

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 IPR2016-01388
Patent 7,420,822 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 1–10 of U.S. Patent No 7,420,822 B2, issued on September 2, 2008 (Ex. 1001, “the ’822 patent”). Paper 1 (“Petition” or “Pet.”). Arctic Cat Inc. (“Patent Owner”) filed a Preliminary Response. Paper 10 (“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 12, 23–24.

Following institution, Patent Owner filed a Response to the Petition (Paper 14, “PO Resp.”), and Petitioner filed a Reply (Paper 17, “Pet. Reply”). In addition, Petitioner filed a Motion to Exclude Evidence. Paper 23 (“Mot. to Exclude”). Patent Owner filed an Opposition to the Motion to Exclude (Paper 24), and Petitioner filed a Reply in Support of its Motion to Exclude (Paper 26). A final oral hearing was held on September 27, 2017. A transcript of that hearing has been entered in the record. Paper 30 (“Hr’g Tr.”).

For the reasons discussed below, Petitioner has shown by a preponderance of the evidence that all challenged claims of the ’822 patent are unpatentable.

II. BACKGROUND

A. *The ’822 Patent (Ex. 1001)*

The ’822 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 '822 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 1:56–58. According to the '822 patent, however, different types of components (e.g., fuses, diodes, and relays) must be housed in different locations. *Id.* at 1:58–62. The '822 patent also notes that standardization of components within and across a product line can reduce manufacturing costs. *Id.* at 1:52–55. Thus, the '822 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 1:63–67.

B. Illustrative Claim

Claims 1, 5, and 10 are independent claims. Claim 1 is illustrative of the claims at issue and is reproduced below:

1. A personal recreational vehicle comprising:
 - an electrical distribution system for distributing electrical signals and power, the electrical distribution system including a power distribution module, wherein at least a portion of the electrical signals and power passes through the power distribution module, the power distribution module including:
 - a housing having a plurality of receptacle openings in a substantially flat wall, the wall having a front side and a back side, wherein the receptacle openings are positioned in an array of at least three equally spaced-apart rows and at least three equally spaced-apart columns, the receptacle openings positioned to receive electrical components on the front side of the wall across any adjacent openings in at least one row of the array; and
 - a distribution harness on the backside of the wall opposite the receptacle openings, the distribution harness having a plurality of electrical conductor cables, wherein the electrical conductor cables electrically cooperate with the receptacle openings for receiving electrical components.

Id. at 7:7–27.

C. Related Proceedings

Petitioner and Patent Owner identify a related litigation in the District of Minnesota involving the '822 patent titled: *Arctic Cat Inc. v. Polaris Industries Inc.*, No. 0:16-cv-00008-WMW-HB (D. Minn.). Pet. 1; Paper 7, 2. Petitioner indicates that it “supplies a power distribution module to [the defendant in that suit] that Patent Owner has accused of infringing the ‘822 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. 16. 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 ’822 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. “Svette” (U.S. Patent No. 5,354,211; issued Oct. 11, 1994) (Ex. 1005);
2. “Matsuoka” (U.S. Patent No. 6,121,548; issued Sept. 19, 2000) (Ex. 1003)
3. “Boyd” (U.S. Patent No. 6,850,421 B2; filed April 1, 2002; issued Feb. 1, 2005) (Ex. 1002).

In addition, Petitioner submitted an expert declaration from Mr. Lawrence R. Happ (Ex. 1006, “Happ Decl.”).

Patent Owner relies on an expert declaration of Ralph Wilhelm, Jr. Ph.D. (Ex. 2001, “Wilhelm Decl.”), and declarations of Darrel Janisch (the named inventor of the ’822 patent), Del Christianson, and Kenneth Kalsnes (Ex. 2002; Ex. 2003; Ex. 2034 respectively) all filed with its Patent Owner Response. Patent Owner also filed a Second Declaration of Darrel Janisch

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