

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

J SQUARED, INC. d/b/a UNIVERSITY LOFT COMPANY
Petitioner

v.

SAUDER MANUFACTURING COMPANY
Patent Owner

Case IPR2015-00958
Patent No. 8,585,136

CHAIR WITH COUPLING
COMPANION STOOL BASE

Before LINDA E. HORNER, JOSIAH C. COCKS, and JAMES A. WORTH,
Administrative Patent Judges.

PATENT OWNER'S REQUEST FOR ORAL ARGUMENT

Patent Owner, Sauder Manufacturing Company, respectfully requests the opportunity for oral argument on April 21, 2016, in accordance with the Board's Scheduling Order dated August 24, 2015.

Patent Owner suggests that oral argument with respect to both of the pending IPR2015-00774 and IPR2015-00958 be made at the same hearing, and the following issues be addressed with respect to IPR2015-00958:

1. Has Patent Owner established by a preponderance of the actual evidence that its constructions of the following terms are the broadest reasonable constructions:

- a. The term "chair"
- b. The term "stool base"
- c. The term "user"
- d. The term "lower portion"
- e. The term "pedestal"
- f. The term "accessible"
- g. The term "alternatively"
- h. The term "saddle"

2. The broader question as to whether Patent Owner's narrower and fully supported constructions of claims are more reasonable and better serve the public

interest than the excessively broad constructions argued by Petitioner that ignore the actual teachings of the patent.

3. Whether Petitioner and/or the Board correctly evaluated the scope and content of the prior art, particularly:

a. Whether it would have been obvious to attach a rocker accessory to the base of Yu's detached deck chair in view of the actual teachings of the prior art, conventional wisdom and the Board's clear finding in its Decision, Page No. 17, ¶2, that there is no evidence "to show that it was desirable in the art to have a deck chair with a rocker function or that an artisan would have been led by design forces or other market forces to make such a modification."

b. Whether Petitioner has provided evidence on the fact question of whether the Kassai tray table latch mechanism is the equivalent of the latch disclosed in the '136 patent and whether it is obvious to replace the bolt plate of the Yu chair with the table latch mechanism of Kassai;

c. Whether Yu effectively teaches a tilt and/or swivel function; and

d. Whether the combination of Yu, Clark and Kassai teach the "coupling" and "releasably engaging" capabilities of the '136 invention as those terms have been construed by the Board in its Instituting Decisions.

4. Whether it was necessary in this case for a PHOSITA to consult the file history to correctly construe the claims;

5. Whether the declarants for Patent Owner are in substantial agreement as to claim scope, and whether any disparity between them is material, relevant and/or prejudicial to Patent Owner's evidentiary presentation;

6. Whether industry praise must come from a PHOSITA to be relevant particularly where the technology of the invention is readily understood by lay persons;

7. Whether Patent Owner's unrebutted trial evidence establishes a nexus between the claimed invention and the objective factors of praise; commercial success, and copying;

8. Whether any or all of the objective factors must necessarily derive from an individual novel element as opposed to the claimed invention as a whole;

9. Whether Patent Owner has established by a preponderance of the evidence that;

a. Claims 1, 2, 4, 5, 8, 9 and 11 are not obvious from the combined teachings of Yu and Clark;

b. Claims 6, 7, 10 and 12-14 are not obvious from the combined teachings of Yu, Clark and Kassai.

10. Whether Petitioner's arguments for obviousness are based entirely on conclusions of counsel as opposed to evidence from a qualified witness establishing:

- a. the level of skill in the art;
- b. the scope and content of the analogous prior art;
- c. a viable rationale for the various combinations of prior art elements proposed by Petitioner; and
- d. the avoidance of hindsight.

11. Has Patent Owner waived argument as to the interpretation and/or validity of any claim?

12. Whether Patent Owner has proven by a preponderance of the evidence that the "corresponding structure" for the means plus function limitation of claim 12 includes at least the claw and latch?

13. Has Patent Owner provided sufficient proof of commercial success in a defined market?

14. Such other and additional questions as Petitioner may raise in its argument as well as any additional issues on which the Board seeks clarification.

For the oral argument, Patent Owner does not require the use of audiovisual equipment to display demonstrative exhibits, but will likely bring to the argument the commercial products of Patent Owner and Petitioner for the Board's

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