

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GRACO CHILDREN'S PRODUCTS, INC.,
Petitioner.

v.

KOLCRAFT ENTERPRISES, INC.,
Patent Owner.

Case IPR2016-00816 (Patent D604,970 S)
Case IPR2016-00826 (Patent D616,231 S)

Record of Oral Hearing
Held: July 6, 2017

Before: KEN B. BARRETT, JOSIAH C. COCKS, and JENNIFER S.
BISK, *Administrative Patent Judges*.

Case IPR2016-00816 (Patent D604,970 S)

Case IPR2016-00826 (Patent D616,231 S)

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The above-entitled matter came on for hearing on Thursday, July 6, 2017, commencing at 9:00 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia 22314.

1 PROCEEDINGS

2 JUDGE BARRETT: Good morning, everybody. We are on
3 the record in IPR2016-00816 and IPR2016-00826, Graco
4 Children's Products v. Kolcraft Enterprises.

5 I'm Judge Barrett. Next to me on the bench are
6 Judge Bisk and Judge Cocks. And let's start with the
7 appearances. Who do we have from Petitioner?

8 MR. HARBIN: John Harbin, Your Honors, with
9 Meunier, Carlin & Curfman. With me is Trey Levie and Greg
10 Carlin, also with the firm. Thank you.

11 MR. NIRO: Good morning, Your Honors.

12 JUDGE BARRETT: Good morning.

13 MR. NIRO: Raymond Niro, Jr., of Niro McAndrews, on
14 behalf of the respondent, and with me is Brian Lynch, also of
15 Niro McAndrews.

16 JUDGE BARRETT: Thank you, Counsel.

17 MR. NIRO: Thank you.

18 JUDGE BARRETT: All right, we set forth procedure
19 for today's trial hearing in our trial order, but I'll go over
20 it quickly.

21 Each party will have 45 minutes total time. For
22 clarity of the transcript, when you refer to any exhibit or
23 demonstrative, please clearly indicate for the record the page

1 numbers or the demonstrative numbers.

2 Petitioner has the ultimate burden, will go first,
3 and you may reserve time for rebuttal. Patent Owner will then
4 have an opportunity to present its response, and then
5 Petitioner may use any rebuttal time remaining.

6 I'll give each counsel a warning when you're
7 reaching the end of your time.

8 As a reminder, no new evidence or arguments may be
9 presented at the oral argument, and in reaching our final
10 decision, we will not consider any new arguments or evidence.

11 Any questions or concerns?

12 MR. HARBIN: Your Honor, we do have a question or
13 two, as a preliminary matter.

14 JUDGE BARRETT: Okay.

15 MR. HARBIN: First, the Patent Owner filed,
16 yesterday, a motion to seal. I don't know if the Board will
17 set a briefing schedule for that or want us to address it
18 today or what Your Honors' preference is.

19 We have a motion pending because of their Patent
20 Owner designation of documents confidential. We're not
21 continuing confidential, but then they filed this motion
22 yesterday.

23 And the second issue that raises is they filed

1 with -- they're seeking, apparently, to introduce an exhibit
2 that's not in the record at this point. We don't object, for
3 the record, to this specific exhibit, but if there are other
4 documents -- other evidence that Patent Owner tries to
5 introduce that's not in the record, we would object.

6 So we were wondering how the Board wants to handle
7 objections.

8 JUDGE BARRETT: Let's not interrupt with
9 objections. Please hold it till you have another opportunity
10 to speak. And if it -- if you don't have another opportunity,
11 then flag it at the end, and we'll come back to it.

12 Let's -- I did want to discuss the motion to seal,
13 but let's hold that till the end. And in particular, I was
14 thinking of your earlier motion to seal.

15 So just to be clear, Petitioner has no objection to
16 the new -- what I believe is identified as an unredacted
17 version of Exhibit 2008?

18 MR. HARBIN: That's correct, Your Honor.

19 JUDGE BARRETT: Thank you.

20 MR. NIRO: And for the record, Your Honor, that
21 exhibit is -- been submitted as 1017. It just wasn't filed.

22 The Petitioner references Exhibit 1017, and it's
23 designated on their list of exhibits in their reply brief,

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