

-
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INARI AGRICULTURE, INC.,
Petitioner,

v.

CORTEVA AGRISCIENCE LLC,
Patent Owner.

PGR2023-00022
Patent 11,371,055 B2

Before MICHAEL J. FITZPATRICK, ZHENYU YANG, and
DEVON ZASTROW NEWMAN, *Administrative Patent Judges*.

NEWMAN, *Administrative Patent Judge*.

ORDER
Granting Petitioner's Motion for Admission *Pro Hac Vice* of
Eric J. Rutt
37 C.F.R. § 42.10

On November 22, 2023, Petitioner filed a motion for admission *pro hac vice* of Eric J. Rutt (Paper 15) in the above-identified proceeding. Petitioner also filed a declaration of Mr. Rutt (Ex. 1038) in support of the Motion. Petitioner asserts that Patent Owner does not oppose the Motion. Paper 15, 1.

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 is a registered practitioner. In its notice authorizing motions for *pro hac vice* admission, the Board requires a statement of facts showing there is good cause for the Board to recognize counsel *pro hac vice* and an affidavit or declaration of the individual seeking to appear in this proceeding. *See* Paper 3, 2 (citing *Unified Patents, Inc. v. Parallel Iron, LLC*, IPR2013-00639, Paper 7 (PTAB Oct. 15, 2013) (representative “Order – Authorizing Motion for *Pro Hac Vice* Admission”)).

Based on the facts set forth in the Motion and the accompanying Declaration, we conclude that Mr. Rutt has sufficient legal qualifications to represent Petitioner in this proceeding, that Mr. Rutt has demonstrated sufficient familiarity with the subject matter of this proceeding, and that Petitioner’s intent to be represented by counsel with litigation experience is warranted. Accordingly, Petitioner has established good cause for *pro hac vice* admission of Mr. Rutt. Mr. Rutt will be permitted to serve as back-up counsel only. *See* 37 C.F.R. § 42.10(c).

We note that a Power of Attorney in accordance with 37 C.F.R. § 42.10(b) has been submitted for Mr. Rutt (Paper 7). We also note that

Petitioner's Mandatory Notices (Paper 8) identify Mr. Rutt as back-up counsel. *See* 37 C.F.R. § 42.8(b)(3).

Accordingly, it is

ORDERED that Petitioner's Motion for *pro hac vice* admission of Eric J. Rutt is *granted*;

FURTHER ORDERED that Mr. Rutt is authorized to represent Petitioner only as back-up counsel in the above-identified proceeding;

FURTHER ORDERED that Mr. Rutt is to comply with the Office Patent Trial Practice Guide¹ (84 Fed. Reg. 64,280 (Nov. 21, 2019)), and the Board's Rules of Practice for Trials, as set forth in Part 42 of Title 37, Code of Federal Regulations; and

FURTHER ORDERED that Mr. Rutt shall 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.*; and

FURTHER ORDERED that Petitioner is to continue to have a registered practitioner represent it as lead counsel for the above-identified proceeding.

¹ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

PGR2023-00022
Patent 11,371,055 B2

For Petitioner:

Scott A. McKeown
Victor Cheung
ROPES & GRAY LLP

For Patent Owner:

Pier DeRoo
Michael Flibbert
Jessica Roberts
Constance Lee
FINNEGAN, HENDERSON, FARABOW,
GARRTETT & DUNNER, LLP
pier.deroo@finnegan.com
michael.flibbert@finnegan.com
jessica.roberts@finnegan.com
constance.lee@finnegan.com