

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SHENZHEN KEAN SILICONE PRODUCT CO., LTD.,
Petitioner,

v.

PKOH NYC, LLC,
Patent Owner.

Case IPR2017-01327
Patent 7,959,036 B2

Record of Oral Hearing
Held: August 29, 2018

Before MITCHELL G. WEATHERLY, JAMES A. TARTAL, and
ROBERT L. KINDER, *Administrative Patent Judges*.

Case IPR2017-01327
Patent 7,959,036 B2

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ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on Wednesday, August 29, 2018, commencing at 1:00 p.m. at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

PROCEEDINGS

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1:02 p.m.

JUDGE KINDER: Please be seated. Good afternoon, everyone. I'm Judge Kinder, and with me are Judges Tartal and Weatherly, and today we are going to call Case No. IPR 2017-01327, Shenzhen Kean Silicone Product Company v PKOH NYC LLC, and this involves US Patent No. 7,959,036.

If I could have each party, starting with Petitioner, stand up and enter an appearance and tell us who will be arguing today.

MR. WOLFGRAM: Good afternoon, Your Honors. My name is Pete Wolfgram. I represent Shenzhen Kean Silicone Company. I'm joined by my colleague, Mr. Xiyan Zhang, who is listed as lead counsel in this case, but I will be presenting.

JUDGE KINDER: All right, Mr. Wolfgram, thank you. And for the Patent Owner?

MR. MELGAR: Tod Melgar for Patent Owner, PKOH NYC LLC, from Sills Cummis & Gross. With me today is Steve Luksenberg, also from Sills Cummis & Gross. I'll be arguing today.

JUDGE KINDER: All right. That's Mr. Melgar, right?

MR. MELGAR: Yes.

JUDGE KINDER: Thank you, sir. Just to go over a few preliminary matters; the parties, I think, requested no more than 30 minutes in this case. I think Petitioner may not have had a specific

1 time. In our order, we granted that each party is accorded 40
2 minutes. I believe, based upon the issues involved in the case, that that
3 should be enough time. The argument time will be divided up;
4 Petitioner will go first, because the Petitioner has the burden of proof
5 in the matter. Petitioner may reserve time; I think in the order I said
6 up to 15 minutes. How much time would you like to reserve?

7 MR. WOLFGRAM: Five minutes, Your Honor.

8 JUDGE KINDER: Again, this was in our order, but just to
9 reiterate that the parties were allowed to produce demonstratives to
10 aid in the oral argument, but that's all those are, are aids in oral
11 argument. As we stated in our order, they are not evidence, but
12 merely an aid to use during the hearing.

13 We looked at the parties' objections; I believe Patent Owner
14 had a couple of objections that you are free to discuss during the
15 hearing today, but you should also remember that we consider
16 demonstrative exhibits only to the extent that they include arguments
17 or evidence that are already of record in the proceedings, and if that
18 evidence or argument is in the proceeding, and there was no objection
19 that was supported by, for example, a motion to exclude or other
20 motion, we're not likely to sustain objections to underlying evidence
21 or materials unless they were objected to in the original filings. So
22 just to give you a little about where we're at with that, and depending
23 on how much time you want to spend on that, you may.

1 We'll call the Petitioner first, and Mr. Wolfgram, you have 35
2 minutes. I don't know for sure if you have a timer in front of you,
3 but we can certainly let you know when you've got five minutes left, if
4 that's okay.

5 MR. WOLFGRAM: Thank you very much.

6 JUDGE KINDER: All right, Mr. Wolfgram. You may
7 proceed now.

8 MR. WOLFGRAM: All right, thank you. Good afternoon,
9 Your Honors, my name is Pete Wolfgram. I represent Shenzhen
10 Kean Silicone Product Company. Today I'm going to go over the
11 major points of contention raised throughout the course of these
12 proceedings and also address some of the points made in Opposing
13 Counsel's demonstratives, which we were served in advance.

14 I would say that the technology in this case is relatively
15 simple. The '036 patent discloses an elastomeric dispensing
16 container. It has an elastomeric receptacle body, a neck, an integral
17 gasket at the end there, which sticks out. It has a plastic sleeve,
18 Figure 2C, which fits over the integral gasket. The integral gasket is
19 compressed inward, goes through the plastic sleeve, and then is
20 connected to the top of the plastic sleeve. There was also an
21 ordinary hinged cap which is screwed onto the plastic sleeve via an
22 ordinary screw and threading finish.

23 The key limitations in Independent Claim 1, which we argued
24 was obvious based in light of Cho in view of Mueller. The key

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