

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SOLVAY USA INC.,
Petitioner,

v.

WORLDSOURCE ENTERPRISES, LLC, ECO AGRO RESOURCES LLC,
and ECO WORLD GROUP LLC,
Patent Owners.

PGR2019-00046
Patent 10,221,108 B2

Record of Oral Hearing
Held: May 14, 2020

Before KRISTINA M. KALAN, JEFFREY W. ABRAHAM, and
SHELDON M. McGEE, *Administrative Patent Judges*.

PGR2019-00046
Patent 10,221,108 B2

APPEARANCES (ON LINE):

ON BEHALF OF THE PETITIONER:

MICHAEL FRANZINGER, ESQ.
CHING-LEE FUKUDA, ESQ.
JASON GREENHUT, ESQ.
Sidley Austin LLP
1501 K Street, N.W.
Washington, DC 20005
(202) 736-8000

ON BEHALF OF THE PATENT OWNER:

T. BENJAMIN SCHROEDER, ESQ.
Ben Schroeder Law, PLLC
301 North Main Street
Suite 2405
Winston-Salem, NC 27101

DAVID WILKERSON, ESQ.
The Van Winkle Law Firm
11 N Market Street
Asheville, NC 28801

The above-entitled matter came on for hearing on Thursday, May 14, 2020, commencing at 1:00 p.m., via online video teleconference.

PROCEEDINGS

- - - - -

JUDGE MCGEE: Good afternoon. This is the oral argument for PGR2019-00046 challenging U.S. Patent 10,221,108. I'm Judge McGee and I also have Judges Kalan and Abraham appearing with me in this proceeding. The parties will each have 60 minutes total to argue their cases. Petitioner will begin and may reserve some rebuttal time, but no more than half of the --

(Audio cut.)

THE REPORTER: I can't hear you.

JUDGE MCGEE: Owner will respond to Petitioner's arguments. I'm sorry?

THE REPORTER: You're --

JUDGE MCGEE: You're speaking?

THE REPORTER: This is Julie Souza, the court reporter. You're breaking up a little bit.

JUDGE MCGEE: Okay. Let me converse with our technology team. Hold on, please.

THE REPORTER: Sure.

JUDGE MCGEE: Okay. Can everyone hear me now?

THE REPORTER: I can hear you fine so far.

UNIDENTIFIED SPEAKER: We can hear you.

JUDGE MCGEE: Okay. Great. So I apologize for that. So I believe I cut out around the -- at the point where I tell each party that you have 60 minutes each. So I'll start there. Each party will have 60 minutes total time to argue their cases. Petitioner will begin and will reserve -- may reserve

1 some rebuttal time but no more than half of their total time. Then Patent
2 Owner will have a time to respond to Petitioner's arguments. And Patent
3 Owner's counsel may also reserve surrebuttal time up to half of their total
4 argument time. So our goal today is to make sure that the parties have an
5 opportunity to be heard. So if we experience any more technical difficulties
6 like we just did, please let us know any way you can. And we'll make
7 appropriate accommodations for those connection issues.

8 I do have a note here for Patent Owner's counsel before we begin.
9 Petitioner has objected to a number of the demonstratives that were filed as
10 containing improper new arguments not previously presented in the briefs.
11 And as you may know, our rules confine oral arguments to issues raised in a
12 brief. So for now, we're going to reserve judgment on those objections. But
13 please be prepared, Patent Owner's counsel, to affirmatively -- affirmatively
14 point to specific pages of the briefs for these objected-to slides. Lastly, for
15 both parties, I would like you to know that we're not going to entertain
16 speaking objections during the other side's argument. If you have a speaking
17 objection that you'd like to make or an objection of any kind, please make it
18 during your allotted argument time.

19 I'm going to maintain a clock for the total argument time, and I will
20 inform the parties when they have about five minutes remaining. So I'd like
21 to get started here with appearances for both sides. Who do we have for
22 Petitioner today?

23 MR. FRANZINGER: Good afternoon, Your Honor. This is Mike
24 Franzinger from Sidley Austin on behalf of Petitioner Solvay U.S.A.,
25 Incorporated. With me on the call is lead counsel Ching-Lee Fukuda and
26 back-up counsel Jason Greenhut. Mr. Greenhut and I will be doing the

1 argument.

2 JUDGE MCGEE: Great. Thank you, Petitioner. For Patent Owner?

3 MR. SCHROEDER: Yes. This is Ben Schroeder. And I represent
4 Patent Owner. I'm here with David Wilkerson who will actually be
5 presenting the motion that is -- at the beginning, the hearing request,
6 actually.

7 JUDGE MCGEE: Okay. Thank you, Mr. Schroeder. Petitioner,
8 you're going to begin. Would you like to reserve some rebuttal time today?

9 MR. FRANZINGER: Yes, Your Honor. We'd like to reserve 20
10 minutes for rebuttal.

11 JUDGE MCGEE: Okay. Great. Thank you. So I'm going to start my
12 clock here. You may begin your arguments when you're ready. So that
13 would be -- I will give you a 5-minute warning after 35 minutes. Does that
14 sound right?

15 MR. FRANZINGER: That sounds fine. Thank you.

16 JUDGE MCGEE: Okay. Thank you, counsel. You may begin when
17 ready.

18 MR. FRANZINGER: Okay. Thank you, Your Honors. The Board
19 (indiscernible) all the key issues in this case in its Institution decision, and
20 the operative facts haven't changed since then. Those facts are as follows.
21 All the hard work to discover and implement the active ingredients, NBPT
22 as a urease inhibitor, had already been done well before the filing of this
23 patent. And that's not disputed. The only alleged advance of the '108 Patent
24 over the Kolc and Iannotta references that are involved in Grounds 1 and 2 is
25 swapping in a different solvent, dimethyl sulfoxide, or DMSO. But DMSO
26 is the preeminent dipolar aprotic organic solvent from the toxicity

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.