

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TECHNICAL CONSUMER PRODUCTS, INC., NICOR INC., and AMAX
LIGHTING,
Petitioner,

v.

LIGHTING SCIENCE GROUP CORP.,
Patent Owner.

Case IPR2017-01280 (Patent 8,967,844 B2)
Case IPR2017-01285 (Patent 8,672,518 B2)
Case IPR2017-01287 (Patent 8,201,968 B2)

Record of Oral Hearing
Held: September 6, 2018

BEFORE: KEVIN F. TURNER, PATRICK M. BOUCHER, and JOHN A.
HUDALLA, *Administrative Patent Judges*.

Case IPR2017-01280 (Patent 8,967,844 B2)
Case IPR2017-01285 (Patent 8,672,518 B2)
Case IPR2017-01287 (Patent 8,201,968 B2)

APPEARANCES:

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The above-entitled matter came on for hearing on Thursday, September 6, 2018, commencing at 1:00 p.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 HUDALLA: Good afternoon. We are here today for oral argument in IPR2017-01280 concerning patent 8,967,844; IPR2017-01285 concerning patent 8,672,518; and IPR2017-01287 concerning patent 8,201,968. I'm Judge Hudalla, and with me I have Judges Turner and Boucher. As you can see, they are appearing remotely.

Who do we have today from the lead petitioner?

MR. PATEL: Good afternoon, Your Honors. Sal Patel for petitioners.

JUDGE HUDALLA: And from patent owner?

MR. HAYES: Good afternoon, Your Honor. Eric Hayes from Kirkland & Ellis on behalf of patent owner, Lighting Science Group. And I have with me my colleague Kyle Kantarek.

JUDGE TURNER: Judge Hudalla, I don't think your mic is on.

JUDGE HUDALLA: Can you hear me now?

JUDGE TURNER: Thank you. Much better.

JUDGE HUDALLA: Sorry about that. I wanted to state for the record also we have a telephone link today through which the joined petitioners, Jiawei and Leedarson, are joining us. I'm told that we cannot hear them, but I wanted to make a note for the record that they should be on the line per our order of, let me get the right date here, July 18th.

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1 Okay. So based on our original trial order, each party is going to
2 have one hour to argue all three cases together. Petitioner will argue first
3 and they can reserve rebuttal time. Patent owner may not reserve rebuttal
4 time. Petitioner bears the burden, of course, of proving any proposition of
5 unpatentability by a preponderance of the evidence. And I will remind you
6 that this hearing is open to the public and a full transcript of the hearing will
7 become part of the record.

8 As I mentioned, Judges Turner and Boucher are joining us
9 remotely. So it's going to be very important for you today to mention where
10 you are, and if you are pointing to something in the record, please mention
11 to them or whatever slide number you are on, please mention it to them so
12 they can follow along.

13 I think that's all I have. So Mr. Patel, do you want to go ahead and
14 start, and then would you like to reserve rebuttal time?

15 MR. PATEL: Yes, Your Honor. I would like to reserve
16 20 minutes for rebuttal.

17 JUDGE HUDALLA: You may start at any time.

18 MR. PATEL: Good afternoon. May it please the Court, there are
19 only three issues that remain in dispute in these IPRs involving LSG's
20 patents. Before I go into those disputed issues, I would like to spend some
21 time discussing the state of the art at the time of the alleged invention.

22 First, if we go to slide 2, these are LSG's patents. There's the '968
23 patent which discloses an LED luminaire that can be fit in cans or junction

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1 boxes. The '844 and '518 patents are continuations in part that add an
2 accessory kit or adapter means such that it can be installed in either
3 nominally-sized cans or junction boxes.

4 In this slide, this is slide 3, we've listed the various components
5 and parts that are present in LSG's patents, the elements. Notably, all of
6 these elements are basic components of an LED lighting fixture and they
7 were all known in the prior art. LSG's patents do not add anything new, a
8 new driver, a new LED. They claim an obvious configuration of these parts
9 that were well known in the art. And these parts, as you can see, include
10 basic things like optics, LED, light source, a heat spreader, a heat sink, even
11 things like twist-on wire connectors, trim rings, things that were well known
12 in the art.

13 The earliest priority date of the LSG patents is October 5, 2009.
14 Notably here, LSG has not claimed an earlier conception date. So let's take
15 a look at the state of the art in 2009. We are now at slide 6. LEDs and
16 luminaires were well known in the art by 2009. There's a plethora of prior
17 art that discloses LED light fixtures, including low-profile lighting fixtures
18 such as Soderman, Silescent and Roberge. There are also others that can be
19 used in can-type configurations. And Wegner is a prior art reference that
20 disclosed an adapter that could be used in an Edison-based receptacle or
21 connected to wires in a junction box and explicitly teaches how to do it.

22 Moreover, the prior art disclosed the desirability of installing LED
23 lighting fixtures in both new construction and retrofit applications. Here we

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