

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CYANOTECH CORPORATION

Petitioner

v.

THE BOARD OF TRUSTEES OF THE UNIVERSITY OF ILLINOIS

Patent Owner

Case IPR2013-00401¹

Patent 5,527,533

Before SCOTT E. KAMHOLZ, SHERIDAN K. SNEDDEN, and
GEORGIANNA W. BRADEN, *Administrative Patent Judges*.

PETITIONER'S MOTION FOR *PRO HAC VICE* ADMISSION OF
ROBERT A. ROWAN UNDER 37 C.F.R. § 42.10(c)

Submitted: June 11, 2014

¹ Consolidated with Case IPR2013-00404

Pursuant to 37 C.F.R. § 42.10(c), Petitioner (Cyanotech Corporation), by and through its attorneys, hereby respectfully moves for the *pro hac vice* admission of Robert A. Rowan, litigation counsel for the co-pending patent lawsuit concerning the same parties and the same patent in the Middle District of Florida. Petitioner has already conferred with Patent Owner about this motion and Patent Owner is unopposed to its filing. In support of this motion, Petitioner states as follows:

Good cause exists under 37 C.F.R. § 42.10(c) for the *pro hac vice* admission of Robert A. Rowan as co-counsel in this matter. Mr. Rowan represents defendants Cyanotech Corporation and Nutrex Hawaii, Inc. in an ongoing patent infringement action in the Middle District of Florida (12-cv-366, filed June 29, 2012) (“the Florida Litigation”). The Florida Litigation involves the same parties as this action (the Board of Trustees of the University of Illinois and Cyanotech Corporation) and the same patent (U.S. Patent No. 5,527,533 (“the ‘533 patent”)). The Florida Litigation has been ongoing for almost two years, and the parties have invested significant time and financial resources in litigating the validity of the ‘533 patent. *See also* Patent Owner’s Motion for Pro Hac Vice Admission of Litigation Counsel, Paper 19) (“For example, in the Florida Litigation the parties have exchanged validity contentions, filed claim construction briefs, conducted a deposition of a claim construction expert, and engaged in discovery regarding

validity, including the production and review of thousands of documents.”) Mr. Rowan was the lead attorney with respect to each of these activities. As a result, Mr. Rowan has developed an intimate familiarity with the ‘533 patent and its validity, and Petitioner wishes to have its existing litigation counsel continue representing Petitioner in this matter before the Board. Moreover, Mr. Rowan has reviewed all relevant filings in IPR2013-00401, attended the most recent conference call with the Board, and is familiar with the case at this stage of the proceeding.

Pursuant to the requirements of 37 C.F.R. § 42.10(c), Joseph A. Rhoa, a registered practitioner, will remain as lead counsel in this matter. Mr. Rhoa is a partner at Nixon & Vanderhye P.C., the same law firm that is representing Cyanotech Corporation in the ongoing Florida Litigation.

Pursuant to the requirements of the “Order Authorizing Motion for Pro Hac Vice Admission” in Case IPR2013-00639 (superseding the similar Order in Case IPR2013-00010), this Motion is also supported by the attached Declaration of Robert A. Rowan (Exhibit A).

For the foregoing reasons, and in view of the Declaration submitted herewith, Petitioner submits that good cause exists for the *pro hac vice* admission of Robert A. Rowan and respectfully requests that the Board grant this motion.

