

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TENNANT COMPANY,
Petitioner,

v.

OXYGENATOR WATER TECHNOLOGIES, INC.,
Patent Owner.

Case IPR2021-00625

Patent RE45415

**Declaration of Todd S. Werner in Support of Patent Owner's Unopposed
Motion for *Pro Hac Vice* Admission**

I, Todd S. Werner, hereby declare as follows:

1. I am an attorney with the law firm of Carlson, Caspers, Vandenburg & Lindquist P.A. (“Carlson Caspers”). This declaration is submitted on behalf of Patent Owner Oxygenator Water Technologies, Inc. (“OWT”) in support of its Unopposed Motion for *Pro Hac Vice* Admission of Litigation Counsel. This declaration is made on my own personal knowledge, except as otherwise indicated.
2. I am a member in good standing of the Bar of the State of Minnesota (Minnesota Bar Number 033019X).
3. I have never been suspended or disbarred from any court or administrative body.
4. No application for admission to practice before any court or administrative body that I have filed or that has been filed on my behalf has ever been denied.
5. No sanctions or contempt citations have been imposed on me by any court or administrative body.
6. I have 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 37 C.F.R.

7. I agree to be subject to USPTO Rules of Professional Conduct set forth in 37 C.F.R. §§ 11.101 et. seq. and disciplinary jurisdiction under 37 C.F.R. § 11.19(a).

8. I have applied for, and been granted, *pro hac vice* admission before the Patent Trial and Appeal Board in seven matters, none of which were within the last three years.

9. I have been involved in many litigations involving patent infringement in multiple federal District Courts. I have practiced law for about eighteen years and I have litigated patent cases during that entire time period. I have extensive experience with patent issues related to anticipation under 35 U.S.C. § 102 and obviousness under 35 U.S.C. § 103, which are the legal theories on which this *Inter Partes* Review was instituted. In the course of my experience litigating patents, I have analyzed many pieces of prior art, prepared many prior art statements and responses, worked with validity experts, and drafted and filed briefing related to anticipation and obviousness arguments.

10. I am familiar with the subject matter at issue in this proceeding. My law firm, Carlson Caspers, represents Patent Owner in a patent infringement lawsuit that is pending in the United States District Court for the District of Minnesota (Civil Action. No. 0:20-cv-00358 (ECT/HB), filed January 27, 2020), in which I am an attorney of record for Patent Owner. This lawsuit

involves the patent at issue in this *Inter Partes* Reviews, U.S. Patent No. RE45,415, and involves the same parties. Through my work on this case, I have gained familiarity with the subjects at issue and the patents at issue in this IPR and the related IPR proceedings.

11. I have also reviewed in detail each of U.S. Patent No. RE45,415, the Petitions and corresponding exhibits and expert declaration filed by Petitioner Tennant in this and the related proceedings, the Patent Owner's Preliminary Response and associated exhibits, and the Board's Decision instituting review. Further, I have reviewed in detail the prior art references cited by Tennant's Petition and relied on by the Board in instituting this review.

12. My technical background and extensive patent litigation and IPR experience provides me with additional understanding of the subject matter at issue. I also have a Bachelor of Science undergraduate degree in Chemistry from Michigan Technology University that will aid me in my representation of OWT in this proceeding.

I state under penalty of perjury that the foregoing is true and correct.

Dated: September 22, 2021.

/ Todd S. Werner /
Todd S. Werner