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Paper No. 20
Date: January 23, 2024

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PELOTON INTERACTIVE, INC.,
Petitioner,

v.

JOHNSON HEALTH TECH CO., LTD.,
Patent Owner.

IPR2023-01163 (Patent 10,032,227 B2)
IPR2023-01164 (Patent 10,796,375 B2)
IPR2023-01165 (Patent 11,227,340 B2)

Before JAMES P. CALVE, BART A. GERSTENBLITH, and JULIET MITCHELL DIRBA, *Administrative Patent Judges*.

CALVE, *Administrative Patent Judge*.

ORDER[1]
Granting Patent Owner's Motions for
Pro Hac Vice Admission of John C. Scheller
37 C.F.R. § 42.10

[1] This Order addresses issues that are the same in each of the above-identified proceedings, so we issue one Order to be entered in each proceeding. The parties are not authorized to use this style heading.

On January 12, 2024, Patent Owner filed a Motion for *Pro Hac Vice* Admission of John C. Scheller in each of the above-identified proceedings. Paper 18 (collectively "Motions").[2] The Motion in each case is supported by a Declaration of Mr. Scheller. Ex. 2003 (collectively "Declarations").[3] Petitioner has not opposed the Motions. For the reasons provided below, Patent Owner's Motions are *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* Paper 6, 2 (citing *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 (PTAB Oct. 15, 2013) (representative "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. Scheller has sufficient legal and technical qualifications to represent Patent Owner in these proceedings, has demonstrated sufficient litigation experience and familiarity with the subject matter of these proceedings, and meets all other requirements for admission *pro hac vice*. *See* Ex. 2003. Accordingly, Patent Owner has established

[2] For expediency, we refer to Papers filed in IPR2023-01163. Patent Owner filed substantially similar Papers in IPR2023-01164 and IPR2023-01165.
[3] We cite to Exhibits filed in IPR2023-01163. Patent Owner filed substantially similar Declarations in IPR2023-01164 and IPR2023-01165.

good cause for *pro hac vice* admission of Mr. Scheller. Mr. Scheller will be permitted to serve as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

Patent Owner filed an Updated Power of Attorney listing Mr. Scheller as back-up counsel in accordance with 37 C.F.R. § 42.10(b). Paper 16. Patent Owner also filed Updated Mandatory Notices listing Mr. Scheller as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3). Paper 15.

ORDER

Accordingly, it is

ORDERED that Patent Owner's Motions for *pro hac vice* admission of John C. Scheller are *granted*;

FURTHER ORDERED that Patent Owner is to continue to have a registered practitioner represent it as lead counsel in the above-identified proceedings;

FURTHER ORDERED that Mr. Scheller is authorized to represent Patent Owner as back-up counsel only in the above-identified proceedings;

FURTHER ORDERED that Mr. Scheller shall comply with the Patent Trial and Appeal Board Consolidated Trial Practice Guide[4] (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 of the Code of Federal Regulations; and

FURTHER ORDERED that Mr. Scheller is 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 *et seq*.

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

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