

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

GAMON PLUS, INC.,
Patent Owner.

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

Record of Oral Hearing
Held: May 7, 2020

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

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APPEARANCES

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The above-titled matter came on for hearing on Thursday, May 7, 2020, commencing at 1:00 p.m. EDT, via video conference.

PROCEEDINGS

1:02 p.m.

JUDGE KINDER: Good afternoon everyone. If we could go on the record. I am Judge Kinder and we are here today for oral argument in Campbell Soup Company versus Gamon Plus. These are IPR2017-00091 and 2017-00094. On the panel today is Judge Kinder, Judge Gerstenblith, and Judge Obermann.

I want to make sure, before we have the parties, is the court reporter on and hearing us okay?

COURT REPORTER: Yes, Your Honor. I am on and I can hear you.

JUDGE KINDER: All right. Mic check, I guess, for me. Everyone else can hear me okay? Thumbs up? Okay, good. Very good.

The parties. If we could have an appearance for Petitioner Campbell Soup Company and Trinity.

MS. QUINN: Good afternoon, Your Honors. Tracy Quinn of Holland & Knight for the Petitioners.

JUDGE KINDER: Thank you, Ms. Quinn.

And for the Patent Owner?

MR. TIAJOLOFF: Good afternoon, Your Honor. This is Drew Tiajolloff for Patent Owner Gamon Plus.

JUDGE KINDER: All right. Thank you very much, Mr. Tiajolloff.

We did go through some of the things this morning and pretty much all the same guidance from this morning is going to apply. I'll reiterate it quickly.

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1 Petitioner will go first. You'll have 60 minutes total and you can
2 reserve time for rebuttal. Then Patent Owner will go. You can also reserve
3 time for rebuttal as you see fit. Again, each party has a total of 60 minutes.

4 If you encounter any technical or other difficulties, just let the panel
5 know. If your mic goes out, just wave at us and eventually we'll hopefully
6 see something is wrong and we'll stop and correct that and it won't actually
7 go into your time.

8 I think it makes it easier if everyone mutes themselves until they're
9 speaking so it limits the background noises, dogs barking, jack hammers,
10 things like that that are kind of in the background that we have to deal with.

11 If you could, also please continue identifying the slides, the
12 demonstrative slides, that you're referencing by slide number. Again, when
13 you identify any exhibit, just give us a quick second or two to find that
14 before you start talking about it, or any page number in your brief.

15 Again, it does help -- I think it helps our court reporter a little bit if
16 you can try to identify yourself if you're asking a question for a Judge or
17 when you start speaking as an attorney.

18 Two days ago, on May 5th, we issued preliminary -- excuse me. We
19 issued decisions on motions to exclude that both parties had filed in the
20 cases. Hopefully, you should have had our decisions on those motions. If
21 you now bring up those issues again, we've already issued the decisions; so
22 the standard we're looking at would be under the rehearing standard as far as
23 what we've already said in those decisions on motions to exclude.

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1 Again, I'm not saying you're precluded from re-arguing those issues
2 here today. If you want to - you just have to realize we've already issued
3 those decisions and we'll be looking at that from a different standard because
4 the decisions have issued.

5 All right. If there are no questions, I think I hit everything that is
6 preliminary. If forgot the panel will ping me, but if no questions, we will go
7 ahead with Petitioner's opening.

8 Ms. Quinn, how much time would you like to reserve?

9 MS. QUINN: Thank you, Your Honor. I would like to reserve 20
10 minutes, please.

11 JUDGE KINDER: All right. I will do my best to watch my
12 stopwatch and remind you but you can keep time yourself as well. Just for
13 the record, we're starting about 1:05 with your opening. Go ahead when
14 you're ready.

15 MS. QUINN: All right. Thank you, Your Honor. First, again, as a
16 housekeeping matter I would like to note, as the Board has probably seen
17 from our papers, we are withdrawing our challenge based on Primiano as a
18 primary reference. What we're arguing here before the Board on remand is
19 obviousness in light of Linz alone or Linz in view of Samways and Knott,
20 and the Abbate reference in view of Linz or Samways.

21 As I start, there are two threshold issues that I think come up in this
22 post-remand proceeding and they are going to come up repeatedly. First is

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