

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BUTAMAX 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*.

DECISION
Motion for *Pro Hac Vice* Admission
37 C.F.R. § 42.10

Patent Owner, Gevo, Inc., filed a motion for *pro hac vice* admission of Mr. Brett Lund, its Chief Licensing Officer and General Counsel. Paper 26, "Mot." In the Motion, Gevo states that it conferred with Petitioner, Butamax Advanced

Biofuels LLC, who does not oppose the Motion. For the reasons provided below, Gevo's 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, subject to the condition that lead counsel be a registered practitioner and to any other conditions as the Board may impose.” The Rule provides, as an example of a situation in which granting a motion to appear *pro hac vice* may be appropriate, “upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.” 37 C.F.R. § 42.10(c). The Board previously authorized Gevo to file a motion for *pro hac vice* admission of Mr. Lund, and directed Gevo to the requirements set forth in *Unified Patents, Inc. v. Parallel Iron, LLC*, Case IPR2013-00639 (PTAB Oct. 15, 2013) (Paper 7). Paper 25, 3.

In its motion, Gevo states that there is good cause for the Board to recognize Mr. Lund *pro hac vice* during this proceeding, because he is General Counsel of Gevo, has “significant” experience with litigation involving intellectual property, and has an established familiarity with the subject matter at issue in this *inter partes* review. Paper 26, 2. Mr. Lund made a declaration attesting to, and explaining, these facts. Ex. 2002. Mr. Lund also states that, in his capacity as Chief Licensing Officer and General Counsel for Gevo, he has become “acutely familiar” with Gevo's patent portfolio, including the technical subject matter and prior art involved with U.S. Patent No. 8,273,565. *Id.* ¶¶ 7–8.

Mr. Lund affirms that he has read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in Part 42 of Title 37 of the Code of Federal Regulations, and agrees to be subject to the

USPTO Code of Professional Responsibility set forth in 37 C.F.R. §§ 11.101 *et seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a). *Id.* ¶¶ 13–14.

Upon consideration, the Board recognizes that there is a legitimate need for Gevo to be represented at the upcoming oral hearing in this *inter partes* review. Gevo has demonstrated that Mr. Lund has sufficient legal and technical qualifications to represent it in this proceeding. Accordingly, Gevo has established that there is good cause for Mr. Lund's admission. Mr. Lund will be permitted to appear *pro hac vice* in this proceeding as back-up counsel only, and will be permitted to represent Gevo at the oral hearing in this matter. *See* 37 C.F.R. § 42.10(c).

For the foregoing reasons, it is

ORDERED that Gevo's motion for *pro hac vice* admission of Mr. Brett Lund for this proceeding is *granted*;

FURTHER ORDERED that Mr. Lund is authorized to represent Gevo as back-up counsel only;

FURTHER ORDERED that Gevo's lead counsel, Erich E. Veitenheimer, is excused from attendance at the oral hearing on October 28, 2014; and

FURTHER ORDERED that Mr. Lund is 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, and to be 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.*

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