

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SOPHOS LTD. and SOPHOS INC.,  
Petitioner,

v.

OPEN TEXT INC.,  
Patent Owner.

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IPR2023-00731 (Patent 8,201,243 B2)  
IPR2023-00732 (Patent 8,719,932 B2)<sup>1</sup>

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Before JUSTIN T. ARBES, BARBARA A. PARVIS, and  
AARON W. MOORE, *Administrative Patent Judges*.

PER CURIAM.

ORDER

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

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<sup>1</sup> This Order addresses issues pertaining to both cases. Therefore, we exercise our discretion to issue a single Order to be filed in each case. The parties are not authorized to use this style heading for any subsequent papers.

On May 11, 2023, Petitioner filed motions for admission *pro hac vice* of Brian A. Rosenthal (Paper 6), Katherine Q. Dominguez (Paper 8), and Timothy P. Best (Paper 10) (collectively, “Motions”).<sup>2</sup> Petitioner also filed Declarations of Mr. Rosenthal (Paper 7), Ms. Dominguez (Paper 9), and Mr. Best (Paper 11) in support of the Motions (collectively, “Declarations”).<sup>3</sup>

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. Rosenthal, Ms. Dominguez, and Mr. Best (collectively, “Applicants”) have sufficient legal and technical qualifications to represent Petitioner in these proceedings, have

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<sup>2</sup> We refer to papers filed in IPR2023-00731. Corresponding papers with the same numbers were filed in IPR2023-00732.

<sup>3</sup> The Declarations indicate they are “[p]ursuant 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. Also, Petitioner filed the Declarations as Papers. The parties are reminded 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.”).

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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 the Applicants.

Petitioner filed a Power of Attorney (Paper 2) in accordance with 37 C.F.R. § 42.10(b), which includes Mr. Rosenthal and Mr. Best, but omits Ms. Dominguez. Petitioner also filed Mandatory Notices (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 motions for admission *pro hac vice* of Brian A. Rosenthal, Katherine Q. Dominguez, and Timothy P. Best in the instant proceedings are *granted*, and Mr. Rosenthal, Ms. Dominguez, and Mr. Best are 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 the instant 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))<sup>4</sup> and the Board's Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations;

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<sup>4</sup> Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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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; and

FURTHER ORDERED that Petitioner shall submit in the instant proceedings, within ten (10) business days of the date of this Order, a Power of Attorney for Ms. Dominguez in accordance with 37 C.F.R. § 42.10(b).

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