

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.

IPR2023-00778
Patent 8,223,117 B2

Before KALYANK. DESHPANDE, *Vice Chief Administrative Patent Judge*, PHILLIP J. KAUFFMAN and KARA L. SZPONDOWSKI, *Administrative Patent Judges*.

SZPONDOWSKI, *Administrative Patent Judge*.

ORDER

Granting Patent Owner's Motion for Admission
Pro Hac Vice of Aidan M. Brewster
37 C.F.R. § 42.10

On January 17, 2024, Patent Owner filed a Motion for Admission *Pro Hac Vice* of Aidan M. Brewster. Paper 24 (“Motion”). Patent Owner also filed a Declaration of Aidan M. Brewster in support of the Motion. Ex. 2026 (“Declaration”). Patent Owner attests that Petitioner does not oppose the Motion. Paper 24, 1. For the reasons provided below, Patent Owner’s Motion is *granted*.

In accordance with 37 C.F.R. § 42.10(c), 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. In authorizing a motion for *pro hac vice* admission, the Board requires the moving party to provide a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* and an affidavit or declaration of the individual seeking to appear in the proceeding. *See Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7) (representative “Order – Authorizing Motion for *Pro Hac Vice* Admission”).

Based on the facts set forth in the Motion and the accompanying Declaration, we conclude that Mr. Brewster has sufficient legal and technical qualifications to represent Patent Owner in this proceeding, has demonstrated sufficient litigation experience and familiarity with the subject matter of this proceeding, and meets all other requirements for admission *pro hac vice*. *See* Ex. 2026. Accordingly, Patent Owner has established good cause for *pro hac vice* admission of Mr. Brewster. Mr. Brewster will be permitted to serve as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

We note that Patent Owner has filed a Power of Attorney including Mr. Brewster in accordance with 37 C.F.R. § 42.10(b). Paper 26. Patent

Owner has also filed a Mandatory Notice identifying Mr. Brewster as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3). Paper 25, 2.

Accordingly, it is:

ORDERED that Patent Owner's Motion (Paper 24) for *pro hac vice* admission of Aidan M. Brewster is *granted*;

FURTHER ORDERED that Patent Owner is to continue to have a registered practitioner represent it as lead counsel for this proceeding;

FURTHER ORDERED that Mr. Brewster is authorized to represent Patent Owner as back-up counsel only in this proceeding;

FURTHER ORDERED that Mr. Brewster comply with the Patent Trial and Appeal Board Consolidated Trial Practice Guide¹ (84 Fed. Reg. 64,280 (Nov. 21, 2019)), 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 Mr. Brewster shall be subject to the Office's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.*

¹ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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