

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

3 CASE IPR: Unassigned

4 Patent 6,974,569

5
6 CONOPCO, INC. dba UNILEVER CORP.)

7 Petitioner,)

8 vs.)

9 THE PROCTOR & GAMBLE COMPANY,)

10 Patent Owner,)

11 _____)

12
13 Friday, March 7, 2014

14
15 Teleconference held on the above date,
16 beginning at approximately 10:04 a.m., and reported
17 stenographically by Nancy J. Martin, a Registered
18 Merit Reporter, Certified Realtime Reporter, and
19 Notary Public of Maryland, Commonwealth of Virginia,
20 Washington, D.C., and North Carolina

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1 Before Administrative Patent Judges
2 Judge Green
3
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24 JUDGE GREEN: Good morning. This is
25 Judge Green. I also have (inaudible) on the line with

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1 me. This is the initial conference call in IDR 2013
2 00505 and IDR 2013 00509. I would like to start with
3 a roll call. Who do I have for Petitioner?
4 MS. ELLISON: Good morning, Your Honor. This
5 is Eldora Ellison from Sterne Kessler Goldstein & Fox.
6 I have with me Robert Greene Sterne, also from Sterne
7 Kessler. We also have a court reporter on the line,
8 Your Honor.
9 JUDGE GREEN: Thank you. And you will file
10 the transcript in due course?
11 MS. ELLISON: Yes, Your Honor.
12 JUDGE GREEN: And who do I have for patent
13 owner?
14 MR. MAIORANA: Good morning, Your Honor.
15 This is David Maiorana. I'm from Jones Day on behalf
16 of the patent owner, Proctor & Gamble, and I'm joined
17 by my colleague, Michael Weinstein.
18 JUDGE GREEN: Good morning. I would like to
19 start with a few initial issues. Have there been any
20 settlement discussions?
21 MS. ELLISON: Not to my knowledge, Your
22 Honor.
23 JUDGE GREEN: Patent owner, is your
24 understanding any different?
25 MR. WEINSTEIN: Well, there have been

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1 settlement discussions specifically directed to the
2 interparties reviews that bring us all together today.
3 There is a co-pending litigation from which these IDRs
4 arose, and that litigation, there has been some
5 discussions between the parties, but it has predated
6 these interparty reviews.
7 JUDGE GREEN: Okay. Thank you. Are there
8 any issues with the scheduling order? Petitioner?
9 MS. ELLISON: Not from our side, Your Honor.
10 JUDGE GREEN: Patent owner?
11 MR. WEINSTEIN: Not from us, Your Honor.
12 Thank you.
13 JUDGE GREEN: Okay. I will remind the
14 parties that you can stipulate to changes in due dates
15 1 through 3. I would hope parties can work that out
16 between them. As to the due date 7, which is the oral
17 hearing date, that is very hard for us to reschedule.
18 So if you do have a problem and you find out about it
19 early, it would be a little bit easier. And we do
20 expect lead counsel to be at the hearing.
21 MS. ELLISON: Understood. Thank you.
22 MR. WEINSTEIN: Understood.
23 JUDGE GREEN: It's my understanding that only
24 patent owner filed a list of proposed motions. So
25 let's start there. The first motion is a motion to

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1 amend, and my understanding that's only a possibility
2 at this point.
3 MR. WEINSTEIN: That's right, Your Honor. We
4 just wanted to preserve the ability to do so when our
5 motion to amend would be due in May.
6 JUDGE GREEN: Okay. I will remind you that
7 you need to request a conference call, and if you
8 decide to go that way, I suggest looking at the Idle
9 Free case, that's IPR 2012 00027, and in particular,
10 Papers 26 through 66.
11 And then the other proposed motion was the
12 protective order. I understand -- well, first, I just
13 want, currently there is no protective order in the
14 case. The board's preference is the default
15 protective order. If the parties agree to changes,
16 those changes could be put to the protective order
17 that -- well, both protective orders have to be filed
18 with the Board, but any changes that you make to
19 default that protective order have to be red lined in
20 the copy that you filed.
21 The other thing that I would caution parties
22 is, with protective orders and confidential
23 information, please keep redactions to a minimum. The
24 information cannot be both be kept confidential and
25 used in a filed petition, and you may want to also

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1 consider other ways to present the evidence, such as
2 charts or summaries or other things.
3 And the Board just will not issue two final
4 decisions when it's confidential and one that's
5 public. The public interest in the transparency is
6 something that we're very interested in.
7 Anything else that you want to talk about at
8 this point, patent owner?
9 MR. WEINSTEIN: No, Your Honor. We
10 understand. With respect to the PO, we appreciate
11 your guidance.
12 JUDGE GREEN: Okay. Petitioner, is there
13 anything you would like to discuss?
14 MS. ELLISON: Yes, I just want a
15 clarification on one issue, Your Honor. We understand
16 that parties may file motions for supplemental
17 information within one month from institution of
18 trial, which takes us to March 12. Is specific prior
19 authorization for that required, or are we all
20 automatically authorized to file a motion for
21 supplemental information?
22 JUDGE GREEN: You know, I haven't looked at
23 that rule that recently. I'll -- give me one second.
24 MS. ELLISON: Certainly.
25 (Pause in proceedings.)

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1 JUDGE GREEN: I just looked at the rule, and
2 a request for authorization is required.
3 MS. ELLISON: Okay. In that case, we'd like
4 to request authorization, please.
5 JUDGE GREEN: And what is the nature of --
6 MS. ELLISON: I'm sorry.
7 JUDGE GREEN: What's the nature of the
8 supplemental information?
9 MS. ELLISON: It would be additional
10 information that supports our obviousness challenges
11 to the patents.
12 JUDGE GREEN: Patent owner, do you have any
13 issues with that or --
14 MR. WEINSTEIN: Well, it's hard to say, Your
15 Honor, with that vague of a description. I think we
16 would want to see some more specifics about what it is
17 that they want to submit before we could take a
18 position on it, I suppose. I mean additional
19 information regarding obviousness challenges doesn't
20 really help us in terms of making a determination on
21 that.
22 JUDGE GREEN: Petitioner, why do you need to
23 file this information now and how come it wasn't filed
24 with the petition?
25 MS. ELLISON: Well, Your Honor, one of the

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1 reasons why I asked whether specific authorization was
2 required is because we're actually still making a
3 determination as to whether we're going to file such
4 information. And in the interest of preserving work
5 product at this point, I'd rather not disclose in
6 advance unnecessarily what -- with great specificity
7 what that information would be. But I wanted to ask
8 for the authorization given the timing of the deadline
9 for the switches on the 12th, which is next Wednesday.
10 So in an effort to avoid needing to have a
11 further conference call on this, I thought I would ask
12 for the authorization at this point.
13 JUDGE GREEN: Okay. Give me one second. I'm
14 going to confer with the panel.
15 MS. ELLISON: Thank you.
16 (Pause in proceedings.)
17 JUDGE GREEN: I've conferred with the panel,
18 and I think at this point we would prefer to have an
19 additional conference call once you know whether or
20 not you're going to file such information. I
21 understand the time line is tight, but the panel can
22 be available and we can make a determination when you
23 decide -- when you're sure that you're going to file
24 the motion.
25 MS. ELLISON: Okay. That's fine.

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1 JUDGE GREEN: Okay. Anything else, patent
2 owner?
3 MR. WEINSTEIN: No, Your Honor. Thank you
4 very much for your time.
5 JUDGE GREEN: And anything else for
6 Petitioner?
7 MS. ELLISON: No, Your Honor. Thank you.
8 JUDGE GREEN: Okay. Thank you. Call is
9 adjourned.
10 (The proceedings concluded at 10:13 a.m.)
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1
2 I do hereby certify that I am a Notary Public in
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6 tell the truth, the whole truth, and nothing but the
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11 true and correct record of the testimony given by the
12 witness; and that I am neither of counsel nor kin to
13 any party in said action, nor interested in the
14 outcome thereof.

15 WITNESS my hand and official seal this
16 10th day of March, 2014.

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