

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CASCADES CANADA, ULC AND
TARZANA ENTERPRISES, LLC,
Petitioners,

v.

ESSITY HYGIENE & HEALTH AB,
Patent Owner.

IPR2017-01902 (Patent 8,597,761 B2)
IPR2017-01921 (Patent 9,320,372 B2)

Record of Oral Hearing
Held: November 8, 2018

Before JO-ANNE M. KOKOSKI, KRISTINA M. KALAN, and
JON B. TORNQUIST, *Administrative Patent Judges*.

IPR2017-01902 (Patent 8,597,761 B2)
IPR2017-01921 (Patent 9,320,372 B2)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

RUDY TELSCHER, ESQUIRE
Husch Blackwell
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105

ON BEHALF OF THE PATENT OWNER:

DAVID A. MANCINO, ESQUIRE
KEVIN P. FLYNN, ESQUIRE
Baker Hostetler
312 Walnut Street
Suite 3200
Cincinnati, OH 45202

The above-entitled matter came on for hearing on Thursday, November 8, 2018, commencing at 1:00 p.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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JUDGE KOKOSKI: You may be seated. Good afternoon.

Today we will hear arguments in IPR 2017-01902 concerning U.S. Patent No. 8,597,761 and IPR 2017-01921 concerning U.S. Patent No. 9,320,367. I'm Judge Kokoski. Judge Tornquist is here with me, and Judge Kalan is joining us from our Denver office. At this time, we'd like counsel to introduce yourselves and also let us know who you have with you, beginning with Petitioner.

MR. TELSCHER: Rudy Telscher on behalf of Cascades and Tarzana. With me is Daisy Manning of the law firm of Husch Blackwell.

JUDGE KOKOSKI: Thank you.

MR. MANCINO: Good afternoon. David Mancino with Baker and Hostetler. We're representing the Patent Owner. And I'm joined by my colleague, Kevin Flynn. I'm also joined by the client, Mr. Kevin Gorman and Mr. Ramon Erteaga, who are in-house counsel with Essity.

MR. TELSCHER: And I should have introduced our client as well. Mr. Pierre Brochu is with us.

JUDGE KOKOSKI: Okay, thank you. Welcome.

Before we begin I just want to remind you that whatever is projected on the screen is not viewable by Judge Kalan. When you refer to an exhibit on the screen, please state the slide or page number to which you are referring for the record. This is also important for clarity in the transcript.

1 Consistent with our hearing order, each party has 60 minutes to
2 present their arguments. The Petitioner will proceed first and may reserve
3 time for rebuttal. How much time would you like to reserve, if any?

4 MR. TELSCHER: Fifteen minutes.

5 JUDGE KOKOSKI: Fifteen? Okay. All right. And then --

6 MR. MANCINO: Your Honor, if I may?

7 JUDGE KOKOSKI: Yes?

8 MR. MANCINO: We, one question we have about the
9 arguments, are Your Honors interested in hearing oral arguments on the
10 Motions to Exclude?

11 JUDGE KOKOSKI: I think that's up to you whether you want
12 to make those arguments.

13 MR. MANCINO: Okay.

14 JUDGE KOKOSKI: If that's how you want to use your time,
15 that's fine.

16 MR. MANCINO: We wish to use some of that time. And if it's
17 okay, I would like to have my colleague, Mr. Flynn, present the Motions to
18 Exclude arguments. He is a young associate and it would be a great chance
19 to get him some experience here in the PTAB.

20 JUDGE KOKOSKI: That's fine. If you want to split the time
21 between you, that's fine as well.

22 MR. MANCINO: Okay, thank you.

23 MR. FLYNN: Thank you, Your Honor.

24 JUDGE KOKOSKI: Okay. Petitioner, you can begin when you
25 are ready.

1 MR. TELSCHER: And we have copies of our presentation.

2 Shall we hand those up now or later?

3 JUDGE KOKOSKI: Sure, we'll take them.

4 MR. TELSCHER: Okay.

5 MR. MANCINO: We'll hand ours out, too, to save some time.

6 JUDGE KOKOSKI: Sure.

7 MR. TELSCHER: There's three, and we have an extra for you
8 as well.

9 MR. TELSCHER: May it please the Board, Rudy Telscher here
10 on behalf of Petitioners Cascades and Tarzana. This case is about quarter
11 folded interleaved napkins and the specific distinction of the independent
12 claims that are at issue is, you know, offset first fold. Can you put up Slide
13 5, please?

14 For the record, Slide 5 is from our demonstratives on the
15 screen. Slide 5 are photographs from both the 761 and 372 patents. You'll
16 see on the screen there's Figures 1C, Figure 2, Figure 3, Figure 4A and
17 Figure 4B. What these show is an eight and a half by 11 piece of paper that
18 is folded twice with the first fold offset. There's then a second fold in
19 Figure 3 that shows the offset fold hidden, and then Figures 4A and 4B show
20 that they are interleaved into a stack in 4B. Slide 2, please.

21 Both independent claims in this case from the 761 and 372
22 patent are identical for the purposes of this petition and hearing. We have a
23 fairly unique situation here because the Hochtritt patents, which have been
24 briefed extensively, are near identical patents but for and from the same
25 owner, Essity, that show quarter folded, interleaved, and they contend are
26 limited to bisecting. The 761 and 372 added the idea of the offset, is what

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