

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NINTENDO CO., LTD., and
NINTENDO OF AMERICA INC.,
Petitioner

v.

POLARIS POWERLED TECHNOLOGIES, LLC,
Patent Owner

Case IPR2023-00778
U.S. Patent No. 8,223,117

**PATENT OWNER'S UNOPPOSED MOTION FOR *PRO HAC VICE*
ADMISSION OF AIDAN M. BREWSTER UNDER 37 C.F.R. § 42.10(c)**

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Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

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PATENT OWNER'S UPDATED EXHIBIT LIST

Exhibit No.	Description
2001	Claim Construction Order entered on January 7, 2019, in <i>Polaris PowerLED Techs., LLC v. Samsung Elecs. Am., Inc.</i> , No. 2:17- cv- 00715 (E.D. Tex. Jan 7, 2019), ECF No. 138
2002	Claim Construction Order entered on November 26, 2019, in <i>Polaris PowerLED Techs., LLC v. VIZIO, Inc.</i> , No. 8:18-cv-01571 (C.D. Cal. Nov. 26, 2019), ECF No. 212
2003	Claim Construction Order re Supplemental Claim Construction entered on December 23, 2019, in <i>Polaris PowerLED Tech., LLC v. VIZIO, Inc.</i> , No. 8:18-cv-01571 (C.D. Cal. Dec. 23, 2019), ECF No. 264
2004	“Basic Televisions and Video Systems”, Bernard Grob, (1984, 5 th ed.) (“Grob”) [Excerpts]
2005	Patent Owner Supplemental Excerpts from Donald G. Fink, Television Engineering Handbook, First Edition, McGraw-Hill Book Company (1957) (“Fink II”) [Excerpt]
2006	RCA Television User’s Guide, Model CR20310 (2001) [Excerpt]
2007	RCA Television User’s Guide (2004) [Excerpt]
2008	IEEE 100, The Authoritative Dictionary of IEEE Standards Terms, 7 th ed. (2000) (“IEEE Dictionary”) [Excerpts]
2009	Microsoft Computer Dictionary, 5 th ed. (2002) (“MS Computer Dictionary”) [Excerpt]
2010	Office Action dated September 6, 2007, excerpt of the file history of U.S. Patent No. 7,468,722 (“722 patent”)
2011	Petition for <i>Inter Partes</i> Review, <i>Samsung Electronics Co., Ltd. v. Polaris PowerLED Technologies, LLC</i> , Case No. IPR2018-01262 (P.T.A.B. June 15, 2018), Paper 4

Exhibit No.	Description
2012	Patent Owner's Preliminary Response, <i>Samsung Electronics Co., Ltd. v. Polaris PowerLED Technologies, LLC</i> , Case No. IPR2018-01262 (P.T.A.B. Oct. 26, 2018), Paper 13
2013	Institution Decision, <i>Samsung Electronics Co., Ltd. v. Polaris PowerLED Technologies, LLC</i> , Case No. IPR2018-01262 (P.T.A.B. Jan. 17, 2019), Paper 14
2014	Petition for <i>Inter Partes</i> Review, <i>VIZIO, Inc. v. Polaris PowerLED Technologies, LLC</i> , Case No. IPR2020-00043 (P.T.A.B. Oct. 15, 2019), Paper 2
2015	Public version, Patent Owner's Preliminary Response, <i>VIZIO, Inc. v. Polaris PowerLED Technologies, LLC</i> , Case No. IPR2020-00043 (P.T.A.B. Feb. 6, 2020), Paper 10
2016	Institution Decision, <i>VIZIO, Inc. v. Polaris PowerLED Technologies, LLC</i> , Case No. IPR2020-00043 (P.T.A.B. May 4, 2020), Paper 30
2017	Request for Rehearing Decision, <i>VIZIO, Inc. v. Polaris PowerLED Technologies, LLC</i> , Case No. IPR2020-00043 (P.T.A.B. Sept. 15, 2020), Paper 32
2018	Petition for <i>Inter Partes</i> Review, <i>LG Electronics, Inc. v. Polaris PowerLED Technologies, LLC</i> , Case No. IPR2020-01283 (P.T.A.B. July 16, 2020), Paper 3
2019	Patent Owner's Preliminary Response, <i>LG Electronics, Inc. v. Polaris PowerLED Technologies, LLC</i> , Case No. IPR2020-01283 (P.T.A.B. Dec. 17, 2020), Paper 8
2020	Institution Decision, <i>LG Electronics, Inc. v. Polaris PowerLED Technologies, LLC</i> , Case No. IPR2020-01283 (P.T.A.B. Mar. 9, 2021), Paper 9
2021	Petition for <i>Inter Partes</i> Review, <i>Hisense Co., Ltd. v. Polaris PowerLED Technologies, LLC</i> , Case No. IPR2020-01337 (P.T.A.B. July 21, 2020), Paper 1

Exhibit No.	Description
2022	Patent Owner's Preliminary Response, <i>Hisense Co., Ltd. v. Polaris PowerLED Technologies, LLC</i> , Case No. IPR2020-01337 (P.T.A.B. Dec. 17, 2020), Paper 9
2023	Institution Decision, <i>Hisense Co., Ltd. v. Polaris PowerLED Technologies, LLC</i> , Case No. IPR2020-01337 (P.T.A.B. Mar. 9, 2021), Paper 11
2024	Reexamination Control No. 90/019,119 Office Action, filed June 2, 2023
2025	Reexamination Control No. 90/019,119 Information Disclosure Statement, filed July 19, 2023
2026	Declaration of Aidan M. Brewster in Support of Motion for <i>Pro Hac Vice</i> Admission

I. RELIEF REQUESTED

Pursuant to 37 C.F.R. § 42.10(c), the undersigned, on behalf of the Patent Owner Polaris PowerLED Technologies, LLC (“Patent Owner”), hereby respectfully requests the *pro hac vice* admission of Aidan M. Brewster in this proceeding. The parties have conferred and Petitioner does not oppose this motion.

II. GOVERNING LAW, RULES, AND PRECEDENT

Section 42.10(c) of 37 C.F.R. provides as follows:

The Board may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause, subject to the condition that lead counsel be a registered practitioner and to any other conditions as the Board may impose. For example, where the lead counsel is a registered practitioner, a motion to appear *pro hac vice* by counsel who is not a registered practitioner may be granted upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.

The Board has stated that any motion for *pro hac vice* admission under 37 C.F.R. § 42.10(c) must be filed in accordance with the “Order – Authorizing Motion for *Pro Hac Vice* Admission” entered in Case IPR2013-00639, Paper 7 (“*Unified Patents* Order”).

The *Unified Patents* Order requires that such motions (1) “[c]ontain a statement of facts showing there is good cause for the Board to recognize counsel

pro hac vice during the proceeding;” and (2) “[b]e accompanied by an affidavit or declaration of the individual seeking to appear attesting to the following”:

- i. Membership in good standing of the Bar of at least one State or the District of Columbia;
- ii. No suspensions or disbarments from practice before any court or administrative body;
- iii. No application for admission to practice before any court or administrative body ever denied;
- iv. No sanctions or contempt citations imposed by any court or administrative body;
- v. The individual seeking to appear has read and will comply with the Office Patent Trial Practice Guide and the Board’s Rules of Practice for Trials set forth in part 42 of 37 C.F.R.;
- vi. The individual will 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);
- vii. All other proceedings before the Office for which the individual has applied to appear *pro hac vice* in the last three (3) years; and
- viii. Familiarity with the subject matter at issue in the proceeding.

See Unified Patents Order, 3.

III. STATEMENT OF FACTS

Based on the following facts, and supported by the Declaration of Aidan M. Brewster, submitted herewith as Exhibit 2026, Patent Owner requests the *pro hac vice* admission of Mr. Brewster in this proceeding:

1. Patent Owner's lead counsel, Russell S. Tonkovich, is a registered practitioner (Reg. No. 64,101).
2. Mr. Brewster is attorney at the law firm of KRAMER ALBERTI LIM & TONKOVICH LLP ("Kramer Alberti"). EX2026, ¶3. Kramer Alberti is a firm that specializes in intellectual property law. *Id.*
3. Mr. Brewster is an experienced patent litigation attorney whose practice focuses on patent litigation before district courts and the Patent Trial and Appeal Board. *Id.*, ¶4. Mr. Brewster has litigated patent cases in a variety of technology areas, and involving a variety of legal issues. *Id.* Mr. Brewster has litigated patent-related district court actions and has assisted with *inter partes* review proceedings before the Office. *Id.*
4. Mr. Brewster is a member in good standing of the California State Bar and the Federal Circuit Bar. *Id.*, ¶5.
5. Mr. Brewster has never been suspended or disbarred from practice before any court or administrative body. *Id.*
6. No application of Mr. Brewster's for admission to practice before any court or administrative body has ever been denied. *Id.*, ¶6.
7. No sanctions or contempt citations have ever been imposed against Mr. Brewster by any court or administrative body. *Id.*, ¶7.

8. Mr. Brewster has read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in part 42 of 37 C.F.R. *Id.*, ¶8.
9. Mr. Brewster understands that he will 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). *Id.*, ¶9.
10. In the last three (3) years, Mr. Brewster has applied to appear *pro hac vice* in the following proceedings before the Patent Trial and Appeal Board: IPR2020-00961, IPR2021-01224, IPR2021-01226, IPR2021-01455, IPR2021-01456, and IPR2021-01457. *Id.*, ¶10. Mr. Brewster was granted admission *pro hac vice* in each of those cases. IPR2020-00961, Paper 21; IPR2021-01224, Paper 43; IPR2021-01226, Paper 40; IPR2021-01455, Paper 33; IPR2021-01456, Paper 31; IPR2021-01457, Paper 31. *Id.*
11. Mr. Brewster has an established familiarity with the subject matter at issue in this proceeding. *Id.*, ¶11; *see also* Section IV below.

IV. GOOD CAUSE EXISTS FOR THE *PRO HAC VICE* ADMISSION OF AIDAN M. BREWSTER IN THIS PROCEEDING.

“The Board may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause, subject to the condition that lead counsel be a registered practitioner and to any other conditions as the Board may impose.” 37 C.F.R.

§ 42.10(c). “[W]here the lead counsel is a registered practitioner, a motion to appear *pro hac vice* by counsel who is not a registered practitioner may be granted upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.” *Id.*

Patent Owner’s lead counsel, Russell S. Tonkovich, is a registered practitioner (Reg. No. 64,101). Based on the facts contained herein, as supported by Mr. Brewster’s Declaration, good cause exists to admit Mr. Brewster *pro hac vice* in this proceeding.

As set forth in his Declaration, Mr. Brewster is an experienced patent litigation attorney who began working as an attorney at Kramer Alberti in 2019. EX2026, ¶4. Mr. Brewster has litigated patent cases in a variety of technology areas, and involving a variety of legal issues. *Id.* Mr. Brewster has been involved in *inter partes* review proceedings before the Office and patent-related district court actions. *Id.* Additionally, Mr. Brewster is versed in the statutory provisions, regulations, case law, and administrative guidance applicable to these proceedings. *Id.*

Mr. Brewster also has an established familiarity with the subject matter at issue in this proceeding. *Id.*, ¶11. Mr. Brewster is versed in the records, facts, legal theories, and procedural issues involved. *Id.* Mr. Brewster has reviewed in detail U.S. Patent No. 8,223,117. *Id.* Mr. Brewster has also reviewed the references and

exhibits discussed in the Petition for *Inter Partes* Review. *Id.* Mr. Brewster has reviewed in detail the pleadings submitted in this proceeding and has engaged in strategic and substantive discussions regarding this proceeding. *Id.*, ¶12. Mr. Brewster is versed in both the legal and technical issues involved in this proceeding through his involvement in litigation in the related district court proceedings. *Id.*

Based on the facts contained herein, as supported by Mr. Brewster's Declaration, good cause exists to admit Mr. Brewster *pro hac vice* in this proceeding.

V. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that Aidan M. Brewster be admitted *pro hac vice* in this proceeding.

The Patent Trial and Appeal Board is hereby authorized to charge any fees
associated with this filing to Deposit Account 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX PLLC

/Jason A. Fitzsimmons/

Jason A. Fitzsimmons
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Date: January 17, 2024

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

I certify that the above-captioned **PATENT OWNER'S MOTION FOR
PRO HAC VICE ADMISSION OF AIDAN M. BREWSTER UNDER 37
C.F.R. § 42.10(c) and EXHIBIT 2026** were served in their entirety on January
17, 2024 upon the following parties via electronic mail:

Matthew J. Brigham (Lead Counsel)
Andrew C. Mace (Back-up Counsel)
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