

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CAMELBAK PRODUCTS, LLC,
Petitioner,

v.

IGNITE USA, LLC,
Patent Owner.

Case IPR2015-01034
Patent 8,863,979 B2

Before SALLY C. MEDLEY, KEN B. BARRETT, and
AMANDA F. WIEKER, *Administrative Patent Judges*.

WIEKER, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
Inter Partes Review
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

Petitioner, CamelBak Products, LLC, filed a Petition requesting an *inter partes* review of claims 1, 3, 6, 7, and 10–15 of U.S. Patent No. 8,863,979 B2 (Ex. 1001, “the ’979 patent”) under 35 U.S.C. §§ 311–319. Paper 1 (“Pet.”). Patent Owner, Ignite USA, LLC, filed a Preliminary Response. Paper 10 (“Prelim. Resp.”). Upon consideration of the Petition and Preliminary Response, on August 26, 2015, we instituted an *inter partes* review of claims 1, 3, 6, 7, and 10–15 on two grounds of unpatentability, pursuant to 35 U.S.C. § 314. Paper 15 (“Dec.”).

Subsequent to institution, Patent Owner filed a Patent Owner Response and Petitioner filed a Reply. Paper 19 (“PO Resp.”); Paper 22 (“Pet. Reply”).

Patent Owner filed a Motion for Observation on Cross-Examination Testimony on the second deposition of Dr. Alexander H. Slocum, Ph.D., Petitioner’s declarant. Paper 29 (“PO Mot. for Observation”). Petitioner filed an Opposition to the Motion for Observation. Paper 33 (“Pet. Observation Opp.”).

Patent Owner filed a Motion to Exclude Exhibits 1004–1007, Exhibits 1010–1012, testimonial evidence provided during the second deposition of Dr. Slocum, and the opinions and conclusions of Dr. Slocum. Paper 30 (“PO Mot. to Exclude”). Petitioner filed an Opposition to the Motion to Exclude and Patent Owner filed a Reply. Paper 34 (“Pet. Exclude Opp.”); Paper 35 (“PO Exclude Reply”).

An oral hearing was held on May 9, 2016, and a transcript of the hearing is included in the record. (Paper 36 (“Tr.”)).

The Board has jurisdiction under 35 U.S.C. § 6(c). This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73.

For the reasons that follow, we determine that Petitioner has shown by a preponderance of the evidence that claims 1, 3, 6, 7, and 10–15 of the '979 patent are unpatentable.

A. Related Matter

According to Petitioner, the '979 patent is involved in the following lawsuit: *Ignite USA, LLC v. CamelBak Prods., LLC*, No. 14-cv-09210 (N.D. Ill.). Pet. 1.

B. The '979 Patent

The '979 patent relates to “a lid for a beverage container having a drop-down seal assembly for easy cleaning of the seal assembly and the associated drink apertures.” Ex. 1001, 1:47–49. The seal assembly is movable between a first, operable position and a second, cleaning position. *Id.* at 1:55–57.

C. Illustrative Claims

Claims 1, 10, and 13 are the only independent claims. Claims 3, 6, 7, 11, 12, 14, and 15 depend directly or indirectly from independent claim 1, 10, or 13.

Claim 1, reproduced below, is illustrative:

1. A lid assembly for a beverage container, comprising:

a lid housing having a drink aperture;

a seal arm connected to the lid housing and movable between a first position, wherein the seal arm is adjacent the drink aperture, and a second position, wherein the seal arm is distal the drink aperture, the seal arm being connected to the lid housing in the first position and the second position, the first

position being an operable position for assisting in opening and closing the drink aperture, and the second position being a cleaning position wherein the drink aperture is open for cleaning the lid assembly and wherein the seal arm is not capable of assisting in closing the drink aperture in the second position;

a drink seal connected to one of the drink aperture and the seal arm to assist in sealing the drink aperture; and,

a trigger member connected to the lid housing, wherein the trigger member is capable of operating the seal arm in the first position, and wherein the seal arm cannot be operated by the trigger member in the second position.

Ex. 1001, 11:36–55.

D. Grounds of Unpatentability

We instituted an *inter partes* review of claims 1, 3, 6, and 10–15 on the ground of anticipation by Oosterling¹ under 35 U.S.C. § 102(b), and we instituted an *inter partes* review of claim 7 on the ground of obviousness over Oosterling under 35 U.S.C. § 103(a).

II. ANALYSIS

A. Level of Skill of Person in the Art

Petitioner and Patent Owner dispute the appropriate level of ordinary skill in the art. *Compare* Pet. 11, *with* PO Resp. 19.

We find that the level of ordinary skill in the art is reflected by the prior art of record, and the dispute between Petitioner and Patent Owner is not determinative of any issue in this proceeding. *See In re GPAC Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995); *see also Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001).

¹ WO Publication 2005/115204 A1, published Dec. 8, 2005. Ex. 1003 (“Oosterling”).

B. Claim Interpretation

In an *inter partes* review, claim terms in an unexpired patent are given their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); *see also In re Cuozzo Speed Techs., LLC*, 793 F.3d 1268, 1278–79 (Fed. Cir. 2015), *cert. granted sub nom. Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 890 (mem.) (2016). Under the broadest reasonable construction standard, claim terms are given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Also, we must be careful not to read a particular embodiment appearing in the written description into the claim if the claim language is broader than the embodiment. *See In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993). However, an inventor may provide a meaning for a term that is different from its ordinary meaning by defining the term in the specification with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

1. “connected” (all challenged claims)

Independent claims 1, 10, and 13 recite that a seal arm is “connected to the lid housing” in the first and second positions. Ex. 1001, 11:41–43, 12:39–40, 12:64–65. Additionally, independent claim 1 and dependent claims 12 and 14 recite that a trigger member or actuator is “connected to the lid housing.” *Id.* at 11:52, 12:53, 13:10.

In its Preliminary Response, Patent Owner contends that the term “connected” requires a “permanent, secure, [and] non-removable” connection. Prelim. Resp. 11–12; *see also id.* at 13–14, 17 (discussing the

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