

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SHENZHEN LIOWN ELECTRONICS CO., LTD.,
Petitioner,

v.

DISNEY ENTERPRISES, INC.,
Patent Owner.

Case IPR2016-01785
Patent 8,721,118 B2

Before J. JOHN LEE, WILLIAM M. FINK, and JESSICA C. KAISER,
Administrative Patent Judges.

FINK, *Administrative Patent Judge.*

DECISION
Institution of *Inter Partes* Review
35 U.S.C. § 314 and 37 C.F.R. § 42.108

Shenzhen Liown Electronics Co., Ltd. (“Petitioner”) filed a Petition pursuant to 35 U.S.C. §§ 311–319 requesting an *inter partes* review of claims 1, 3, 8, and 10 of U.S. Patent No 8,721,118 B2, issued on May 13, 2014 (Ex. 1001, “the ’118 patent”). Paper 2 (redacted) (“Pet.”); Paper 3 (confidential). Luminara Worldwide, LLC, acting under authority of Disney Enterprises, Inc. (collectively, “Patent Owner”), filed a Preliminary Response. Paper 8 (“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 grant Petitioner’s request and institute an *inter partes* review of all challenged claims.

I. BACKGROUND

A. *The ’118 Patent (Ex. 1001)*

The ’118 patent relates to “simulating a flickering flame providing kinetic light movement,” such as the simulation of a single candle flame. Ex. 1001, 1:22–26. Figure 1 of the ’118 patent is reproduced below:

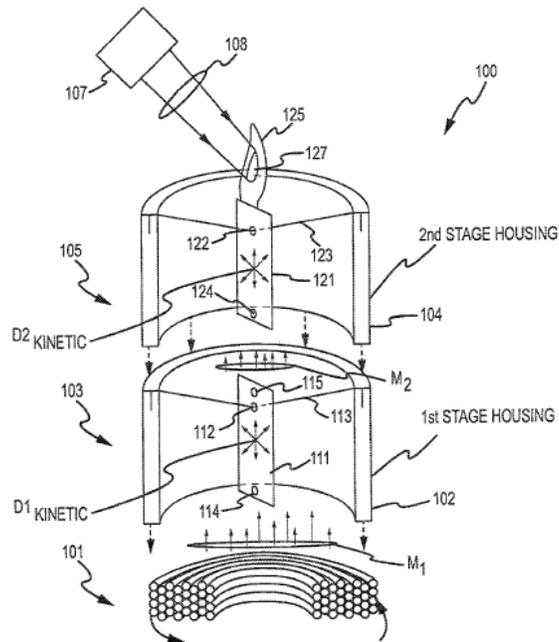


FIG. 1

Figure 1 illustrates an embodiment of the kinetic flame device, in accordance with the claimed invention, resembling a conventional wax candle. Ex. 1001, 3:65–67, 5:20–25. As shown in Figure 1, coil 101 may be distributed about the central axis of the device to act upon upper and lower pendulum members 111 and 121. *Id.* at 5:51–56. Specifically, energized coil 101 produces a time-varying magnetic field, which acts upon magnet 114 on lower or first-stage pendulum 111 to produce kinetic motion $D1_{\text{Kinetic}}$. *Id.* at 6:1–3, 6:15–22. First-stage pendulum 111 is “pivotally supported” by support 113, which may be a rod, axle, wire, or the like, and which passes through hole 112 to allow the kinetic motion about the pivot point. *Id.* at 7:14–22. Second stage 105 is similar in construction and operation to the first stage, with second-stage pendulum 121 pivotally mounted on support element 123. *Id.* at 8:66–9:13. Flame silhouette 125 extends from the top of second-stage pendulum 121 and is formed into a flame-shaped outline. *Id.* at 9:34–39. Flame silhouette 125 moves with kinetic movement $D2_{\text{Kinetic}}$ of

second-stage pendulum 121 and is illuminated by spotlight 107. *Id.* at 10:39–48. Although Figure 1 represents a two-stage embodiment, single-stage-only embodiments are also described, such as depicted in Figure 7. *Id.* at 15:26–35, Fig. 7.

B. Illustrative Claim

Of the challenged claims, claim 1 is an independent claim. Claim 1 is illustrative of the claims at issue and is reproduced below:

1. An electronic lighting device, comprising:
 - a core which comprises an enclosure provided with a through hole on a top thereof;
 - a flame sheet movably supported or suspended on the enclosure, wherein the flame sheet comprises an upper sheet which is of a flame-like shape and the upper sheet is configured to expose above the top of the enclosure through the through hole of the enclosure;
 - a light-emitting element installed on a sidewall of the enclosure such that an outgoing direction of a light from the light-emitting element is inclined upward and passes through the through hole of the enclosure, wherein the outgoing direction is intersected with a surface of the upper sheet, so that the light from the light-emitting element is projected on the surface of the upper sheet; and
 - a swing mechanism disposed beneath the flame sheet, wherein the swing mechanism is configured to apply a force on the flame sheet to actuate the flame sheet to sway or swing.

Id. at 23:42–61.

C. Related Proceedings

Petitioner and Patent Owner identify a related litigation in the District of Minnesota involving the '118 patent and related patents titled, *Luminara Worldwide, LLC v. RAZ Imports, Inc.*, No. 15-cv-03028 (D. Minn.), consolidated with *Luminara Worldwide, LLC v. Shenzhen Liown Elecs. Co.*, No. 14-cv-03103 (D. Minn.). Pet. 2; Paper 7, 1. Petitioner and Patent

Owner also identify a number of *inter partes* reviews challenging related patents. Pet. 2; Paper 7, 1–2.

D. Level of Skill in the Art

Petitioner contends that “[a] person of ordinary skill in the art of the ’118 Patent (‘POSITA’) would have a Bachelor’s degree in mechanical engineering and 1-3 years of mechanical design experience.” Pet. 9. Patent Owner does not dispute this level of ordinary skill at this stage. *See* Prelim. Resp. 46. For purposes of this Decision, we adopt Petitioner’s definition of the person of ordinary skill in the art.

E. Claim Construction

In an *inter partes* review, claim terms in an unexpired patent are construed according to their broadest reasonable interpretation in light of the specification of the patent in which they appear. *See* 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016). Under that standard, claim terms are generally given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art, in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

Petitioner contends that all claim terms should be afforded their plain and ordinary meaning pursuant to the broadest reasonable interpretation standard, but states that “Luminara has tried to salvage the instituted claims [in related IPRs] by taking the position that all claims in this patent family require ‘chaotic pivoting.’” Pet. 9. Patent Owner argues that the challenged claims require “chaotic pivoting,” which Patent Owner contends should be construed as “aperiodic, unpredictable behavior arising in a system that is extremely sensitive to initial conditions.” Prelim. Resp. 40–41.

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