

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PELTON INTERACTIVE, INC.,
Petitioner,

v.

NEC CORPORATION,
Patent Owner.

IPR2023-01240
IPR2023-01241¹
Patent 9,769,427 B2

Before MICHAEL J. STRAUSS, CHARLES J. BOUDREAU, and
CHRISTOPHER L. OGDEN, *Administrative Patent Judges*.

OGDEN, *Administrative Patent Judge*.

ORDER
Granting Petitioner's Motion to Withdraw Backup Counsel
37 C.F.R. §§ 42.10

¹ This order addresses an issue common to the above cases. The parties may not use this style caption without the Board's approval.

Petitioner filed a Motion to Withdraw Backup Counsel. IPR2023-01240, Paper 38; IPR2023-01241, Paper 40 (“Motion” or “Mot.”). Petitioner represents that Patent Owner has indicated through its counsel of record that it does not oppose the Motion. Mot. 2. For the following reasons, the Motion is *granted*.

A party represented by counsel must designate a lead counsel and at least one back-up counsel. 37 C.F.R. § 42.10(a). Counsel may not withdraw from a proceeding unless the Board authorizes such withdrawal.

Id. § 42.10(e). A power of attorney must be filed with the designation of counsel, unless the designated counsel is already counsel of record.

Id. § 42.10(b). The parties must provide certain mandatory notices, including identification of lead and back-up counsel. *Id.* § 42.8. Where there is a change of information, a party must file a revised notice within 21 days of the change. *Id.* § 42.8(a)(3).

Petitioner requests authorization to withdraw Daniel N. Yannuzzi, Darren M. Franklin, and Mark W. Catanese (collectively, “the Sheppard Mullin counsel”) as backup counsel. Mot. 1. In addition to the Sheppard Mullin counsel, Petitioner is currently represented by Scott Weidenfeller, as lead counsel, and Anupam Sharma and Emily Mondry, as back-up counsel. Paper 8. Thus, Petitioner will still have lead and at least one back-up counsel after withdrawal of the Sheppard Mullin counsel.

In accordance with 37 C.F.R. § 42.8(a)(3), Petitioner must file Updated Mandatory Notices removing Daniel N. Yannuzzi, Darren M. Franklin, and Mark W. Catanese as backup counsel within 21 days of entry of this Order.

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Having reviewed the Motion, we determine that good cause exists for granting the Motion.

It is

ORDERED that the Motion is *granted*;

FURTHER ORDERED that Daniel N. Yannuzzi, Darren M. Franklin, and Mark W. Catanese are withdrawn as backup counsel for Petitioner; and

FURTHER ORDERED that Petitioner file Updated Mandatory Notices removing Daniel N. Yannuzzi, Darren M. Franklin, and Mark W. Catanese as backup counsel within 21 days of entry of this Order.

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For PETITIONER:

Scott Weidenfeller
Anupam Sharma
COVINGTON & BURLING LLP
sweidenfeller@cov.com
asharma@cov.com

Daniel Yannuzzi
Mark Catanese
Darren Franklin
SHEPPARD, MULLIN, RICHTER & HAMPTON
dyannuzzi@sheppardmullin.com
mcatanese@sheppardmullin.com
dfranklin@sheppardmullin.com

For PATENT OWNER:

Eliot Williams
Robert Maier
Jennifer Tempesta
Michael Knierim
Nicholas Palmieri
BAKER BOTTS L.L.P
eliot.williams@bakerbotts.com
robert.maier@bakerbotts.com
jennifer.tempesta@bakerbotts.com
michael.knierim@bakerbotts.com
nick.palmieri@bakerbotts.com