

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ENOVATE MEDICAL, LLC,  
Petitioner,

v.

INTERMETRO INDUSTRIES CORPORATION,  
Patent Owner.

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Case IPR2015-00300  
Patent 6,721,178 B1

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Before MICHAEL R. ZECHER, JENNIFER S. BISK, and  
MICHAEL J. FITZPATRICK, *Administrative Patent Judges*.

BISK, *Administrative Patent Judge*.

FINAL WRITTEN DECISION  
*35 U.S.C. § 318(a)*

## I. INTRODUCTION

Petitioner, Enovate Medical, LLC, filed a Petition to institute an *inter partes* review of claims 2, 5, 25, 27, 28, 43, 68, 88, 101, and 108 of U.S. Patent No. 6,721,178 (U.S. Patent No. 6,721,178 B1, as amended by *ex parte* reexamination certificate U.S. Patent No. 6,721,178 C1 (Ex. 1001, “the ’178 patent”). Paper 1 (“Pet.”). Patent Owner, InterMetro Industries Corporation, filed a Preliminary Response pursuant to 35 U.S.C. § 313. Paper 9 (“Prelim. Resp.”). We granted the Petition in part, instituting trial on whether claims 27, 28, 88, and 101 are unpatentable as obvious over Dell<sup>1</sup>, Sweere<sup>2</sup>, and Allan<sup>3</sup>, and claim 108 as obvious over Dell, Sweere, Allan, and Planar.<sup>4</sup> Paper 12.

During the trial, Patent Owner filed a Response under seal (Paper 20, “PO Resp.”),<sup>5</sup> and Petitioner filed a Reply. Paper 25 (“Reply”). Additionally, both parties filed Motions to Exclude evidence. Paper 33<sup>6</sup>; Paper 35. Finally, Patent Owner filed a Motion to Dismiss and Terminate (Paper 37, “Mot. to Term.”), against which Petitioner filed an Opposition (Paper 40, “Opp. to Mot. to Term.”),

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<sup>1</sup> U.S. Patent No. 5,806,943, issued Sept. 15, 1998. Ex. 1003.

<sup>2</sup> U.S. Patent No. 5,842,672, issued Dec. 1, 1998. Ex. 1004.

<sup>3</sup> U.S. Patent No. 5,685,235, issued Nov. 1, 1997. Ex. 1008.

<sup>4</sup> Webpage found at <http://www.planar.com/pds/products/cleanscreen/cleansc.htm>, as of July 3, 1997, as archived at <http://web.archive.org/web/19970703043920/>. Ex. 1007.

<sup>5</sup> Patent Owner’s Response, with information relating to sales of its point-of-care (or POC) carts redacted, is publicly available as Paper 21.

<sup>6</sup> The evidence Petitioner seeks to exclude—Exhibits 2005–2008—was filed by Patent Owner under seal. Thus, Petitioner filed its Motion to Exclude under seal, as it discusses certain details from Patent Owner’s sealed exhibits. Petitioner’s Motion to Exclude, with such details redacted, is publicly available as Paper 32.

and in support of which Patent Owner filed a Reply (Paper 49).

A consolidated hearing for oral arguments in this *inter partes* review and Case IPR2015-00301 was held January 13, 2016. A transcript of the hearing appears in the record. Paper 51 (“Tr.”).

We hold claims 27, 28, 88, 101 and 108 unpatentable.

#### A. Related Matters

Patent Owner has asserted the ’178 patent along with additional patents, including related U.S. Patent No. 6,493,220 B1 (“the ’220 patent”), against Petitioner in *InterMetro Industries Corp. v. Enovate Medical, LLC*, Case No. 3:13-cv-02854 (M.D. Pa.) (the “related lawsuit”). Pet. 2; Paper 8, 2. Claims of the related ’220 patent are being challenged by Petitioner in another an *inter partes* review before us. *See* Case IPR2015-00301, Paper 1.

#### B. The ’178 Patent

The ’178 patent describes “a mobile workstation that can include an adjustable-height horizontal tray, a pull-out keyboard tray, a vertically-mounted docking station mounted to the tray, a computer terminal mounted beneath the tray, a display screen mounted to the horizontal tray, and a power unit.” Ex. 1001, B1 at 1:10–15.<sup>7</sup> The mobile workstation can be pushed from room to room, for example, by a medical practitioner during patient rounds at a hospital. *Id.* at 2:65–67.

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<sup>7</sup> Petitioner filed U.S. Patent Nos. 6,721,178 B1 and 6,721,178 C1 together as Exhibit 1001. Both documents include column and line numbers. In our citations to Exhibit 1001, we distinguish between the exhibit’s two documents using their kind codes.

Figure 4b of the patent is reproduced below.

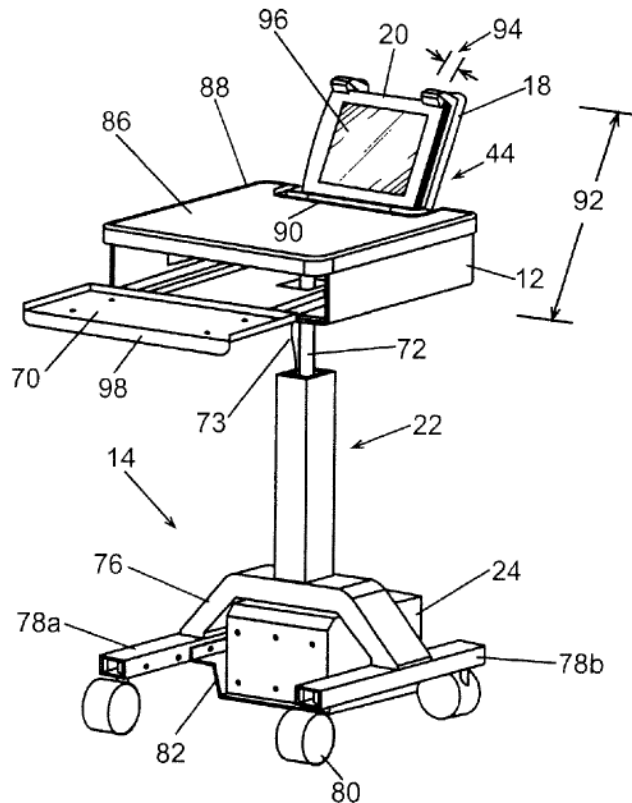


Figure 4b shows a perspective view of the mobile workstation. Ex. 1001, B1 at 4:41–43. The workstation includes adjustable-height horizontal tray 12 supported by chassis 14. *Id.* at 8:53–55. The horizontal tray includes upper surface 86 that provides a work surface. *Id.* at 12:9–12. Horizontal tray 12 supports docking station 18 that removably supports wireless computer terminal 20 having a display screen. *Id.* at 8:58–61. The docking station is attached to the horizontal tray via tiltable bracket 44. *Id.* at 10:10–12.

Although the lead line for computer terminal 20 points to the display screen, which is positioned above the horizontal work surface, the terminal itself may be below the horizontal work surface. *See id.* at 1:14 (“computer terminal mounted beneath the tray”); *id.* at 6:50–52 (“Because the docking station is vertically

mounted, the computer terminal does not occupy the top surface of the horizontal tray . . . .”); *id.* at 6:65–67 (“The horizontal tray includes an underside front mounting bracket to support the wireless computer terminal . . . .”); *id.* at 8:14–17 (“When the computer terminal is mounted beneath the horizontal tray, the computer terminal does not occupy the top surface of the horizontal tray, which allows this area to be used as a work surface.”); *id.* at Figs. 12a–c, ref. 274.

The chassis includes vertical beam 22 connecting the horizontal tray to a dolly assembly, the dolly assembly being comprised of arched beams 76 and horizontal beams 78a and 78b. *Id.* at 8:61–62, 11:59–61. The horizontal beams include casters (wheels) 80. *Id.* at 11:61–63. The vertical beam is adjustable via a gas-spring or other adjustment mechanism. *Id.* at 8:63–9:10. Power unit 24 is supported on a lower end of the chassis. *Id.* at 9:17–18.

### C. Previous Reexamination of the ’178 Patent

The ’178 patent issued on April 13, 2004, with forty-four claims. Ex. 1001, B1. Rioux Vision, Inc., an entity unrelated to the parties in this proceeding, filed a Request for *Inter Partes* Reexamination of the ’178 patent on September 20, 2007. *See* Ex. 1013, 4. The Office granted Rioux’s request, finding a substantial new question of patentability with respect to all forty-four claims. *Flo Healthcare Solutions, LLC v. Kappos*, 697 F.3d 1367, 1370 (Fed. Cir. 2012). During the reexamination, Patent Owner added over one hundred dependent claims, cancelled claims 1, 26, and 75, changed the dependencies of corresponding claims, and rewrote claims 2 and 27 in independent form. The Examiner ultimately rejected claims 8–17, 23, 24, 35, 40–42, 73, 76–79, 87, and 88 over various references. These rejections were affirmed by the Board and the Federal Circuit. *Flo*

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