

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PACIFIC SURF DESIGNS, INC.,
Petitioner,

v.

SURF WAVES, LTD.,
Patent Owner.

Case IPR2016-01454
Patent 8,088,016 B2

Record of Oral Hearing
Held: November 8, 2017

Before PHILLIP J. KAUFFMAN, BEVERLY M. BUNTING,
and JASON W. MELVIN, *Administrative Patent Judges*.

Case IPR2016-01454
Patent 8,088,016 B2

APPEARANCES:

ON BEHALF OF THE PETITIONER:

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The above-entitled matter came on for hearing on
Wednesday, November 8, 2017, commencing at 1:00 p.m., at the
U.S. Patent and Trademark Office, 600 Dulany Street,
Alexandria, Virginia.

1 be able to see what you project on the screen, but she has a copy
2 of the materials. So when you refer to an exhibit or a slide
3 number, please state for the record clearly so that we have a good
4 record and so that Judge Bunting understands what you are
5 talking about. And also remember that she can only hear when
6 you speak into the microphone.

7 Under no circumstances should you interrupt the other
8 party while that party is presenting arguments or demonstratives.
9 If you believe that something the other party is presenting is
10 objectionable, please save that for your argument time. And if it's
11 an objection during the rebuttal time, you can raise that
12 afterwards. Do either of you have any questions?

13 MR. SCHINDLER: No, Your Honor.

14 MR. BRAHMA: No, Your Honor.

15 JUDGE MELVIN: With that, we are ready if you are.
16 Petitioner, would you like to reserve time?

17 MR. BRAHMA: Yes, we would like to reserve ten
18 minutes for rebuttal, if possible.

19 JUDGE MELVIN: Okay. Whenever you are ready.

20 MR. BRAHMA: Good afternoon, Your Honors.

21 Today, as previously noted, we are talking about the claims of the
22 '016 patent. All of these claims are challenged. Two of them are
23 independent claims, 1 and 20.

24 If we go to slide 3, we see the relevant language of
25 claim 1. The highlighted limitations are the ones that are

1 primarily in dispute relating to the activity section and the first
2 and second curved side walls. Those limitations are substantially
3 the same in both independent claims 1 and 20.

4 There are also a number of dependent claims that are at
5 issue in this IPR. None of the limitations of those dependent
6 claims were separately identified as a basis for validity.

7 If we go to slide 7, I would like to briefly start with the
8 claim constructions. This slide shows the different terms that
9 were construed by the Board as part of the decision to institute.
10 Most of these limitations aren't really in dispute, aren't going to
11 be the basis for any of the arguments between the sides. The one
12 possible exception to that is the term "opposite", which the Board
13 construed as on the other side from. None of these constructions
14 has been contested by patent owner, but as we'll see in the
15 discussion today, patent owner is trying to read the claims as
16 more limited and specifically limited to, for example, a half-pipe
17 type of ride. And one way in which they try to do that is to claim
18 that the term "opposite" means something more than it does in the
19 Board's construction.

20 So if we take a look at that first on slide 8, what we are
21 looking at here in the image is from patent owner's infringement
22 contentions in the related District Court litigation. The ride that
23 is shown there is an allegedly infringing ride made by petitioner.
24 And the boxes were included in the infringement contentions as
25 patent owner's way of showing what parts of that ride supposedly

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