

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CYANOTECH CORPORATION  
Petitioner

v.

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS  
Patent Owner

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Cases IPR2013-00401 and IPR2013-00404 (consolidated)

Patent 5,527,533

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SCOTT E. KAMHOLZ, *Administrative Patent Judge.*

DECISION

On Patent Owner's Motion for *Pro hac vice* Recognition of Counsel  
*37C.F.R. § 42.10*

The University filed a motion for the *pro hac vice* recognition of Todd S. Werner and Peter M. Kohlhepp. Paper 19. The motion is unopposed. Paper 26 at 3. The motion is *granted*.

Pursuant to 37 C.F.R. § 42.10(c), the Board may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause. In authorizing motions for *pro hac vice*, 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 this proceeding. Paper 8 (“Notice”).

In its motion, the University states that there is good cause for the Board to recognize Messrs. Werner and Kohlhepp *pro hac vice* during this proceeding, because they are counsel in co-pending litigation involving the same patent. Paper 19, 2. The University states that Mark D. Schuman will continue as its lead counsel. *Id.* Messrs. Werner and Kohlhepp each made a declaration attesting to, and explaining, these facts. *Id.* Exs. A, B.<sup>1</sup> Each declaration complies with the requirements set forth in the Notice.

Upon consideration, we determine that the University has demonstrated that Messrs. Werner and Kohlhepp have sufficient legal and technical qualifications to represent the University in this proceeding. Moreover, the Board recognizes that there is a need for the University to have related litigation counsel involved in this proceeding. Accordingly, the University has also established that there is good cause for admitting Messrs. Werner and Kohlhepp.

It is

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<sup>1</sup> We remind the University that each of its exhibits must be uniquely numbered sequentially in the range 2001-2999 and must be appropriately labeled. *See* 37 C.F.R. § 42.63.

ORDERED that the University's motion for *pro hac vice* recognition of Todd S. Werner and Peter M. Kohlhepp is *granted*;

FURTHER ORDERED that the University is to continue to have a registered practitioner represent it as lead counsel for this proceeding;

FURTHER ORDERED that Messrs. Werner and Kohlhepp 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 Title 37, Code of Federal Regulations;

FURTHER ORDERED that Messrs. Werner and Kohlhepp 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.*

Cases IPR2013-00401, -00404  
Patent 5,527,533

For PETITIONER:

Joseph A. Rhoa  
NIXON & VANDERHYE P.C.

George E. Darby  
PARADISE PATENT SERVICES, INC.

For PATENT OWNER:

Mark D. Schuman  
Iain A. McIntyre  
CARLSON CASPERS