

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors:)
)
Damon Oliver Casati Troutman)
Edward B. Bretschger)
) *Inter Partes* Review IPR2016-00816
U.S. Patent No. D604,970)
For: Exposed legs for a play yard) and
Filed: December 15, 2005)
Issued: December 1, 2009) *Inter Partes* Review IPR2016-00826
)
and)
)
U.S. Patent No. D616,231)
For: Exposed legs for a play yard)
Filed: July 8, 2009)
Issued: May 25, 2010)

**RULE 131 DECLARATION OF DAMON OLIVER CASATI
TROUTMAN AND EDWARD B. BRETSCHGER**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

We, Damon Oliver Casati Troutman and Edward B. Bretschger, hereby declare and state:

1. We are the named inventors of U.S. Patent No. D604,970 and U.S. Patent No. D616,231 (“the design patents”).
2. We are advised that U.S. Patent No. D604,970 is a divisional application of U.S. Patent No. D534,381, and that U.S. Patent No. D616,231 is a continuation of U.S. Patent No. D604,970. On July 18, 2006, during the prosecution history of the U.S. Patent No. D534,381, we swore the design claimed in U.S. Patent No. D534,381 was invented prior to January 2, 2004 to overcome a rejection based on U.S. Patent No. 6,859,957 issued to Chen.

3. We are advised that on October 3, 2016 the United States Patent Trial and Appeal Board instituted review of the design patents in Inter Partes Reviews IPR2016-00816 and IPR2016-00826 based, at least in part, on U.S. Patent D494,393 (“the Chen Patent”). The Chen Patent was filed in the USPTO on January 7, 2004, and issued on August 17, 2004. We are advised that the January 7, 2004 US filing date is the earliest date upon which the Chen Patent can potentially be prior art to the design patents, and, thus, that date (January 7, 2004) will be referenced in the following paragraphs.

4. We invented the design claimed in the design patents, in the United States, prior to the January 7, 2004 earliest effective filing date of the Chen Patent. For example, Exhibit A is a sketch of a playard we prepared dated _____, a date prior to January 7, 2004. Exhibit B is a collection of playard rail images we created using Solidworks computer aided design software. The images of Exhibit B were created between _____ and _____, both dates prior to January 7, 2004. Exhibits C and D are sketches illustrating our inventive design. Exhibits C and D were created on _____, a date prior to January 7, 2004. Exhibit E is a photograph of a prototype of a playard we had constructed. The photograph is dated _____, a date prior to January 7, 2004. Exhibit F is another photograph of the prototype playard of Exhibit E, but with the enclosure mounted to the playard frame. The photograph of Exhibit F is dated _____, a date prior to January 7, 2004. Exhibit G, which is dated _____, a date prior to January 7, 2004, is a set of instructions we prepared explaining how to assemble the prototype of Exhibit E and F.

5. As shown in Exhibits A-G, we had conceived of and reduced to practice the designs, in the United States, prior to January 7, 2004, the earliest effective filing date of the earliest

Chen Patent. As shown in Exhibits A-G, we conceived of and reduced to practice a portable playard with legs having pronounced outward bowing (e.g., Exhibits B, C, E, G), a slight outward flaring at the top (e.g., Exhibits B, C, D, and G), and outward surface of each of the posts is substantially exposed (e.g., Exhibits A, G step 8).

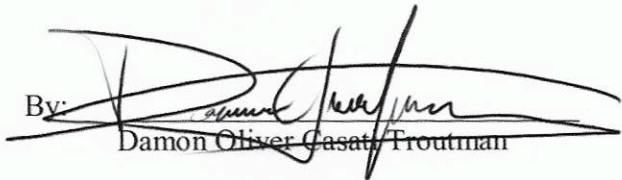
6. Further, we had a second reduction to practice of the designs shortly after January 7, 2004 as shown in Exhibit H. Exhibit H is a collection of photographs taken between January 26, 2004 and January 30, 2004 that show the show our second prototype.

7. Our efforts to reduce the invention of the design patents to practice were continuous and diligent. This project was one of our primary focuses working for our employer Kolcraft Enterprises, the assignee of this invention, from the time of our conception of the invention and first reduction to practice documented by Exhibits A-G until and through the second reduction to practice documented in Exhibit H. We diligently worked on this project for a time frame that includes the time before January 7, 2004 and up through the second reduction to practice, and there was no time period in which we stopped our professional efforts to reduce the invention to practice. Thus, we made the invention of the design patents prior to the Chen Patent because we conceived of our invention and reduced it to practice prior to January 7, 2004, and, as demonstrated by the multiple prototypes and sketches documented in Exhibits B-H, we diligently worked to reduce the claimed inventions to practice a second time until we accomplished the same shortly after the earliest effective filing date of the Chen Patent. Therefore, the Chen Patent is not prior art to U.S. Patent No. D604,970 or U.S. Patent No. D616,231.

8. We understand that willful and false statements and the like are punishable by a fine and/or imprisonment under 18 U.S.C. § 1001, and that such willful false statement may jeopardize the validity of the design patents.

Date: 12-29-2016

By:


Damon Oliver Casat/Troutman

Date: 12-29-16

By:

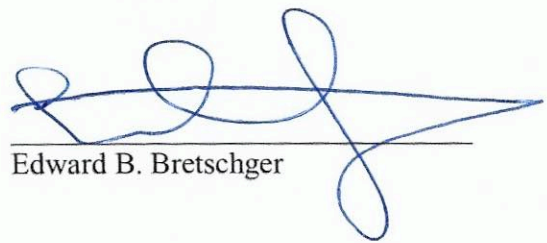

Edward B. Bretschger

EXHIBIT A

Explore Litigation Insights

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