texas. That litigation involves U.S. Patent No. 8,726,389 ("the '389 Patent"), the same patent at issue in this proceeding. In his role as counsel in the co-pending litigation, Mr. Rosenthal has reviewed and is familiar with the '389 Patent and the asserted prior-art references and invalidity claim charts. Further, Mr. Rosenthal has been involved, and is familiar, with the factual and legal arguments at issue in that case, including the claim-construction issues presented in the co-pending litigation. As such, Mr.

Rosenthal has established familiarity with the subject matter at issue in this proceeding.

Mr. Rosenthal has read and will comply with the Office Patent Trial Practice Guide and the Board's Rules for Practice for Trials set forth in part 42 of the C.F.R., and he agrees to 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). In the last three (3) years, Mr. Rosenthal has applied for, and been granted, *pro hac vice* status in *inter partes* review IPR2021-00272 (Paper 10), IPR2021-00544 (Paper 36), and IPR2023-00370 (Paper 10); and he has one application for *pro hac vice* status pending in IPR2023-00464 (Paper 10).

Petitioners have expended significant financial resources in the co-pending litigation with Mr. Rosenthal as counsel, and Petitioners wish to continue using Mr. Rosenthal in this proceeding.

As such, Petitioners respectfully submit that there is good cause for the Board to recognize Mr. Rosenthal as counsel *pro hac vice* in this proceeding.

IV. CONCLUSION

Petitioners respectfully request that the Board admit Mr. Rosenthal *pro hac vice* in this proceeding.

DATED: April 26, 2023

Respectfully Submitted,

By: Ryan Iwahashi

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. §§ 42.6(e), the undersigned certifies that on April 24, 2023, a complete copy of Petitioners' Motion for *Pro Hac Vice* Admission of Brian A. Rosenthal Under 37 C.F.R. § 42.10 was served on the Patent Owner's counsel of record by email to:

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DATED: April 26, 2023

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