

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GEP POWER PRODUCTS, INC.,
Petitioner,

v.

ARCTIC CAT INC.,
Patent Owner.

Case IPR2016-01385
Patent 7,072,188 B2

Before MICHAEL R. ZECHER, JENNIFER S. BISK, and
JESSICA C. KAISER, *Administrative Patent Judges*.

KAISER, *Administrative Patent Judge*.

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

I. INTRODUCTION

GEP Power Products, Inc. (“Petitioner”) filed a Petition pursuant to 35 U.S.C. §§ 311–19 requesting an *inter partes* review of claims 1–23 of U.S. Patent No 7,072,188 B2, issued on July 4, 2006 (Ex. 1001, “the ’188 patent”). Paper 1 (“Petition” or “Pet.”). Arctic Cat Inc. (“Patent Owner”) filed a Preliminary Response. Paper 9 (“Prelim. Resp.”). Applying the standard set forth in 35 U.S.C. § 314(a), which requires demonstration of a reasonable likelihood that Petitioner would prevail with respect to at least one challenged claim, we granted Petitioner’s request and instituted an *inter partes* review of all challenged claims. Paper 11, 24.

Following institution, Patent Owner filed a Response to the Petition (Paper 13, “PO Resp.”), and Petitioner filed a Reply (Paper 16, “Pet. Reply”). In addition, Petitioner filed a Motion to Exclude Evidence. Paper 20 (“Mot. to Exclude”). Patent Owner filed an Opposition to the Motion to Exclude (Paper 21), and Petitioner filed a Reply in Support of its Motion to Exclude (Paper 23). A final oral hearing was held on September 27, 2017. A transcript of that hearing has been entered in the record. Paper 26 (“Hr’g Tr.”).

For the reasons discussed below, Petitioner has shown by a preponderance of the evidence that all challenged claims of the ’188 patent are unpatentable.

II. BACKGROUND

A. *The ’188 Patent (Ex. 1001)*

The ’188 patent is titled “Power Distribution Module for Personal Recreational Vehicle.” The Abstract describes the subject matter as follows:

A power distribution module for a personal recreational vehicle includes a housing and a cover. The housing defines an interior and includes a wall having an array of receptacle openings. The receptacle openings are adapted to receive and secure electrical components inside the housing. A distribution harness includes a plurality of electrical conductors and is coupled to the housing wherein the electrical conductors are in electrical communication with the electrical components inside the housing. The power distribution module can optionally include a decal to assist quick and accurate placement of the electrical components during the manufacturing process. A method for producing a personal recreational vehicle having a standardized housing over a range of models. The housing includes a component arrangement guide for locating and installing electrical components.

Ex. 1001, Abstract.

The '188 patent states that “[a]ll personal recreational vehicles include some type of power distribution system for routing and control of power and signals throughout the vehicle.” *Id.* at 1:44–46. According to the '188 patent, however, different types of components (e.g., fuses, diodes, and relays) must be housed in different locations. *Id.* at 1:46–50. The '188 patent also notes that standardization of components within and across a product line can reduce manufacturing costs. *Id.* at 1:38–43. Thus, the '188 patent states that “it is desirable to devise a means by which the power distribution module can be easily standardized for manufacturing,” and “to have a power distribution module that includes components other than fuses.” *Id.* at 1:51–55.

B. Illustrative Claim

Claims 1, 11, and 19 are independent claims. Claim 1 is illustrative of the claims at issue and is reproduced below (with some paragraphing added):

1. A power distribution module for a personal recreational vehicle comprising:
a housing defining an interior, including a component attachment portion and a cover,
the cover comprising a first surface substantially surrounding the perimeter thereof, the first surface conforming to a first edge surrounding the perimeter of the component attachment portion,
the component attachment portion comprising a fastener secured thereto proximate the first edge thereof, the fastener selectively securing the component attachment portion to the cover having the first surface of the cover in engagement with the first edge of the component attachment portion,
the housing further including a plurality of receptacle openings in a wall in the component attachment portion,
wherein the receptacle openings are spaced-apart in rows and columns of openings, the spacing between the rows and the spacing between the columns being substantially the same for receiving and securing at least one electrical component within the housing across multiple rows or across multiple columns of openings; and
a distribution harness having a plurality of electrical conductors, wherein the electrical conductors electrically cooperate with the receptacle openings to connect to the at least one electrical component, wherein the conductors are adapted to distribute power.

Id. at 7:5–30.

C. Related Proceedings

Petitioner and Patent Owner identify a related litigation in the District of Minnesota involving the '188 patent titled: *Arctic Cat Inc. v. Polaris Industries Inc.*, No. 0:16-cv-00008-WMW-HB (D. Minn.). Pet. 1; Paper 6, 2. Petitioner indicates that it “supplies a power distribution module to [the defendant in that suit] that Patent Owner has accused of infringing the ‘188 patent.” Pet. 1.

D. Level of Skill in the Art

Petitioner contends that “a person having ordinary skill in the art would have at least a bachelor of science degree in mechanical engineering with at least two to five years of work experience relating to designing electrical control system components.” Pet. 19. Patent Owner does not address this definition of the person of ordinary skill in the art in its Patent Owner Response. *See generally* PO Resp. Patent Owner’s expert, Ralph Wilhelm, Jr. Ph.D., testifies that a person of ordinary skill in the art could have a bachelor’s degree in either electrical or mechanical engineering with the same amount of experience proposed by Petitioner. Ex. 2001 ¶ 8. Because this definition of the level of skill in the art is consistent with the ’188 patent and the asserted prior art, we agree with Patent Owner and determine a person of ordinary skill in the art would have at least a bachelor of science degree in mechanical engineering or electrical engineering with at least two to five years of work experience relating to designing electrical control system components. Thus, we adopt Patent Owner’s definition and apply it to our evaluation below, but note that our conclusions would remain the same under Petitioner’s definition.

E. References and Other Evidence

We instituted trial based on the following references:

1. “Boyd” (U.S. Patent No. 6,850,421 B2; filed April 1, 2002; issued Feb. 1, 2005) (Ex. 1002);
2. “Svette” (U.S. Patent No. 5,354,211; issued Oct. 11, 1994) (Ex. 1005); and
3. “Caveney” (U.S. Patent No. 3,660,869; issued May 9, 1972) (Ex. 1006).

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