

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AIR PRODUCTS AND CHEMICALS, INC.,
Petitioner

v.

EVONIK OPERATIONS GMBH and EVONIK CORPORATION,
Patent Owner

Case IPR2024-00611
Patent 10,471,380

**PETITIONER'S NOTICE OF APPEAL TO THE
UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

Pursuant to 28 U.S.C. § 1295(a)(4)(A) and 35 U.S.C. §§ 141(c), 142, and 319; 37 C.F.R. §§ 90.2(a) and 90.3(a); and Federal Rule of Appellate Procedure 4(a), Petitioner Air Products and Chemicals, Inc. submits this notice of its appeal to the United States Court of Appeals for the Federal Circuit from the Final Written Decision in Case No. IPR2024-00611, concerning U.S. Patent No. 10,471,380 B2 (“the ’380 patent”), entered August 18, 2025 by the Patent Trial and Appeal Board (“Board”), and all other underlying and related findings, orders, decisions, rulings, opinions, or other determinations related thereto and included therein.

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii) and Federal Rule of Appellate Procedure 15(a)(2)(C), the issues on appeal may include, but are not limited to:

1. Whether the Board abused its discretion by failing to address the ground of unpatentability presented in the corrected Petition that relied on U.S. Patent Application Publication No. 2013/0098242 (AP-1038) (“Ungerank”) as prior art, rather than U.S. Patent No. 8,999,038 (AP-1006);
2. Whether the Board erred in determining that claims 1–5, 7, 9 and 11–23 of the ’380 patent were not shown to be unpatentable as obvious

under 35 U.S.C. § 103 in view of U.S. Patent Application Publication No. 2013/0098242 (AP-1038) (Ungerank) and “Structural optimization of membrane-based biogas upgrading processes” (Scholz);

3. Whether the Board erred in determining that claims 1–13, 16, 17, 21 and 23 of the ’380 patent were not shown to be unpatentable as obvious under 35 U.S.C. § 103 in view of “Structural optimization of membrane-based biogas upgrading processes” (Scholz);
4. All the Board’s subsidiary findings supporting its determination that claims 1–23 of the ’380 patent were not shown to be unpatentable under 35 U.S.C. § 103; the Board’s failure to consider evidence of record properly; the Board’s legal errors in undertaking the obviousness analysis; the Board’s findings that conflict with the evidence of record and are not supported by substantial evidence; and
5. All other issues decided adversely to Petitioner in any orders, decisions, rulings, or opinions underlying or supporting the Final Written Decision.

Petitioner’s further record review and legal research could reveal additional issues to be raised on appeal resulting from the adverse rulings and decisions above.

Pursuant to 37 C.F.R. § 90.3, this Notice of Appeal is timely filed within 63 days of entry of the Final Written Decision dated August 18, 2025.

Per 35 U.S.C. § 142 and 37 C.F.R. § 90.2(a)(1), this notice is being filed with the Director of the U.S. Patent and Trademark Office, and a copy is also being filed with the Board. Per Federal Circuit Rule 15(a)(1) and 37 C.F.R. 90.2(a)(2), Petitioner is also electronically filing this notice with the United States Court of Appeals for the Federal Circuit through its CM/ECF System, together with the requisite filing fee.

Respectfully submitted,

Dated October 20, 2025

/John R. Lane/
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Counsel for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(1), the undersigned certifies that on October 20, 2025, a complete and entire copy of this Petitioner's Notice of Appeal was provided by email to the Patent Owner by serving the email correspondence addresses of record as follows:

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Pursuant to 37 C.F.R. §§ 90.2(a)(1), I hereby certify that in addition to being filed electronically through the Board's P-TACTS System, this Petitioner's Notice of Appeal is being provided to the Director of the USPTO on October 20, 2025, by electronically filing to the email address as follows:

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
efileSO@uspto.gov

I hereby certify that on October 20, 2025, a true and correct copy of the foregoing Petitioner's Notice of Appeal, along with a copy of the Final Written Decision, was filed electronically with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, at the following address:

United States Court of Appeals for the Federal Circuit
717 Madison Place, N.W., Suite 401
Washington, DC 20005

Respectfully submitted,

Dated October 20, 2025

/John R. Lane/
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