

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PNY TECHNOLOGIES, INC.
Petitioner

v.

PHISON ELECTRONICS CORP.
Patent Owner

Case IPR2013-00472
Patent 7,518,879

Before KEVIN F. TURNER, STEPHEN C. SIU, and
RAMA G. ELLURU, *Administrative Patent Judges*.

TURNER, *Administrative Patent Judge*.

Decision
Motions for *Pro Hac Vice* Admission of Jonathan Short and Matthew Sklar
37 C.F.R. § 42.10

PNY Technologies, Inc. (“PNY”) filed motions for *pro hac vice* admission of Messrs. Jonathan Short and Matthew Sklar. Papers 17 and 18, respectively. The motions are unopposed. For the reasons provided below, PNY’s motions are *granted*.

As set forth in 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. For example, where the lead counsel is a registered practitioner, a non-registered practitioner may be permitted to appear *pro hac vice* “upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.” 37 C.F.R. § 42.10(c). In authorizing motions for *pro hac vice* admission, the Board also required 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 this proceeding. Paper 7 (referencing the “Order – Authorizing Motion for *Pro Hac Vice* Admission” in IPR2013-00010, at 3-4).

In its motion regarding Mr. Jonathan Short, PNY asserts that there is good cause for Mr. Short’s *pro hac vice* admission because: (1) Mr. Short is an experienced patent litigator with an extensive background in the fields of intellectual property and information technology law; (2) he has an established familiarity with the subject patent having been co-counsel in a co-pending patent litigation; and (3) he has worked closely with the lead and back-up counsel and is familiar with the instant petition and its supporting documents. Paper 17 at 2-3. In support of the motion, Mr. Short attests to these facts in his declaration with sufficient explanations. (Submitted with Paper 17).

In its motion regarding Mr. Matthew Sklar, PNY asserts that there is good

cause for Mr. Sklar's *pro hac vice* admission because: (1) Mr. Sklar is an experienced patent litigator with an extensive background in the fields of intellectual property and information technology law; (2) he has an established familiarity with the subject patent having been co-counsel in a co-pending patent litigation; and (3) he has worked closely with the lead and back-up counsel and is familiar with the instant petition and its supporting documents. Paper 18 at 2-3. In support of the motion, Mr. Sklar attests to these facts in his declaration with sufficient explanations. (Submitted with Paper 18).

Based on the record, we find that Messrs. Short and Sklar have sufficient legal and technical qualifications to represent PNY in the instant proceeding. Accordingly, PNY has established that there is good cause for Messrs. Short and Sklar's admission. Messrs. Short and Sklar will be permitted to appear *pro hac vice* in these proceedings as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

For the foregoing reasons, it is

ORDERED that PNY's motions for *pro hac vice* admission of Messrs. Short and Sklar for the instant proceedings are *granted*; Messrs. Short and Sklar are authorized to represent PNY as back-up counsel in the instant proceeding;

FURTHER ORDERED that PNY is to continue to have a registered practitioner as lead counsel in the instant proceedings; and

FURTHER ORDERED that Messrs. Short and Sklar are to comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials, as set forth in Part 42 of the C.F.R., and to be subject to the Office's Code of Professional Responsibility set forth in 37 C.F.R. §§ 10.20 *et seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a).

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