

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNITED INDUSTRIES CORPORATION,
Petitioner,

v.

SUSAN McKNIGHT, INC.,
Patent Owner.

Case IPR2017-01686 (Patent 9,253,973 B2)
Case IPR2017-01687 (Patent 9,066,511 B2)

Record of Oral Hearing
Held: October 18, 2018

Before JAMES A. TARTAL, TIMOTHY J. GOODSON, and RICHARD H.
MARSCHALL, *Administrative Patent Judges.*

Case IPR2017-01686 (Patent 9,253,973 B2)

Case IPR2017-01687 (Patent 9,066,511 B2)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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ON BEHALF OF PATENT OWNER:

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The above-entitled matter came on for hearing on Thursday, October 18, 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 TARTAL: Good afternoon and welcome. We are here for a final hearing in inter partes review cases captioned United Industries Corporation, petitioner, versus Susan McKnight, Incorporated, patent owner, case IPR2017-01686 concerning U.S. patent number 9,253,973 B2 and case IPR2017-01687 concerning U.S. patent number 9,066,511 B2.

First let me begin by introducing the panel. I'm joined by Judge Goodson and Judge Marschall, and I am Judge Tartal. May we please have the parties' appearances? Who do we have appearing today on behalf of petitioner?

MR. HOUSTON: Good afternoon, Your Honor. I'm Michael Houston, lead counsel for petitioner, United Industries Corporation. With me today is my colleague, Mr. Naikang Tsao, who will be conducting the oral argument today.

JUDGE TARTAL: Good afternoon and welcome, counsel. For patent owner, who do you have appearing today?

MR. LINDERMAN: Your Honor, this is John Linderman. I'll be representing Susan McKnight, Inc. I also have with me my associate, Justin Durelli. And we also have Mrs. McKnight here. She is just a participant as a -- wanted to see what's going on.

JUDGE TARTAL: Thank you. Welcome counsel and welcome to our guests as well. We set forth the procedure for today's hearing in our trial

Case IPR2017-01686 (Patent 9,253,973 B2)

Case IPR2017-01687 (Patent 9,066,511 B2)

1 order. And as a reminder, the two cases have not been consolidated or
2 joined but entail overlapping issues, and the parties have agreed to proceed
3 with a single hearing for both cases. Each party will have 60 minutes of
4 total time to present arguments for both cases. Petitioner has the burden of
5 proof and will go first. Petitioner may also address the motion to amend
6 pending in IPR2017-01686. Patent owner may then present arguments in
7 opposition and may also address the motion to amend. Then to the extent
8 that petitioner has reserved time, petitioner may present arguments in reply
9 for the case and in opposition to the motion to amend. And finally, if patent
10 owner has reserved time, patent owner may present reply or sur-rebuttal
11 arguments.

12 Counsel, are there any questions in that regard?

13 MR. TSAO: No.

14 JUDGE TARTAL: Any questions from patent owner in that
15 regard?

16 MR. LINDERMAN: Only, Your Honor, Mr. Durelli and I were
17 going to be sharing. Is it all right that we have both of us, not at the same
18 time, but covering different portions?

19 JUDGE TARTAL: That's perfectly fine. It may be helpful just to
20 clarify if there's a -- if your arguments are with regard to a particular case or
21 to be clear as to who is speaking about what when. But beyond that, you are
22 welcome to divide up your time between counsels as you see fit.

23 For clarity of the transcript and for the benefit of Judge Goodson,
24 who is participating remotely, when you refer to an exhibit on the screen,

1 please state for the record the exhibit and page number, and for
2 demonstratives, the slide number to which you are referring. We remind
3 each party that under no circumstances are they to interrupt the other party
4 while that party is presenting its arguments and demonstratives.

5 Any remaining questions from patent owner at this time?

6 MR. LINDERMAN: None, Your Honor.

7 JUDGE TARTAL: Thank you. Any remaining questions from
8 petitioner at this time?

9 MR. TSAO: No, Your Honor.

10 JUDGE TARTAL: Petitioner, would you like to reserve a portion
11 of the 60 minutes at the outset?

12 MR. TSAO: Yes, Your Honor. We would like to reserve
13 20 minutes.

14 JUDGE TARTAL: Counsel, you may proceed when you are
15 ready. And there should be a timer that will give you an indication as to
16 how much of the 40 minutes you have remaining during the presentation.

17 MR. TSAO: Thank you, Your Honor. May it please the Board,
18 my name is Naikang Tsao from Foley & Lardner on behalf of the petitioner.

19 Two prefatory comments. First, since the 1800s, the mid-1800s,
20 it's been known and understood that insect traps could have rough exterior
21 surfaces, either molded rough or with some kind of adhered grit or fabric to
22 make them rough and also smooth or slippery interior surfaces to prevent
23 insects from climbing out of the trap once they have fallen into the trap.

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