

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VF OUTDOOR, LLC,
Petitioner,

v.

COCONA, INC.,
Patent Owner.

Case IPR 2018-00190
Patent 8,945,287 B2

Record of Oral Hearing
Held: February 28, 2019

Before KRISTINA M. KALAN, CHRISTOPHER M. KAISER, and
ELIZABETH M. ROESEL, *Administrative Patent Judges*.

Case IPR2018-00190
Patent 8,945,287 B2

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The above-entitled matter came on for hearing on Thursday, February 28, 2019, commencing at 1:00 p.m. at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

1 P R O C E E D I N G S

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3 Proceedings begin at 1:01 p.m.

4 JUDGE ROESEL: We will now hear argument in Case IPR2018-
5 00190, VF Outdoor, LLC v. Cocona Inc., concerning U.S. Patent 8,945,287.

6 I am Judge Elizabeth M. Roesel and with me on the panel on the screen from
7 Denver, Colorado are Judges Kristina Kalan and Christopher Kaiser.

8 Counsel, would you please introduce yourselves starting with the
9 Petitioner?

10 MS. OTT: Good afternoon, Your Honors, my name is Kathleen Ott,
11 I'm the Lead Counsel for VF Outdoor. I'm joined here today with my co-
12 counsel Andrew Larsen and Peter Gergely, who will be presenting oral
13 arguments today. We're also joined by our client, Jennifer Sim, GC of VF
14 Outdoor.

15 JUDGE ROESEL: Thank you. Patent Owner?

16 MR. JACKSON: Your Honors, my name is Jason Jackson, I'm the
17 lead counsel for Patent Owner, Cocona Inc. I'm joined by my colleague
18 Jacob Song. Also with us is a client representative, Jeff Bowman.

19 JUDGE ROESEL: Thank you. I would like to remind the parties that
20 this hearing is open to the public and a transcript of it will become part of
21 the record. Each side will have a total of one hour to present your
22 arguments. The Petitioner will be first and may reserve time for rebuttal and
23 Patent Owner will argue second and may also reserve time.

24 When referring to an exhibit on the screen, please tell us the slide
25 numbers so that we can follow along and that will also help the court

1 reporter to prepare an accurate transcript. Before we begin, I'd like to turn
2 the microphone over to Judge Kalan who will address the objections to
3 demonstratives.

4 JUDGE KALAN: Thank you and welcome. Thank you for flying to
5 Alexandria and we hope the next time we have a hearing with this
6 configuration we can do it from Denver. Regarding the objections, we know
7 the Patent Owner filed objections to certain slides of the Petitioner's
8 demonstratives on the grounds they contain new argument or new evidence
9 not previously raised in the petition or the reply brief.

10 And Petitioner has submitted revised demonstratives which we hope
11 address some of those objections, but on this record we'd like to note that the
12 demonstratives themselves are not evidence and they're just argument aids
13 and they've been filed with the legend "Demonstrative Exhibit—Not
14 Evidence."

15 So we will take into account Patent Owner's objections, which are
16 preserved, and we will refer them when we prepare our final written
17 decision. But for the purposes of this proceeding, Petitioner may use its
18 demonstratives with the understanding that any new material or new
19 argument presented in the demonstratives will not be given any weight in
20 our final written decision.

21 Any questions from the parties?

22 MR. GERGELY: No, Your Honor.

23 MR. JACKSON: No, Your Honor.

24 JUDGE KALAN: Back to you, Judge Roesel.

1 JUDGE ROESEL: Thank you. So Petitioner may approach the
2 podium and begin their argument.

3 MR. GERGELY: Thank you, Your Honor. I'm Peter Gergely from
4 Merchant & Gould on behalf of VF Outdoor, LLC. Again, with me today is
5 Jennifer Sim who's the General Counsel of VF Outdoor, LLC, and that is the
6 corporate name of the North Face, which is --

7 JUDGE ROESEL: Okay, before you begin, would you like reserve
8 rebuttal time?

9 MR. GERGELY: Yes, I'll reserve 15 minutes, thank you. Ms. Sim is
10 General Counsel of The North Face, which is a brand that should be
11 well-known to most everyone in this room. It is a leader and has been for
12 the past 50 years in the outdoor apparel, equipment, and footwear industry.

13 This patent, U.S. Patent 8,945,287, concerns a waterproof
14 composition and that waterproof composition has some additional
15 limitations, and I'd like to go through those and highlight which ones I
16 believe are at issue.

17 The first element is a liquid impermeable breathable cured base
18 material comprising of first thickness. The second element is the plurality of
19 active particles in contact with the liquid impermeable breathable cured base
20 material, the plurality of active particles comprising the second thickness.

21 And wherein the first thickness comprises a thickness at least 2.5
22 times larger than the second thickness but less than an order of magnitude
23 larger than the second thickness. The active particles improve the moisture
24 vapor transport capacity of the composition and a moisture vapor

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