

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

AMERICAN GNC CORPORATION,
Patent Owner.

IPR2024-00668
Patent 6,671,648 B2

Before BRIAN J. McNAMARA, SCOTT A. DANIELS, and
LISA L. TSANG, *Administrative Patent Judges*.

TSANG, *Administrative Patent Judge*.

ORDER

Granting Petitioner's Motions for *Pro Hac Vice* Admission of
Dena Chen, Patrick W. Lauppe, Mark R. Weinstein, and Stephen Smith
37 C.F.R. § 42.10(c)

On October 25, 2024, Petitioner filed Motions requesting *pro hac vice* admission of Dena Chen (Paper 13), Patrick W. Lauppe (Paper 14), Mark R. Weinstein (Paper 15), and Stephen Smith (Paper 16) in the above-captioned proceeding (collectively “Motions”). Petitioner also submitted Declarations from Ms. Chen (Ex. 1025), Mr. Lauppe (Ex. 1027), Mr. Weinstein (Ex. 1029), and Mr. Smith (Ex. 1031) in support of the Motions (collectively “Declarations”).¹ Petitioner attests that Patent Owner does not oppose the Motions. Paper 13, 1; Paper 14, 1; Paper 15, 1; Paper 16, 1.

For the reasons provided below, Petitioner’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 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 Motions and the accompanying Declarations, we conclude that Ms. Chen, Mr. Lauppe, Mr. Weinstein, and Mr. Smith each have sufficient legal and technical qualifications to represent Petitioner in this proceeding, that Ms. Chen, Mr. Lauppe, Mr. Weinstein,

¹ Petitioner filed a Declaration of Stephen Smith on October 25, 2024 and a Corrected Declaration of Stephen Smith on November 25, 2024. *See* Ex. 1031. The Corrected Declaration of Stephen Smith identifies several additional proceedings in which Mr. Smith has applied to appear *pro hac vice* before the Office. *See id.* ¶ 7.

and Mr. Smith have each demonstrated sufficient litigation experience and familiarity with the subject matter of this proceeding, and that Ms. Chen, Mr. Lauppe, Mr. Weinstein, and Mr. Smith each meet all other requirements for admission *pro hac vice*. See Ex. 1025; Ex. 1027; Ex. 1029; Ex. 1031. Accordingly, Petitioner has established good cause for *pro hac vice* admission of Ms. Chen, Mr. Lauppe, Mr. Weinstein, and Mr. Smith. Ms. Chen, Mr. Lauppe, Mr. Weinstein, and Mr. Smith will be permitted to appear *pro hac vice* as back-up counsel only. See 37 C.F.R. § 42.10(c).

Upon review of the record before us, we note that Petitioner filed Powers of Attorney including Ms. Chen, Mr. Lauppe, Mr. Weinstein, and Mr. Smith in accordance with 37 C.F.R. § 42.10(b). Papers 1 and 2. Petitioner has also filed Mandatory Notices, included in the Petition, identifying Ms. Chen, Mr. Lauppe, Mr. Weinstein, and Mr. Smith as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3). Paper 3, 2–3.

In consideration of the foregoing, it is hereby

ORDERED that Petitioner's Motions (Papers 13, 14, 15, and 16) for *pro hac vice* admission of Dena Chen, Patrick W. Lauppe, Mark R. Weinstein, and Stephen Smith in the above-captioned proceeding are *granted*;

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

FURTHER ORDERED that Ms. Chen, Mr. Lauppe, Mr. Weinstein, and Mr. Smith are authorized to represent Petitioner as back-up counsel only in the above-identified proceeding;

FURTHER ORDERED that Ms. Chen, Mr. Lauppe, Mr. Weinstein, and Mr. Smith be familiar with the Patent Trial and Appeal Board Consolidated Trial Practice Guide² (84 Fed. Reg. 64,280 (Nov. 21, 2019)), and comply with 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 Ms. Chen, Mr. Lauppe, Mr. Weinstein, and Mr. Smith are 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.*

² Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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