

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KAZ USA, INC.
Petitioner,

v.

BRITA LP,
Patent Owner.

Case IPR2016-01893
Patent 8,167,141 B2

Before MICHAEL P. TIERNEY, *Vice Chief Administrative Patent Judge*,
JO-ANNE M. KOKOSKI, and JEFFREY W. ABRAHAM, *Administrative
Patent Judges*.

KOKOSKI, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Kaz USA, Inc. (“Petitioner”) filed a Petition (“Pet.”) to institute an *inter partes* review of claims 1–24 of U.S. Patent No. 8,167,141 B2 (“the ’141 patent,” Ex. 1001). Paper 1. Brita LP (“Patent Owner”) filed a Preliminary Response (“Prelim. Resp.”). Paper 14. We have jurisdiction under 35 U.S.C. § 314.

Upon consideration of the Petition and Preliminary Response, we determine that Petitioner has not established a reasonable likelihood of prevailing with respect to the unpatentability of claims 1–24 of the ’141 patent. Accordingly, we deny the Petition and do not institute an *inter partes* review.

A. *Related Proceedings*

Petitioner indicates that there are no related proceedings. Pet. 4.

B. *The ’141 Patent*

The ’141 patent, titled “Gravity Flow Filter,” is directed to gravity flow filtration systems with “carbon block and granular filters having rapid flow rates and excellent filtration performance.” Ex. 1001, 1:15–18. The described filters “meet a specific performance range of operation defined by filter volume, defined usage lifetime, average time of filtration, and/or lead reduction ability.” *Id.* at 25:5–9. The ’141 patent describes a factor that defines the performance range while accounting for all of these attributes, which it calls the Filter Rate and Performance (“FRAP”) Factor. *Id.* at 25:14–17. The FRAP Factor is defined by the following formula:

$$FRAP = \frac{[V * f * c_e]}{[L * 2]}$$

Id. at 25:20–24.

According to the '141 patent, in preferred embodiments the filter media volume V “is less than about 300 cm^3 , and more preferably less than about 150 cm^3 ” and the average filtration unit time f “is less than about 12 minutes per liter, and more preferably less than about 6 minutes per liter.” *Id.* at 25:38–40, 43–45. The effluent lead concentration c_e “is the amount of total lead (soluble and colloidal) remaining in the water after filtration for the last liter of water filtered in the defined filter lifetime” when the source water “is pH 8.5 water containing 150 ± 15 ppb of total lead and with $30 \pm 10\%$ being colloidal lead greater than $0.1 \mu\text{m}$ in diameter.” *Id.* at 25:46–51. The filter usage lifetime L is “the total number of gallons that can be effectively filtered according to claims presented by the manufacturer or seller of the filter” in product packaging or advertising. *Id.* at 26:6–13. Filters having a FRAP Factor ranging from 0–350, and preferably less than about 200, are preferred. *Id.* at 25:17–19.

The '141 patent describes filters that “contain activated carbon that is bonded with a binder to form an integrated, porous, composite, carbon block,” and “at least one additional active material, such as ceramic or zeolite particles.” *Id.* at 13:22–27. “Preferred actives include lead scavengers, e.g., lead sorbents, or arsenic removal additives.” *Id.* at 15:39–40. The '141 patent states that, “[f]or most portable gravity fed systems, a smaller size of the filter block is preferred,” such that it fits “within a container having a volume of less than about 24.4 in^3 (400 cm^3), and, more preferably less than about 20 in^3 .” *Id.* at 17:23–28.

C. Illustrative Claim

Petitioner challenges claims 1–24 of the '141 patent. Claim 1 is illustrative, and reads as follows:

1. A gravity-fed water filter comprising:
filter media including at least activated carbon and a lead scavenger;
wherein the filter achieves a Filter Rate and Performance (FRAP) factor of about 350 or less according to the following formula:

$$FRAP = \frac{[V * f * c_e]}{[L * 2]}$$

where:

V = volume of the filter media (cm³),

f = average filtration unit time over lifetime L (min/liter),

c_e = effluent lead concentration at end of lifetime L when source water having a pH of 8.5 contains 90–120 ppb (µg/liter) colloidal lead greater than 0.1 µm in diameter, and

L = filter usage lifetime claimed by a manufacturer or seller of the filter (gallons).

Ex. 1001, 34:6–26.

D. The Prior Art

Petitioner relies on the following prior art references:

Reference	Description	Date	Exhibit No.
Cutler '483	US 6,200,483 B1	Mar. 13, 2001	1002
Cutler '875	US 6,405,875 B1	June 18, 2002	1003
Hughes	US 6,524,477 B1	Feb. 25, 2003	1008
Rinker	US Pat. App. Pub. No. 2006/0000763 A1	Jan. 5, 2006	1004
Knipmeyer	US Pat. App. Pub. No. 2008/0110820 A1	May 15, 2008	1009

Reference	Description	Date	Exhibit No.
Woodruff	EP App. Pub. No. 0345381 A2	Dec. 13, 1989	1005

E. The Asserted Grounds of Unpatentability

Petitioner challenges the patentability of claims 1–24 on the following grounds:

Reference(s)	Basis	Challenged Claim(s)
Knipmeyer	§ 102(a)	1–12, 16–19, 22–24
Cutler '483	§ 102(b)	1–8, 11–19, 22, 23
Cutler '483	§ 103(a)	1–8, 11–19, 22, 23
Cutler '483, Cutler '875, Rinker, and Admitted Prior Art	§ 103(a)	9, 10, 20, 21, 23, 24
Rinker	§ 102(b)	1–12, 16–19, 22, 23
Rinker and Woodruff	§ 103(a)	1–19, 22, 23
Rinker and Cutler '875	§ 103(a)	20, 21
Rinker and Hughes	§ 103(a)	24

II. ANALYSIS

A. Claim Interpretation

We interpret claims of an unexpired patent using the “broadest reasonable construction in light of the specification of the patent in which [the claims] appear[.]” 37 C.F.R. § 42.100(b); *see Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016). Only those terms in controversy need to be construed, and only to the extent necessary to resolve the controversy. *See Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999).

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