

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BUTAMAX<sup>TM</sup> ADVANCED BIOFUELS LLC  
Petitioner

v.

GEVO, INC.  
Patent Owner

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Case IPR2013-00539  
Patent 8,273,565 B2

Before RAMA G. ELLURU, CHRISTOPHER L. CRUMBLEY, and  
KERRY BEGLEY, *Administrative Patent Judges*.

BEGLEY, *Administrative Patent Judge*.

ORDER  
Conduct of Proceeding  
37 C.F.R. § 42.5

An initial conference call was held on March 24, 2014 at approximately 3:00 p.m. The conference was attended by the above-identified panel members; Deborah A. Sterling, Ph.D., for Petitioner Butamax<sup>TM</sup> Advanced Biofuels LLC (“Butamax”); Chris Holly, Ph.D., and Erich E. Veitenheimer, Ph.D., for Patent Owner Gevo, Inc. (“Gevo”); and a court reporter. The following matters were discussed.

*Transcript.* Butamax, which arranged for the court reporter to join the conference call, agreed to file the transcript of the call with the Board and to provide Gevo with a copy of the transcript.

*Scheduling Order.* Both parties indicated that the dates in the Scheduling Order entered March 4, 2014 (Paper 10) are acceptable to them.

*Motions Lists.* Before the conference call, Gevo filed a list of proposed motions, which states that it is considering filing a motion to amend or cancel claims. Paper 11. We reminded counsel of the requirement to confer with the panel before filing any such motion. 37 C.F.R. § 42.121(a). We also directed counsel’s attention to *Idle Free Systems, Inc. v. Bergstrom, Inc.*, IPR2012-00027 (PTAB June 11, 2013) (Papers 26, 66) and *Toyota Motor Corp. v. American Vehicular Sciences LLC*, IPR2013-00423 (PTAB Mar. 7, 2014) (Paper 27), which set forth in detail the requirements of a motion to amend.

Butamax did not file a list of proposed motions prior to the call and indicated, during the call, that it does not anticipate filing any motions beyond those already authorized by the Board.

*Protective Order.* Both parties indicated that they do not anticipate needing a protective order in this proceeding. We advised counsel that if the parties later wish to request entry of such an order, the Board has a default protective order that

the parties may follow. See *Office Patent Trial Practice Guide; Rule, 77 Fed. Reg. 48,756, 48,769-71* (Aug. 14, 2012) (Appendix B). If the parties wish to deviate from the default protective order, they should note in redline the differences between the proposed protective order and the default protective order and explain the differences.

*Withdrawal of Gevo's Lead Counsel.* Gevo indicated that its lead counsel, Fraser D. Brown, Ph.D., would be voluntarily withdrawing from this proceeding and that Dr. Brown would be replaced by Erich E. Veitenheimer, Ph.D. Butamax stated that it does not object to Dr. Brown's withdrawal. We advised Gevo that Dr. Brown may withdraw from this proceeding only with authorization from the Board. See 37 C.F.R. § 42.10(e). Dr. Brown, therefore, should file a motion to withdraw as counsel, which requires prior Board authorization. See 37 C.F.R. §§ 42.10(e), 42.20(b); *SIPNET EU S.R.O. v. Straight Path IP Group, Inc.*, IPR2013-00246, slip op. at 2 (PTAB Jul. 12, 2013) (Paper 7). We orally granted permission for Dr. Brown to file a motion to withdraw as counsel. The motion to withdraw should be accompanied by an updated mandatory notice and if necessary, an updated power of attorney. See *GTECH Corp. v. SHFL Entm't, Inc.*, CBM2014-00048, CBM2014-00049, slip op. at 2 (PTAB Jan. 22, 2014) (Paper 12).

### ORDER

It is

ORDERED that Fraser D. Brown, Ph.D., is authorized to file a motion to withdraw as counsel.

Case IPR2013-00539

Patent 8,273,565 B2

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