

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

BUTAMAX ADVANCED BIOFUELS LLC,)
)
)
) PETITIONER,) CASE NO.
) IPR2013-00539
)
)
) vs.)
)
)
) GEVO, INC.,)
)
)
) PATENT OWNER.)
)

TRANSCRIPT OF PROCEEDINGS VIA TELECONFERENCE
TAKEN MONDAY, MARCH 24, 2014
LOS ANGELES, CALIFORNIA

Reported by Audra E. Cramer, CSR No. 9901

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1 TRANSCRIPT OF PROCEEDINGS TAKEN AT 12:03 P.M., MONDAY,
 2 MARCH 24, 2014, VIA TELEPHONE, BEFORE HON. JUDGE
 3 CHRISTOPHER CRUMBLEY AND AUDRA CRAMER, C.S.R. NO. 9901.
 4
 5 APPEARANCES OF COUNSEL
 6
 7 FOR THE PETITIONER:
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1 on the line?
 2 THE REPORTER: Yes, Judge. This is Audra,
 3 A-u-d-r-a, Cramer, C-r-a-m-e-r.
 4 JUDGE CRUMBLEY: Okay. Thank you. And we
 5 would just ask -- I believe, Ms. Sterling, did you
 6 arrange for the reporter?
 7 MS. STERLING: We did, Your Honor.
 8 JUDGE CRUMBLEY: I would just ask that you
 9 provide a copy of the transcript to the Patent Owner as
 10 well as filed with the board.
 11 MS. STERLING: We will.
 12 JUDGE CRUMBLEY: Thank you.
 13 So let's get under way. I guess let's talk
 14 about the scheduling order first.
 15 Does either party have any issue with the dates
 16 that we had set in the scheduling order as of now?
 17 MS. STERLING: On behalf of the Petitioner,
 18 Your Honor, we have no dates that we think need to be
 19 changed. We're fine with the schedule as is.
 20 MR. VEITENHEIMER: The Patent Owner is fine as
 21 well, Your Honor.
 22 JUDGE CRUMBLEY: Okay. Now, I understand in

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1 MONDAY, MARCH 24, 2014, 12:03 P.M.
 2
 3 JUDGE CRUMBLEY: Good afternoon, everyone.
 4 This is Judge Crumbley. I have with me Judges Elluru
 5 and Begley. This is the initial conference call in
 6 IPR2013-00539.
 7 Do we have Counsel for Petitioner on the line?
 8 MS. STERLING: We do, Your Honor. This is
 9 Deborah Sterling from Sterne, Kessler, Goldstein & Fox.
 10 JUDGE CRUMBLEY: Okay. Anybody else for
 11 Petitioner?
 12 MS. STERLING: No.
 13 JUDGE CRUMBLEY: And do we have Counsel for
 14 Patent Owner?
 15 MR. VEITENHEIMER: You do. You have
 16 Erich Veitenheimer and Chris Holly.
 17 JUDGE CRUMBLEY: Spell your last name.
 18 MR. VEITENHEIMER: Sure. V as in "Victor"-e-i-
 19 t as in "Tom"-e-n-h as in "house"-e-i-m as in "mother"-
 20 e-r.
 21 JUDGE CRUMBLEY: Thank you.
 22 And I understand that there's a court reporter

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1 the scheduling order you can stipulate to different
 2 dates for Due Dates 1 through 3 as long as you file a
 3 stipulation with the board. They may not be stipulated
 4 any later than Due Date 4. So if those dates need to be
 5 changed for some reason and you can agree to that, feel
 6 free to stipulate to those. But I'm glad to hear that
 7 we don't have any problems right now.
 8 Let's turn to the motions list that we asked
 9 that the parties file with the board. We don't have one
 10 from the Patent Owner.
 11 I take it that means, Ms. Sterling, you don't
 12 anticipate filing any motions at this point?
 13 MS. STERLING: Nothing over those that have
 14 already been authorized, Your Honor?
 15 JUDGE CRUMBLEY: Okay. Anything that you would
 16 like to discuss before I turn to the Patent Owner's
 17 motions list?
 18 MS. STERLING: We're all right now, Your Honor.
 19 JUDGE CRUMBLEY: All right. Then the
 20 Patent Owner's list has a possible motion to amend or
 21 cancel claims. I take it that means that you haven't
 22 decided whether you're going to be filing such a motion

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1 at this time?
 2 MR. VEITENHEIMER: Yes, Your Honor, that's
 3 correct.
 4 JUDGE CRUMBLEY: Okay. In the event you
 5 determine you do want to file, I will just -- I'll just
 6 ask that you familiarize yourself with our rules
 7 regarding motions to amend claims, which is 42.121. And
 8 also there's some prior decisions of the board that
 9 discuss motions to amend and what's required. I'll ask
 10 that you study those closely, including the Idle Free
 11 decisions, which is Case 2012-00027. Paper 26 is an
 12 interim order in that case, and Paper 66 is the final
 13 written decision. You may also want to look at the
 14 Toyota case, which is 2013-00423, Paper 27.
 15 When you have had the chance to look all those
 16 over and you determine that you have something that you
 17 want to file and you have in mind the motions and the
 18 claims that you want to propose, we just ask that you
 19 come back to us and confer with us before filing so we
 20 can just walk you through the particular amendments that
 21 you're planning on proposing and just provide any
 22 additional guidance that you might need. So just call

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1 us -- or arrange for a conference call at that point,
 2 and we can satisfy that requirement.
 3 Is that understood?
 4 MR. VEITENHEIMER: Great. And what was the
 5 docketing number, Your Honor, for the first case?
 6 JUDGE CRUMBLEY: Sure. It's 2012-00027. The
 7 case is called IDLE FREE V. BERGSTROM.
 8 So anything else before we move on that we want
 9 to discuss about the motion to amend claims? Any
 10 questions you have at this time?
 11 MR. VEITENHEIMER: No, Your Honor.
 12 JUDGE CRUMBLEY: Okay. Anything else regarding
 13 motions that wasn't on your list?
 14 MR. VEITENHEIMER: Patent Owner has no further
 15 questions.
 16 JUDGE CRUMBLEY: Okay. I didn't see anything,
 17 obviously, about a protective order.
 18 Do the parties anticipate needing a protective
 19 order in the case?
 20 MS. STERLING: As for the Petitioner, not at
 21 this time, Your Honor.
 22 MR. VEITENHEIMER: For the Patent Owner, not at

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1 this time either.
 2 JUDGE CRUMBLEY: Okay. If the need does arise,
 3 I'll direct your attention to the TRIAL PRACTICE GUIDE,
 4 specifically Appendix B, which is our default protective
 5 order. If you wish to depart from that order, you just
 6 need to identify in your motion how it departs from the
 7 protective order and provide us with a red line showing
 8 the comparison to the default so we can know what
 9 changes are being proposed.
 10 And, again, if you need to have a conference
 11 call with us regarding a protective order, we can do
 12 that, but usually we're very happy to have the parties
 13 agree on language if at all possible.
 14 MS. STERLING: Understood, Your Honor.
 15 JUDGE CRUMBLEY: Okay. I guess the last thing
 16 on my list here is to turn to the issue of Mr. Brown's
 17 withdrawal from representation of the Patent Owner.
 18 As I understand from the most recent e-mail
 19 that we have, Mr. Brown has agreed to withdraw; is that
 20 correct? I take it by him not being on the phone, that
 21 that's the case.
 22 MR. VEITENHEIMER: Yes, Your Honor. For the

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1 Patent Owner, Mr. Brown agreed to voluntarily withdraw.
 2 JUDGE CRUMBLEY: Okay. I think what we're
 3 going to do need to do in that case, Rule 42.10(e)
 4 requires board authorization for withdrawal of counsel.
 5 I actually need to see a written motion to withdraw from
 6 Mr. Brown. And then also, you know, if -- now, who's
 7 going to be taking over as lead counsel?
 8 MR. VEITENHEIMER: I am, Erich Veitenheimer.
 9 JUDGE CRUMBLEY: Okay. So what we'll need to
 10 see with the motion is also an updated designation of
 11 counsel.
 12 MR. VEITENHEIMER: Understood, Your Honor.
 13 JUDGE CRUMBLEY: And if your previous power of
 14 attorney doesn't cover you, then we will need an updated
 15 power of attorney as well.
 16 MR. VEITENHEIMER: I understand.
 17 JUDGE CRUMBLEY: And is there any objection to
 18 this motion? I obviously haven't seen it, but any
 19 objection to the withdrawal from the Petitioner?
 20 MS. STERLING: The Petitioner does not object
 21 to Mr. Brown's withdrawal.
 22 JUDGE CRUMBLEY: Okay. So if you can just

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1 go ahead and get something like that on file as soon as
 2 possible, we'll take care of it as quickly as we can and
 3 get counsel squared away.
 4 MR. VEITENHEIMER: Thank you.
 5 MS. STERLING: Thank you.
 6 JUDGE CRUMBLEY: Is there anything else that we
 7 need to discuss today?
 8 MS. STERLING: Petitioner has no further issues
 9 to discuss today, Your Honor.
 10 JUDGE CRUMBLEY: Okay. Patent Owner, anything?
 11 MR. VEITENHEIMER: No, Your Honor. But you
 12 would like to see that motion come from Mr. Brown; is
 13 that correct?
 14 JUDGE CRUMBLEY: He needs to file it because
 15 he's currently lead counsel, and he can provide his --
 16 you know, his request to withdraw, because, otherwise,
 17 you know, I don't know who it's coming from since you
 18 haven't actually made an appearance in this case. I'm
 19 actually letting it slide here on this call just because
 20 of the situation that we have, but, you know, he's the
 21 one that's authorized to appear on behalf of the
 22 Patent Owner. So he needs to file -- I mean, he's

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1 there, I assume, and he's just voluntarily withdrawing;
 2 correct?
 3 MR. VEITENHEIMER: Correct.
 4 JUDGE CRUMBLEY: So he can make the motion. He
 5 needs to make the motion.
 6 MR. VEITENHEIMER: Okay. Perfect.
 7 JUDGE CRUMBLEY: All right. Is there anything
 8 else from the Patent Owner?
 9 MR. VEITENHEIMER: No, Your Honor.
 10 JUDGE CRUMBLEY: Okay. All right. Well, then
 11 we will stand adjourned. Thank you for your time
 12 everyone.
 13 MR. VEITENHEIMER: Thank you.
 14 MS. STERLING: Thank you very much.
 15 (At 12:11 p.m., the proceedings
 16 were adjourned.)
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1 STATE OF CALIFORNIA)
 2 COUNTY OF LOS ANGELES) SS.
 3
 4 I, AUDRA E. CRAMER, C.S.R. No. 9901, in and for
 5 the State of California, do hereby certify:
 6 That said proceeding was taken down by me in
 7 shorthand at the time and place therein named, and
 8 thereafter reduced to typewriting under my direction,
 9 and the same is a true, correct and complete transcript
 10 of said proceeding;
 11 I further certify that I am not interested in the
 12 event of the action.
 13 Witness my hand this 24th day of March, 2014.
 14
 15
 16
 17
 18 _____
 19 Certified Shorthand
 20 Reporter for the
 21 State of California
 22

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