

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BLUE BELT TECHNOLOGIES, INC.,
Petitioner,

v.

ALL-OF-INNOVATION GMBH,
Patent Owner.

Case IPR2015-00765
Patent 7,346,417

Held: April 7, 2016

BEFORE: SALLY C. MEDLEY, KEVIN F. TURNER, and
WILLIAM M. FINK, Administrative Patent Judges.

The above-entitled matter came on for hearing on Wednesday,
April 7, 2016, commencing at 1:00 p.m., at the U.S. Patent and
Trademark Office, 600 Dulany Street, Alexandria, Virginia.

Case IPR2015-00765
Patent 7,346,417

APPEARANCES:

ON BEHALF OF THE PETITIONER:

STUART M. ROSENBERG, ESQUIRE
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ON BEHALF OF PATENT OWNER:

MATTHEW I. KREEGER, ESQUIRE
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P R O C E E D I N G S

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JUDGE MEDLEY: Good afternoon. This is the hearing for IPR2015-00765 between Petitioner Blue Belt Technologies and Patent Owner All-Of-Innovation.

Per our March 17th order, each party will have 30 minutes of total time to present arguments. Petitioner, you may proceed first, present your case with respect to the challenged claims and grounds for which the Board instituted trial and thereafter, Patent Owner, you may respond to Petitioner's presentation and also present arguments for your motion to amend.

Each party may reserve rebuttal time. Petitioner, during your rebuttal time, you may respond to all matters. However, Patent Owner, during your rebuttal time, you may only respond to Petitioner's arguments in connection with your motion to amend.

At this time we'd like the parties to please introduce counsel beginning with the Petitioner.

MR. BUROKER: Good afternoon, Your Honor. Brian Buroker and with me is Stuart Rosenberg and for this proceeding Mr. Rosenberg will be presenting argument.

JUDGE MEDLEY: Okay. Thank you.

And for Patent Owner?

MR. KREEGER: Good afternoon, Your Honor. Matthew Kreeger from Morrison & Foerster for the Patent

1 Owner. With me today is Walter Wu. Also present is Gregory
2 Plaskon, Vice President of Intellectual Property for Stryker,
3 licensee to the patent, and Dr. Tim Lueth, one of the named
4 inventors on the patent.

5 JUDGE MEDLEY: And you'll be presenting?

6 MR. KREEGER: I'll be presenting, yes, Your Honor.

7 JUDGE MEDLEY: Okay. Thank you.

8 Okay. Petitioner, you may begin.

9 MR. ROSENBERG: Thank you, Your Honor. Stuart
10 Rosenberg from Gibson, Dunn & Crutcher on behalf of Blue Belt
11 Technologies. With the Board's permission, I'd like to reserve 10
12 minutes for rebuttal and I'd like to start on slide number 2 of our
13 demonstratives, which is just an outline of the topics I'd like to
14 discuss today.

15 I'll start with a few brief introductory remarks about the
16 claims at issue here and the prior art references, Mushabac and
17 Klimek, and then turn quickly to what we think are the key
18 points, first, the claim term manually guiding, which is the only
19 term that's in dispute between the parties as a matter of claim
20 construction and as a matter of whether that element is present in
21 the references. Everything else is not disputed.

22 Then turn to from our construction of manually guiding,
23 which is moving by hand, to the construction that the Board
24 adopted preliminarily, at least in the Institution Decision, which is
25 somewhat narrower, and I want to explain why even under that

1 narrower construction the moving by hand or rather the manually
2 guiding limitations are clearly met in the art in this proceeding
3 and then turn to motivations to combine Mushabac and Klimek,
4 explain where those motivations were present in the art and
5 respond to some of the Patent Owner's arguments about those,
6 and then I'll address point 4 here on slide 2, the motion to amend,
7 only in rebuttal time.

8 So turning to slide 5, this just shows the two
9 independent claims at issue in this proceeding. There are
10 dependent claims at issue as well, but the Patent Owner hasn't
11 made any arguments specific to any of the dependent claims, so
12 they rise and fall on the independent claims.

13 These are to a method or in the case of Claim 40 a
14 system that involves removing material from an object. The
15 object can be a bone. It doesn't need to be a bone. It can be soft
16 tissue. It can be something like the patent specification discloses,
17 the hull of a sailboat, and so it's a broad range of potential objects
18 that are the subject of these claims.

19 All the claims require that you remove the material
20 from the object using an effector, a drill, a bur, and then the key
21 limitation here is that you are manually guiding the effector in
22 relation to the object and we'll talk about what that means.
23 You're storing information about where the effector is by using a
24 navigation system to track the effector and then you control the

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