UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PANDUIT CORP., Petitioner,

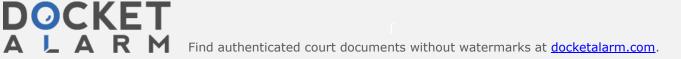
v.

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:

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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.

	P R O C E E D I N G S
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2 3	JUDGE HUDALLA: Please be seated. Okay, good morning,
4	everyone. We are here to hear argument today in IPR2017-01073 and -
5	01074, concerning Reissue Patent 45,482.
6	Why don't we start with introductions of the parties, starting
7	with Petitioner, please?
8	MR. EBERSPECHER: Kelly Eberspecher, Steptoe & Johnson,
9	on behalf of Panduit Corp., Petitioner, and with me is Katherine Cappaert,
10	also of Steptoe & Johnson.
10	JUDGE HUDALLA: Good morning. For Patent Owner?
11	MR. HAYES: Good morning, Your Honor, Eric Hayes, and
13	with me is Bill Foster, we're from Kirkland & Ellis, on behalf of Patent
14	Owner, Corning Optical Communications. We also have with us today Ben
15	Nardone, who is Corning's in-house litigation counsel, and Adam Weeks,
16	who is Corning Optical Communications' patent counsel.
17	JUDGE HUDALLA: Good morning to all of you.
18	MR. EBERSPECHER: For clarity of the record also, Chris
19	Clancy with me is general counsel for Panduit Corp., and Jim Williams, who
20	is chief patent counsel for Panduit Corp.
21	JUDGE HUDALLA: Good morning. Thank you. So per our
22	trial hearing order, each side is going to have 30 minutes to argue in each of
23	these cases. I want to remind everyone that Petitioner bears the burden of
24	proving any proposition of unpatentability by a preponderance of the
25	evidence. Petitioner can reserve rebuttal time, but Patent Owner may not.
26	I also remind everyone that we have a court reporter today, so a

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

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. Eberspecher, do you want to go ahead and begin? 8 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. JUDGE HUDALLA: Judge Galligan? 15 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.

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

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.

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

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