

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CAMPBELL SOUP COMPANY, CAMPBELL SALES COMPANY,  
AND TRINITY MANUFACTURING, LLC,  
Petitioner,

v.

GAMON PLUS, INC.,  
Patent Owner.

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Case IPR2017-00091 (Patent D621,645 S)  
Case IPR2017-00094 (Patent D612,646 S)

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Before GRACE KARAFFA OBERMANN, BART A. GERSTENBLITH,  
and ROBERT L. KINDER, *Administrative Patent Judges*.

Case IPR2017-00091 (Patent D621,645 S)

Case IPR2017-00094 (Patent D612,646 S)

APPEARANCES:

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and

Darren Mogil, Esquire (Trinity)

Kelly Grady, Esquire (Campbell)

The above-entitled matter came on for hearing Tuesday, January 23, 2018, commencing at 10:41 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

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P R O C E E D I N G S

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JUDGE GERSTENBLITH: Good morning, everyone. We are here for a hearing in IPR2017-00091 and IPR2017-00094, Campbell Soup Company, Campbell Sales Company and Trinity Manufacturing v. Gamon Plus, Inc.

I'm Judge Gerstenblith, to my right is Judge Obermann, to my left is Judge Kinder.

Starting with Petitioner, will you please come up to the podium and enter your appearance for the record.

MR. DONOVAN: This is Gerard Donovan and with me today is Tracy Quinn for the Campbell Petitioners. Also with us today is Darren Mogil for the Trinity Petitioner and a representative from our client, Campbell, Kelly Grady.

JUDGE GERSTENBLITH: Thank you. And I would just confirm that either everyone here is under the protective order or it's not an issue for those here.

MR. DONOVAN: That's correct, Your Honor. And Mrs. Quinn will be presenting arguments.

JUDGE GERSTENBLITH: Thank you.

MR. TIAJOLOFF: Good morning, Your Honor. My name is Drew Tiajoloff, I am here for Gamon Plus, the Patent Owner in this case, nobody else is present.

JUDGE GERSTENBLITH: Thank you. If either side brought a copy, has a copy of its demonstratives, feel free to hand that to the court reporter and to us. We also have the electronic version.

1 (Pause.)

2 JUDGE GERSTENBLITH: Thank you.

3 Before we begin, let me just confirm that we have three pending  
4 motions. We have Petitioner's motion to exclude, Patent Owner's motion to  
5 exclude, and Petitioner's motion to seal. Am I missing anything from  
6 Petitioner?

7 MS. QUINN: I don't believe so, Your Honor.

8 JUDGE GERSTENBLITH: Thank you.

9 Am I missing anything from Patent Owner?

10 MR. TIAJOLOFF: No, Your Honor.

11 JUDGE GERSTENBLITH: Thank you. We set forth the  
12 procedure for today's hearing in our trial order, which is Paper 62 in each  
13 case. Each party will have 40 minutes of total argument time.

14 We will begin with Petitioner, who will start with its case in  
15 chief and may also address either of its motions. Petitioner may reserve time  
16 for rebuttal. And after Petitioner presents its opening arguments, it will be  
17 Patent Owner's turn to respond to those arguments and raise any argument  
18 that it wishes on its motion to exclude. At that time, Petitioner may use its  
19 rebuttal time to respond to arguments raised by Patent Owner directed to  
20 Petitioner's case in chief, and also respond to any arguments that Patent  
21 Owner raises on its motion to exclude.

22 Now, Patent Owner has an opportunity to reserve time as well.  
23 If Patent Owner chooses to reserve time, that time may only be used to  
24 respond to arguments raised by Petitioner during its rebuttal time directed to  
25 Patent Owner's motion to exclude. This is a little bit, I don't want to say  
26 tricky, but essentially if Petitioner -- if Patent Owner discusses its motion to

1 exclude when it's first at the podium and Petitioner responds to that motion,  
2 then Patent Owner will have an opportunity to respond. So -- however, if  
3 the Petitioner does not respond to Patent Owner's motion to exclude, then  
4 Patent Owner only has the one opportunity to present argument.

5 Does anybody have any questions about that process, from  
6 Petitioner?

7 MS. QUINN: No, Your Honor.

8 JUDGE GERSTENBLITH: From Patent Owner?

9 MR. TIAJOLOFF: No, Your Honor.

10 JUDGE GERSTENBLITH: Okay. I have a timer here, I can  
11 set it for any time you wish to give you a reminder. When you come up to  
12 the podium, just let me know. And, Ms. Quinn, whenever you're ready, you  
13 may proceed.

14 MS. QUINN: Thank you, Your Honor.

15 I may be going without the demonstratives, as --

16 (Pause.)

17 JUDGE GERSTENBLITH: We have them here also --

18 MS. QUINN: Yes.

19 JUDGE GERSTENBLITH: -- if you have -- do you still have a  
20 paper copy?

21 MS. QUINN: I do, Your Honor. So it probably makes sense  
22 (indiscernible) thank you, Your Honor. I'd like to reserve ten minutes for  
23 rebuttal.

24 JUDGE GERSTENBLITH: Okay.

25 MS. QUINN: We are happy to rest on our papers on the  
26 motion to exclude. I don't know if the panel wants to hear our issues related

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