

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1970

No. 338

BLONDER-TONGUE LABORATORIES, INC.,

Defendant and Counter-
Claimant - Appellant -
Petitioner,

vs.

UNIVERSITY OF ILLINOIS FOUNDATION

Plaintiff and Counter-
claim Defendant - Appellee

JFD ELECTRONICS CORPORATION

Counterclaim - Defendant -
Appellee, Respondents.

MOTION IN OPPOSITION TO GRANTING THE SOLICITOR

GENERAL'S AMICUS CURIAE REQUEST,

and

MOTION FOR ENLARGEMENT OF PETITIONERS'

TIME FOR ORAL ARGUMENT

Now comes your petitioner, Blonder-Tongue Laboratories, Inc., by its counsel, and respectfully moves this Court to deny the request of the Solicitor General to file a brief and present an oral argument as amicus curiae, and for an enlargement of petitioner's time for oral argument to one hour.

The grounds for these motions are as follows:

By way of letter to the Clerk, the Solicitor General proposes to file a brief amicus curiae directed particularly to the doctrine of Triplett v. Lowell, and has asked for oral argument.

We wish to make of record the fact that, on two prior occasions, the undersigned counsel personally tried to invoke the good offices of the self-same Solicitor General to present the Government's views to the Supreme Court, first in urging the granting of the petition for the writ of certiorari, and then, when the writ was granted, in connection with the issues raised by petitioner, particularly those relating to fraud and anti-trust ramifications, that would have strengthened the integrity of the patent system and the rights of patentees. The reason for asking the Solicitor General to lend support was based upon the considerable experience of his department on public issues of fraud and anti-trust.

On both occasions, the Solicitor General saw fit not to lend the good offices of the Government to assist in strengthening the patent system.

Now that the Solicitor General finds that none of the litigants are receptive to the concept of weakening the patent system by overruling Triplett v. Lowell, we witness the spectacle of his desiring belatedly to rush into this Court with arguments which, his letter to the Clerk admits, will favor depriving patentees of their present rights under the patent law.

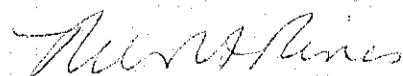
From the above, we assert that the office of the Solicitor General is suspect; and it is not befitting the dignity of this Court, under these circumstances, to allow this late intervention, particularly in the light of specific prior requests of counsel.

More than this, we question what personal knowledge or expertise the Solicitor General (personally, or with his whole staff combined) may have in the specific issues of trying patent infringement cases on behalf of patentees or even with the actual conflicting cases involving the doctrine of Triplett v. Lowell.

We also strongly oppose the concept that the Solicitor General, who is not a party litigant, should be given time for any oral argument, and certainly not a length of time that approximates to that allowed to the petitioner, who has many more issues to discuss.

The petitioner hereby further moves, therefore, that in view of the fact that it must discuss four questions, it be allowed one hour for its argument.

Respectfully submitted,



Robert H. Rines
David Rines
Richard S. Phillips,
Counsel for Petitioner

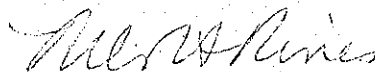
I certify that a copy of the above was served by mailing the same in a United States mail box, first class postage prepaid, to each of the following: 12/24/70

Charles J. Merriam,
William A. Marshall and
Basil P. Mann, Esq.,
Merriam, Marshall, Shapiro and Klose,
30 West Monroe Street
Chicago, Illinois 60603

Jerome M. Berliner and
Robert C. Faber, Esq.
Ostrolenk, Faber, Gerb and Soffen
10 East 40th Street
New York City, New York 10016

John F. Pearne and Harold F. McNenny, Esq.
McNenny, Farington, Pearne and Gordon
920 Midland Building
Cleveland, Ohio 44115

Solicitor General
Department of Justice
Washington, D. C. 20530



Robert H. Rines

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On both occasions, the Solicitor General saw fit not to lend the good offices of the Government to assist in strengthening the patent system.

Now that the Solicitor General finds that none of the litigants are receptive to the concept of weakening the patent system by overruling Triplett v. Lowell, we witness the spectacle of his desiring belatedly to rush into this Court with arguments which, his letter to the Clerk admits, will favor depriving patentees of their present rights under the patent law.

From the above, we assert that the office of the Solicitor General is suspect; and it is not befitting the dignity of this Court, under these circumstances, to allow this late intervention, particularly in the light of specific prior requests of counsel.

More than this, we question what personal knowledge or expertise the Solicitor General (personally, or with his whole staff combined) may have in the specific issues of trying patent infringement cases on behalf of patentees or even with the actual conflicting cases involving the doctrine of Triplett v. Lowell.

We also strongly oppose the concept that the Solicitor General, who is not a party litigant, should be given time for any oral argument, and certainly not a length of time that approximates to that allowed to the petitioner, who has many more issues to discuss.

The petitioner hereby further moves, therefore, that in view of the fact that it must discuss four questions, it be allowed one hour for its argument.

Respectfully submitted,

Robert H. Rines
David Rines
Richard S. Phillips,
Counsel for Petitioner

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John F. Pearne and Harold F. McNenny, Esq.
McNenny, Farington, Pearne and Gordon
920 Midland Building
Cleveland, Ohio 44115

Solicitor General
Department of Justice
Washington, D. C. 20530

Robert H. Rines

In the
Supreme Court of the United States

October Term, 1970

No. 338

Borden-Torque Laboratories, Inc.

~~Petitioner~~

Respondant and Counter-claimant-
Appellant - ~~Appellant~~ Petitioner

vs.

University of Illinois Foundation

Plaintiff and Counterclaim

Defendant - Appellee

and

JFD Electronic Corporation

Counterclaim - Defendant -
Appellee,

Respondents

~~PETITIONER'S BRIEF~~

~~Opinions filed~~

MOTION IN OPPOSITION TO GRANTING THE
SOLICITOR GENERAL'S ~~AN~~ AMICUS CURIAE
REQUEST, ~~AND~~ ~~AND~~ ~~AND~~

AND

MOTION FOR ENLARGEMENT OF PETITIONERS
TIME FOR ORAL ARGUMENT

particularly those relating to ~~the~~ fraud and other ~~acts~~ ~~in~~ ~~the~~ ~~case~~ ~~of~~ ~~the~~ ~~petitioner~~ ~~in~~ ~~the~~ ~~above~~ ~~entitled~~ ~~case~~ ~~and~~ ~~has~~ ~~asked~~ ~~for~~ ~~oral~~ ~~arguments~~ ~~in~~ ~~the~~ ~~above~~ ~~entitled~~ ~~case~~.

doctrines of

By way of letter of ~~to the Clerk,~~ ^{to the Clerk,} the Solicitor General ~~has~~ proposed ^{s/} to file a brief Amicus Curiae ~~in connection with the~~ ^{directed particularly to the} ~~suit of~~ Triplett v. Lowell, ~~in the above entitled case.~~ ^{and has asked for oral arguments}

We wish to make of record the fact that, on two prior occasions, the undersigned counsel personally ~~has~~ tried to invoke the ^{good} offices of ^{the self-same} Solicitor General to present ^{the Government's} views to the Supreme Court ~~in connection,~~ first ~~with~~ ^{in urging the granting of} the ~~petition~~ ^{the writ} for a writ of certiorari, and then, ~~when this was granted,~~ ^{when this was granted,} in connection ~~with the~~ ^{with the} ~~argument of the case bearing on issues~~ ^{raised by petitioners} that would have

strengthened the integrity of the patent system and the rights of ~~the~~ ^{of the} patentees. ^{The reason for asking the Solicitor General to lend support was based upon considerable experience of this department on} On both occasions, the Solicitor General saw fit ~~not~~ ^{to} to lend the good offices of ~~his~~ ^{the Government} department to assist in strengthening the patent system. ^{On both occasions, the Solicitor General saw fit not to lend the good offices of his department to assist in strengthening the patent system.}

Now that the Solicitor finds that ~~there is no agreement in~~ ^{the name of the parties to this} the concept of weakening the patent system by overruling Triplett v. Lowell, ^{are receptive to}

~~on the part of any of the~~ ^{the} ~~plaintiffs in this case,~~ ^{the} we witness ~~the~~ ^{the} spectacle of his desiring ~~to use his good offices to assist~~ ^{which, his letter to the Clerk admits, will favor} present arguments that ~~deprive~~ ^{deprive} patentees of present rights under the patent law. ^{into this case with}

From the above, we ~~take the strong position that~~ ^{assert that} the office of the Solicitor General is ~~is~~ ^{is} ~~suspect,~~ ^{suspect,} and it is not befitting the dignity of this Court, under these circumstances, to allow this ~~late~~ ^{late} intervention, particularly in the light of specific prior requests of counsel. ^{James A}

We also strongly oppose the concept that the Solicitor General, who is not a party litigant, should be given time for ~~any~~ ^{any} oral argument, and certainly not a length of time that approximates to that allowed to the petitioner, ~~who~~ ^{who} has many more issues to discuss.

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Commiss for Pettitones