

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RED DIAMOND, INC.,
Petitioner,

v.

SOUTHERN VISIONS, LLP,
Patent Owner.

PGR2019-00045
Patent 10,071,852 B2

Record of Oral Hearing
Held: August 11, 2020

Before CHRISTOPHER L. CRUMBLEY, JEFFREY W. ABRAHAM, and
CHRISTOPHER C. KENNEDY, *Administrative Patent Judges*.

PGR2019-00045
Patent 10,071,852 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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ON BEHALF OF THE PATENT OWNER:

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The above-entitled matter came on for hearing on Tuesday, August 11, 2020, commencing at 1:00 p.m., EDT, by video/by telephone.

PROCEEDINGS

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3 JUDGE KENNEDY: We can go on the record. Good afternoon and
4 welcome to the Patent Trial and Appeal Board. This is an oral hearing in
5 case PGR2019-00045 between Petitioner Red Diamond and Patent Owner
6 Southern Visions. The challenged patent is patent number 10,071,852 B2.
7 I'm Judge Kennedy and joining me are Judges Crumbley and Abraham. I
8 believe we should all be visible over a video feed. I will observe that I am
9 only seeing counsel for -- for one party. So, we'll start with counsel
10 introductions. It looks like we may be missing somebody but let's start with
11 Petitioner. Who is present for Petitioner?

12 MR. ROBERTSON: Thank you, Your Honor. This is James
13 Robertson present for Petitioner.

14 JUDGE KENNEDY: And is anybody with you, Mr. Robertson or is it
15 just you?

16 MR. ROBERTSON: Yes, Your Honor. So, our lead counsel, Jamaica
17 Szeliga, is monitoring from her home via audio only pursuant to the request
18 from the Board's technical expert to preserve bandwidth. And present with
19 me at table is our co-counsel, Marcus Chatterton of Balch and Bingham.
20 And listening on the line is Red Diamond's litigation counsel, Collen
21 Rodgers also with the firm of Balch and Bingham.

22 JUDGE KENNEDY: Thank you. And is anybody on the line for
23 Patent Owner?

1 MR. AREAUX: This is Ray Areaux and I -- I have a video
2 connection and I can see Jim Robertson but I do not see anyone else. I do
3 not see you, Judge Kennedy or you, Judge Crumbley or anybody else. And I
4 also have on the line with me, my colleague, Matt Miller who is connected
5 by audio only.

6 JUDGE KENNEDY: Okay, thank you.

7 MR. ROBERTSON: Your Honor, Petitioner also has no video feed of
8 the Board.

9 JUDGE KENNEDY: Okay. So, when --when Mr. Areaux spoke, I
10 was able to see him then. So, it appears that --that we can see both of you
11 when you are speaking but it sounds like neither of you can see -- I'll start
12 with Petitioner. Petitioner, can you see any of the three of the Judges or
13 nobody?

14 MR. ROBERTSON: We don't see anyone, Your Honor, except Mr.
15 Areaux.

16 JUDGE KENNEDY: Okay and Mr. Areaux, do you see any -- you
17 also see none of the Judges but you can see Mr. Robertson?

18 MR. AREAUX: Correct.

19 JUDGE KENNEDY: I believe typically you're able to see us. Let's
20 just take one -- let's take a brief moment and see if our technical folks can
21 get this fixed. And if they can't, then at least both of you are in the same
22 position so there wouldn't be any, you know, unfair advantage to one of you
23 or the other. One moment.

1 CLERK: One moment, Judges, this is Alex with CUCILync. Let me
2 consult with my colleagues if there is anything that can be done on this one.

3 JUDGE KENNEDY: All right, thank you, Alex.

4 (Technical Difficulties)

5 JUDGE KENNEDY: Great. Now that we have that resolved and
6 we've confirmed that we have the court reporter on the line, we've already
7 had counsel introductions, we've already announced the case so just a few
8 housekeeping items before we hand it over to counsel. As provided in the
9 hearing order, each side has a total of 60 minutes to present arguments. I'm
10 going to be monitoring the time and I will try to let you know when you've
11 got 5 minutes left. But I'm going to hold us strictly to 60 minutes per side. I
12 think that should be plenty for this case.

13 And this is a little bit unusual because Petitioner didn't request a
14 hearing but it's our typical practice for Petitioner to go first. And as we
15 indicated in the hearing order, we're going to follow that practice today. So,
16 Petitioner will go first and then Patent Owner, and then if Petitioner reserves
17 time for rebuttal, Petitioner will present that. And then if Patent Owner
18 reserves time for surrebuttal, Patent Owner will present its surrebuttal. So,
19 let me start by asking Petitioner, would you like to reserve any time for
20 rebuttal?

21 MR. ROBERTSON: Yes, Your Honor, Petitioner would like to
22 reserve 30 minutes for rebuttal, please.

23 JUDGE KENNEDY: Okay. And Patent Owner, would you like to
24 reserve any time for surrebuttal?

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