

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PANDUIT CORP.,
Petitioner,

v.

CORNING OPTICAL COMMUNICATIONS LLC,
Patent Owner.

Cases IPR2017-01073 and IPR2017-01074
Patent RE45,482 E1

Record of Oral Hearing
Held: June 27, 2018

Before JENNIFER S. BISK, DANIEL J. GALLIGAN, and
JOHN A. HUDALLA, *Administrative Patent Judges*.

Cases IPR2017-01073 and IPR2017-01074
Patent RE45,482 E1

APPEARANCES:

ON BEHALF OF THE PETITIONER:

KELLY J. EBERSPECHER, ESQUIRE
Steptoe & Johnson LLP
115 South LaSalle Street
Suite 3100
Chicago, IL 60603

KATHERINE D. CAPPAERT, ESQUIRE
Steptoe & Johnson, LLP
1330 Connecticut Ave., NW
Washington, DC 20036

JAMES H. WILLIAMS, ESQUIRE
CHRISTOPHER S. CLANCY, ESQUIRE
Panduit Corp.
18900 Panduit Drive
Tinley Park, Illinois 60487

ON BEHALF OF THE PATENT OWNER:

ERIC D. HAYES, ESQUIRE
G. WILLIAM FOSTER, ESQUIRE
Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654

BENJAMIN F. NARDONE, ESQUIRE
ADAM R. WEEKS, ESQUIRE
Corning Optical Communications LLC
One Riverfront Plaza
Corning, New York 14831

The above-entitled matters came on for hearing on Wednesday, June 27, 2018, commencing at 10 a.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

PROCEEDINGS

- - - - -

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

JUDGE HUDALLA: Please be seated. Okay, good morning, everyone. We are here to hear argument today in IPR2017-01073 and - 01074, concerning Reissue Patent 45,482.

Why don't we start with introductions of the parties, starting with Petitioner, please?

MR. EBERSPECHER: Kelly Eberspecher, Steptoe & Johnson, on behalf of Panduit Corp., Petitioner, and with me is Katherine Cappaert, also of Steptoe & Johnson.

JUDGE HUDALLA: Good morning. For Patent Owner?

MR. HAYES: Good morning, Your Honor, Eric Hayes, and with me is Bill Foster, we're from Kirkland & Ellis, on behalf of Patent Owner, Corning Optical Communications. We also have with us today Ben Nardone, who is Corning's in-house litigation counsel, and Adam Weeks, who is Corning Optical Communications' patent counsel.

JUDGE HUDALLA: Good morning to all of you.

MR. EBERSPECHER: For clarity of the record also, Chris Clancy with me is general counsel for Panduit Corp., and Jim Williams, who is chief patent counsel for Panduit Corp.

JUDGE HUDALLA: Good morning. Thank you. So per our trial hearing order, each side is going to have 30 minutes to argue in each of these cases. I want to remind everyone that Petitioner bears the burden of proving any proposition of unpatentability by a preponderance of the evidence. Petitioner can reserve rebuttal time, but Patent Owner may not.

I also remind everyone that we have a court reporter today, so a

1 transcript will be produced and it will become part of the record. And, also,
2 this hearing is open to the public.

3 As you can probably see, we have Judge Galligan joining us
4 remotely, so please be sure to state what slide you're on as you go through
5 your presentations. It will help him, and it will also help us as we review the
6 record later on.

7 Okay, I think that's all I have at this point. So I guess, Mr.
8 Eberspecher, do you want to go ahead and begin?

9 MR. EBERSPECHER: I will. And if I may, Your Honor, and I
10 think I've -- Mr. Hayes and I were talking -- we're not going to project,
11 unless the panel would like us to. You have the presentations, I'm just going
12 to go through it and I'll -- is that fine?

13 JUDGE HUDALLA: That's fine with me.

14 JUDGE BISK: Yes.

15 JUDGE HUDALLA: Judge Galligan?

16 JUDGE GALLIGAN: Yes, I'm looking at my screen anyway.
17 Thanks.

18 JUDGE HUDALLA: Okay. Do you want to reserve any
19 rebuttal time?

20 MR. EBERSPECHER: Yes, I'll reserve the balance. I think
21 I'm going to get through this presentation fairly quickly and so I'll reserve
22 the balance to address any rebuttal points or any questions from the panel.

23 JUDGE HUDALLA: Okay.

24 MR. EBERSPECHER: And if I go too quickly, please just let
25 me know. It's -- part of going through this on paper, sometimes I go a little
26 fast; if I'm going too fast, please let me know.

1 So turning to our slide deck, I will direct the Board -- well,
2 obviously we have the patent itself on page 2, but I will quickly move to
3 page 3 and just summarize Corning's arguments. And they don't argue that
4 any limitations are actually missing, and so that's an admission that we don't
5 have to talk about. They don't even really argue with any specificity against
6 our proposed combinations, but what we're really going to talk about is
7 combinability here today.

8 I'll direct -- I'll move to slide 4. And they raise these rebuttal
9 points that they say that a person of ordinary skill in the art would not
10 combine CamLite and CamSplice just because they are Siecor products.
11 And I think we pointed this out in our response was -- our reply was that was
12 never the point. This just goes to -- this is a body of work that one of
13 ordinary skill in the art would consider, they would certainly consider the
14 CamSplice and the CamLite.

15 They say we defined the general problem too broadly, but
16 again, what you're doing is either a connector or a mechanical splice, you're
17 putting two optical fibers together. That's the whole point of this. Again,
18 one of ordinary skill in the art would be drawn to the prior art.

19 They say they are not physically similar. As we point out in
20 our brief, that is a bodily incorporation argument, which, again, that's just --
21 that type of argument has been soundly rejected by the Federal Circuit again
22 and again. And then they say that the CamSplice does not provide a ready
23 solution to CamLite's problem of cutting off improperly installed connectors.
24 Of course, we disagree and we'll get through that.

25 So if we go to slide 5, again, one of ordinary skill in the art
26 would have been aware of CamSplice and CamLite. And I won't read the

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.