

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SUPERCELL OY,  
Petitioner,

v.

GREE, INC.,  
Patent Owner.

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Case PGR2018-00008  
Patent 9,597,594 B2

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Before MICHAEL W. KIM, TIMOTHY J. GOODSON, and  
AMANDA F. WIEKER, Administrative Patent Judges.

KIM, *Administrative Patent Judge.*

ORDER  
Conditionally Granting Petitioner's Motion for *Pro Hac Vice*  
Admission of Mr. Geoffrey R. Miller  
*37 C.F.R. § 42.10*

Petitioner moves to have Mr. Geoffrey R. Miller admitted *pro hac vice* in this proceeding. Paper 26 (“Motion”). Petitioner submitted a Declaration of Mr. Miller in support of this Motion. Ex. 1008 (“Declaration”). Patent Owner did not oppose the Motion within the requisite time period.

In accordance with 37 C.F.R. § 42.10(c), we may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause. 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 4, 2 (citing *Unified Patents, Inc. v. Parallel Iron, LLC*, Case IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7) (representative “Order – Authorizing Motion for *Pro Hac Vice* Admission”)).

In the Motion, Petitioner states there is good cause for the Board to recognize Mr. Miller *pro hac vice* during this proceeding, because, *inter alia*, Mr. Miller has established familiarity with the subject matter at issue in this proceeding, at least partially by serving as a consulting attorney in a related, co-pending action before the Tokyo District Court involving the Japanese counterpart of U.S. Patent No. 9,597,594. Motion ¶ 5; Declaration ¶ 11. Accordingly, Petitioner has established good cause for the admission of Mr. Miller *pro hac vice*. Mr. Miller will be permitted to serve as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

Upon review of the record, we note that a Power of Attorney in accordance with 37 C.F.R. § 42.10(b) has not been submitted for Mr. Miller. In view thereof, Petitioner's Motion is conditionally granted, and is to be effective after Patent Owner files the aforementioned Power of Attorney.

Accordingly, it is hereby:

ORDERED that Petitioner's Motion is conditionally granted, provided that within seven (7) business days of the date of this order, Petitioner submits a Power of Attorney for Mr. Miller in accordance with 37 C.F.R. § 42.10(b);

FURTHER ORDERED that Petitioner shall submit, within seven (7) business days of this order, an updated mandatory notice identifying Mr. Miller as back-up counsel in accordance with 37 C.F.R. § 42.8(b)(3);

FURTHER ORDERED that Petitioner continue to have a registered practitioner serve as lead counsel in this proceeding, but that Mr. Miller is authorized to act as back-up counsel;

FURTHER ORDERED that Mr. Miller is to comply with the Office Patent Trial Practice Guide as updated by the Office Patent Trial Practice Guide August 2018 Update, 83 Federal Register 39,989 (Aug. 13, 2018) and

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the Board's Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations;<sup>1</sup> and

FURTHER ORDERED that Mr. Miller is subject to the Office's disciplinary jurisdiction under 37 C.F.R. § 11.19(a), and to the USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 *et seq.*

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<sup>1</sup> The Declaration states that Mr. Miller has “read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in Part 42 of *the* Code of Federal Regulations.” Ex. 1008 ¶ 8 (emphasis added). We note that the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials are set forth in part 42 of 37 C.F.R. We deem this harmless error.

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