

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DYNAMIC DRINKWARE, INC.
Petitioner,

v.

NATIONAL GRAPHICS, INC.
Patent Owner.

Case IPR2013-00131
Patent 6,635,196

Held: July 24, 2014

Before: TRENTON WARD, THOMAS L. GIANNETTI, and
MITCHELL G. WEATHERLY, Administrative Patent Judges.

APPEARANCES:

ON BEHALF OF THE PETITIONER:

MATT McCLEAN, ESQUIRE
PATRICK BERGIN, ESQUIRE
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Milwaukee, Wisconsin

1 ON BEHALF OF PATENT OWNER:
2 MICHAEL GRIGGS, ESQUIRE
3 SARAH WONG
4 Boyle Fredrickson
5 840 N. Plankinton Avenue
6 Milwaukee, Wisconsin
7
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9 The above-entitled matter came on for hearing on Wednesday,
10 July 24, 2014, commencing at 10:00 a.m., at the U.S. Patent and
11 Trademark Office, 600 Dulany Street, Alexandria, Virginia.
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15 P R O C E E D I N G S

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17 JUDGE GIANNETTI: Please be seated.

18 So, good morning, everyone.

19 ALL COUNSEL: Good morning.

20 JUDGE GIANNETTI: We are here for final hearing in
21 case IPR2013-01131, Dynamic Drinkware, LLC, vs. National
22 Graphics, Inc. I'm Judge Giannetti. To my right is Judge Ward; to
23 my left is Judge Weatherly. We're the panel for this hearing.

24 May I have appearances of counsel, please? Who is
25 appearing for the Petitioner?

26 MR. MCCLEAN: Yes, thank you. My name is Matt
27 McClean. I'm appearing on behalf of the Petitioner, Dynamic
28 Drinkware. With me is co-counsel Patrick Bergin.

1 JUDGE GIANNETTI: And who's appearing for the
2 Patent Owner?

3 MR. GRIGGS: Yes, thank you. Good morning. My
4 name is Michael Griggs. I'm from Boyle Fredrickson, representing
5 the Patent Owner, National Graphics, Inc., and with me is my
6 colleague Sarah Wong.

7 JUDGE GIANNETTI: Okay. So, Counsel, we set one
8 hour per side for this hearing. Each side will have an opportunity to
9 reserve time for rebuttal. The rebuttal of the Patent Owner is limited
10 to addressing the motion to amend, which should be -- if you are
11 going to address the motion to amend, Petitioner should include it in
12 your main argument.

13 Okay, I think we're ready to proceed. Any questions
14 from counsel?

15 MR. MCCLEAN: One question, a quick clarification.
16 You would like us to address the motion to amend --

17 JUDGE GIANNETTI: No. The motion to amend should
18 be -- I had that wrong. Motion to amend should be addressed by
19 Patent Owner; then you will have an opportunity to respond in your --
20 in your reply.

21 MR. MCCLEAN: In our second session.

22 JUDGE GIANNETTI: And then they will have a chance
23 to rebut that in their rebuttal.

24 MR. MCCLEAN: Okay, thank you.

1 JUDGE GIANNETTI: The Patent Owner's rebuttal is
2 limited to the motion to amend.

3 Okay. Who will be presenting the argument for the
4 Petitioner?

5 MR. MCCLEAN: Initially, I will, Judge.

6 JUDGE GIANNETTI: Mr. McClean?

7 MR. MCCLEAN: Yes, sir.

8 JUDGE GIANNETTI: You can proceed when you are
9 ready.

10 MR. MCCLEAN: Thank you.

11 JUDGE GIANNETTI: Just wait a second here. We
12 will --

13 MR. MCCLEAN: Do the judges have a preference if I'm
14 at the podium or at the table?

15 JUDGE GIANNETTI: I think that's up to you. I think
16 we have a preference for the podium because there's a microphone
17 there, so if that's not too inconvenient.

18 MR. MCCLEAN: Not at all.

19 JUDGE GIANNETTI: Let me -- just give me a second
20 here to start the timer.

21 Okay, you can proceed now.

22 MR. MCCLEAN: Thank you.

1 I'd like to reserve the last 30 minutes to address the
2 motion to amend and any reply arguments that may come up with
3 respect to the petition, if that's all right.

4 JUDGE GIANNETTI: That's fine. And we will try to
5 give you a warning a few minutes before your -- when you're into
6 your rebuttal time.

7 MR. MCCLEAN: Thank you.

8 Well, to the Panel, good morning again. My name is
9 Matt McClean of the law firm of Davis & Kuelthau from Milwaukee,
10 Wisconsin. I am here on behalf of the Petitioner, Dynamic
11 Drinkware.

12 We have submitted now a series of briefs and exhibits
13 that I trust you have had an opportunity to get through and review. I'd
14 like to use my time initially this morning to really summarize and hit
15 on a couple of key points.

16 The '196 patent, which is the Goggins patent that we put
17 for review, describes a process for incorporating a lenticular image
18 into a molded plastic article. As I think the Petitioner -- the Patent
19 Owner contends, admits, says in their patent, it does not involve the
20 invention of -- the creation of lenticular images; it does not involve
21 the invention of molded plastic, generally, or the introduction of
22 molded plastic to create in-molded image-like cups, like other
23 commercial goods. All of that stuff is long-developed prior art.

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