

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BUTAMAXTM ADVANCED BIOFUELS LLC,
Petitioner,

v.

GEVO, INC.,
Patent Owner.

Case IPR2013-00539
Patent 8,273,565 B2

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

CRUMBLEY, *Administrative Patent Judge*.

ORDER
Trial Hearing
37 C.F.R. § 42.70

Petitioner Butamax Advanced Biofuels LLC requested oral hearing pursuant to 37 C.F.R. § 42.70. Paper 23. No oral hearing request was received from Patent Owner Gevo, Inc. Upon consideration, the request for oral hearing is *granted*.

Oral arguments shall commence at 9:00 AM Eastern Time on October 28, 2014,¹ on the ninth floor of Madison Building East, 600 Dulany Street, Alexandria, Virginia.

Each party will have one hour of total time to present arguments. Butamax bears the ultimate burden of proof that Gevo's claims at issue in this review are unpatentable. Butamax will, therefore, begin by presenting its case regarding the challenged claims and grounds for which the Board instituted trial. Gevo will then respond to Butamax's arguments. Butamax may reserve time to respond to arguments presented by Gevo.

The Board will provide a court reporter, and the transcript shall constitute the official record of the hearing. No motions to seal have been filed in this proceeding. Accordingly, the Board exercises its discretion to make the oral hearing publically available. The hearing will be open to the public for in-person attendance that will be accommodated on a first-come, first-served basis.

Under 37 C.F.R. § 42.70(b), demonstrative exhibits must be served at least five business days before the hearing. The Board requests that such exhibits be filed at the Board at least five business days before the hearing. The parties must file any objections to the demonstratives with the Board at least two business days before the hearing. Any objection to demonstrative exhibits that is not timely presented will be considered waived. The objections should identify with particularity which demonstratives are subject to objection, and include a one-sentence statement of the reason for each objection. No argument or further

¹ This date differs from the date of oral hearing set in our Scheduling Order of March 4, 2014. Paper 10. If either party determines that a scheduling conflict prevents attendance by its counsel at oral hearing on the morning of October 28, 2014, the party shall contact the Board within three business days of this Order to discuss alternative dates.

explanation is permitted. The Board will consider the objections and schedule a conference if deemed necessary. Otherwise, the Board will reserve ruling on the objections until after the oral argument. The parties are directed to *St. Jude Medical, Cardiology Division, Inc. v. The Board of Regents of the University of Michigan*, Case IPR2013-00041 (PTAB January 27, 2014) (Paper 65), for guidance regarding the appropriate content of demonstrative exhibits.

The Board expects lead counsel for each party to be present in person at the oral hearing. However, any counsel of record may present the party's argument. If either party anticipates that its lead counsel will not be attending the oral argument, the parties should initiate a joint telephone conference with the Board no later than two business days prior to the oral hearing to discuss the matter.

Any special requests for audio visual equipment should be directed to Trials@uspto.gov.

In light of the foregoing, it is:

ORDERED that oral hearing shall commence at 9:00 AM Eastern Time on October 28, 2014; and

FURTHER ORDERED that if either party cannot attend oral hearing at the ordered date and time, it shall contact the Board within three (3) business days of this Order.

IPR2013-00539
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