

U.S. PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ALLSTEEL INC.,  
Petitioner,

v.

DIRTT ENVIRONMENTAL SOLUTIONS LTD.,  
Patent Owner.

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Case IPR2015-01691  
Patent 8,024,901 B2

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Record of Oral Hearing  
Held: February 15, 2019

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Before SALLY C. MEDLEY, SCOTT A. DANIELS, JACQUELINE T.  
HARLOW, *Administrative Patent Judges.*

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on Friday, February 15, 2019, commencing at 1:00 p.m. at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

1 P-R-O-C-E-E-D-I-N-G-S

2 (1:02 p.m.)

3 JUDGE MEDLEY: Good afternoon. This is the hearing for  
4 IPR2015-01691, Allsteel v. DIRTT Environmental Solutions, concerning  
5 claims 8, 11, 13, and 21 through 23 of U.S. Patent number 8,024,901.

6 Counsel for the parties please introduce yourselves, starting with  
7 Petitioner.

8 MR. CARTER: Yes, thank you, your Honor. It's Trevor Carter  
9 for Petitioner, and with me are my colleagues Tim Sullivan and Lead  
10 Counsel Victor Jonas. And from the client, we have the general counsel  
11 Steven Bradford --

12 JUDGE DANIELS: Hey, Sally, can you remind them to just speak  
13 into the microphone, please?

14 JUDGE MEDLEY: Yes, I'm sorry. That was next on my list after  
15 introductions, but yes, you need to speak into the --

16 MR. CARTER: Sorry, I'll start again. I'm Trevor Carter on behalf  
17 of the petitioner, and with me I have my colleagues Tim Sullivan and Lead  
18 Counsel Victor Jonas. And from the client, we have General Counsel  
19 Steve Bradford and IP Counsel Allison Wright.

20 JUDGE MEDLEY: Okay, thank you. And for Patent Owner?

21 MR. NYDEGGER: Good afternoon. My name is Chad Nydegger  
22 from Workman Nydegger, representing DIRTT Environmental Solutions,

1 the patent owner. With me I have my partner David Todd, and also seated  
2 in the audience two additional -- an additional partner and associate, Michael  
3 Frodsham, and Rachel Perry.

4 JUDGE MEDLEY: Okay, thank you. Per our January 11, 2019  
5 order, each party will have 30 minutes total time to present arguments.  
6 Petitioner, you'll proceed first to present your case with respect to the  
7 challenged claims 8, 11, 13, and 21 through 23 for the grounds which we  
8 instituted trial and you may reserve time to respond to Patent Owner's  
9 arguments. Thereafter, Patent Owner, you'll respond to Petitioner's  
10 presentation.

11 We'd like to remind the parties that this hearing is open to the public.  
12 The transcript will be entered into the public record of the proceeding.

13 Please be mindful that judges Daniels and Harlow are attending this  
14 hearing by video link. The camera is directly behind me, and if you face  
15 the camera, it will appear as if you are directly facing them. So, if you look  
16 over there, they'll look at the side of your face.

17 Also, please speak directly, as I said earlier, into the microphone so  
18 that they can hear you. And please also remember to mention each slide  
19 number as you refer to it, so that it is reflected in the record, and so that  
20 Judges Daniels and Harlow may follow along.

21 Petitioner, you may proceed.

1           MR. CARTER: Thank you. So, going to Slide 3, just to put  
2 where we are in context, this panel has already decided that the majority of  
3 the claims in the 901 patent are invalid. Importantly, there's only one  
4 independent claim, Claim 1. And for that claim, it's already been decided  
5 that the references that we are using today were all used to invalidate that  
6 claim, so we don't have any analogous art issues. So, it's already found to  
7 be a motivation to combine. So, we have those issues behind us.

8           Here on Slide 4, we show the combinations that we have, which are  
9 essentially Raith, which provided the modular wall system, the connecting  
10 strips, so that you can connect adjoining modules, along with Yu, EVH, and  
11 MacGregor.

12           And Slides 5 through 7 show the findings of this panel and the final  
13 written decision on why Raith was combined with EVH. Raith combined  
14 with Yu in Slide 6, and Raith combined with MacGregor in Slide 7, to find  
15 Claim 1, which is the independent claim from which the claims that we're  
16 now looking at depend.

17           So, jumping into the claims that we are directly addressing here,  
18 there is a common issue that cuts across all of the claims, and that is that the  
19 901 patent does not support the way that the claims were interpreted to find  
20 that the prior art did not meet the limitations.

21           Or, said another way, there's a symmetry between the prior art that is  
22 used and the disclosure in the 901 patent supporting those claims. So, what

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