Trials@uspto.gov
571-272-7822

Paper: 13
Entered: December 19, 2023

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)
IPR2023-00164 (Patent 10,796,375 B2)
IPR2023-00165 (Patent 11,227,340 B2)[1]

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

DIRBA, *Administrative Patent Judge*.

ORDER
Granting Patent Owner's Motion for *Pro Hac Vice* Admission
of Shane A. Brunner
37 C.F.R. § 42.10

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[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 December 6, 2023, Patent Owner filed a motion requesting *pro hac vice* admission of Shane A. Brunner in each of the above-identified proceedings. Paper 10 ("Motion").[2] Patent Owner also submitted a declaration from Mr. Brunner in support of the Motion. Ex. 2001 ("Declaration"). Petitioner did not oppose. 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* Paper 6 (Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response), 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 Motion and the accompanying Declaration, we conclude that Mr. Brunner 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

[2] For purposes of expediency, we cite to documents filed in IPR2023-01163. Patent Owner filed similar papers and exhibits in IPR2023-01164 and IPR2023-01165.

pro hac vice. *See* Ex. 2001. Accordingly, Patent Owner has established good cause for *pro hac vice* admission of Mr. Brunner. Mr. Brunner will be permitted to serve as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

We note Patent Owner has filed a Power of Attorney including Mr. Brunner in accordance with 37 C.F.R. § 42.10(b). *See* Paper 4. Patent Owner has also filed Mandatory Notices identifying Mr. Brunner as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3). *See* Paper 3.

In consideration of the foregoing, it is hereby

ORDERED that Patent Owner's Motion for *pro hac vice* admission of Shane A. Brunner is *granted*, and Mr. Brunner is only authorized to act as back-up counsel in the above-identified proceedings;

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

FURTHER ORDERED that Mr. Brunner is to comply with the Patent Trial and Appeal Board Consolidated Trial Practice Guide[3] (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. Brunner is 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.*

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

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FOR PETITIONER:

Babak Tehranchi
Michelle Kemp
R. Tyler Kendrick
PERKINS COIE LLP
Tehranchi-ptab@perkinscoie.com
Kemp-ptab@perkinscoie.com
Kendrick-ptab@perkinscoie.com

FOR PATENT OWNER:

Kevin P. Moran
MICHAEL BEST & FRIEDRICH LLP
kpmoran@michaelbest.com