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Paper 10
Entered: June 12, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

IRWIN SEATING COMPANY,
Petitioner,

v.

CAMATIC PROPRIETARY LIMITED,
Patent Owner.

Case IPR2017-00385
Patent 7,038,858 B2

Before PHILLIP J. KAUFFMAN, BARRY L. GROSSMAN, and MITCHELL G. WEATHERLY, *Administrative Patent Judges.*

WEATHERLY, *Administrative Patent Judge*.

DECISION
Not Instituting *Inter Partes* Review
35 U.S.C. § 314, 37 C.F.R. §§ 42.4, 42.108

I. INTRODUCTION

A. BACKGROUND

Irwin Seating Company ("Irwin") filed a petition (Paper 1, "Pet.") to institute an *inter partes* review of claims 13, 18–22, 27–33, 35, and 36 (the "challenged claims") of U.S. Patent No. 7,038,858 B2 (Ex. 1001, "the '858 patent"). 35 U.S.C. § 311. Camatic Proprietary Limited ("Camatic")

timely filed a Preliminary Response. Paper 9 ("Prelim. Resp."). Institution of an *inter partes* review is authorized by statute when "the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition." 35 U.S.C. § 314(a); 37 C.F.R. § 42.108. Based on our review of the record, we conclude that because Irwin is not reasonably likely to prevail with respect to any of its challenges to the patentability of claims.

Irwin contends that the challenged claims are unpatentable under 35 U.S.C. § 103 based on the following grounds (Pet. 26–64):

References	Basis	Claims
International Patent Publication No. WO 92/20263 (Ex. 1003, "Head"), U.S. Patent No. 5,645,318 (Ex. 1004, "Allison"), and U.S. Patent No. 4,382,642 (Ex. 1005, "Burdick")	§ 103	13 and 17–32
Head, Allison, Burdick, and U.S. Patent No. 3,762,765 (Ex. 1006, "Piretti")	§ 103	33 and 36
Head, Allison, Burdick, Piretti, and U.S. Patent No. 5,655,816 (Ex. 1007, "Magnuson")	§ 103	35

Generally, Camatic contends that the Petition should be denied in its entirety. For the reasons described below, we decline to institute *inter partes* review of the challenged claims on any of the asserted grounds of unpatentability.

B. RELATED PROCEEDINGS

Irwin identified as a related proceeding the co-pending district court proceeding of *Camatic Proprietary Limited v. Irwin Seating Company*, No.

3:16-CV-795 (N.D. Tex.), the complaint for which was served on June 23, 2016. Pet. 2.

C. THE '858 PATENT

The '858 patent "relates to a seating system and in particular, for a system which is adapted for use in stadiums and in auditoriums." Ex. 1001, 1:16–18. The system is designed to provide more flexibility in where the seats can be located along a support beam, even after the support beam has already been secured to its mounting location. *Id.* at 1:46–63. Seats 50 are mounted to beam 10. Figure 5, which is reproduced at right, is a cross-sectional end view of beam 10. Seats are secured to beam 10 along its upper portion 19, which is distinct from lower portion 18. *Id.* at 3:40–42. Lower portion 18 is connected to mounting brackets 20 via connectors 30. *Id.* at 3:61–65. Brackets 20 are secured to a surface such as a concrete floor. *Id.* at 3:51–57. Upper portion 19 includes upper surface 16, and rear overhang 17, which defines an undercut surface. *Id.* at 5:36–43.

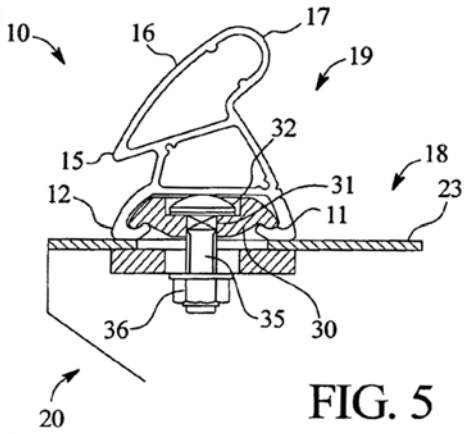

FIG. 5

Seat support 60, which is illustrated in the perspective view of Figure 8 reproduced at right, is configured with clamp portion 68 that mounts to upper portion 19 of beam 10. *Id.* at 5:11–19. A pair of supports 60 are used to connect seat 50 to beam 10. *Id.* Clamp portion 68 includes return portion 69 mates with pass over rear overhang 17 and grip beam 10 and intermediate portion 70 that are shaped to correspond

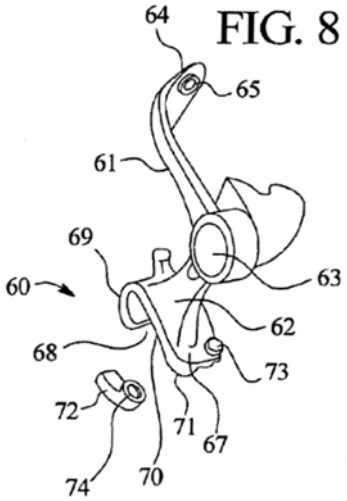

FIG. 8

with upper surface 16 of beam 10. *Id*. at 5:44–50. Once positioned on beam 10, clamp portion 68 is secured with bolt 74 that engages aperture 74 of toggle 72. *Id*. at 5:51–58.

Claims 13, 20, and 33 constitute all independent claims among the challenged claims. Claim 20, which is representative, recites:

> 20. A seating system comprising:
>
> an elongate beam including:
>
> a first track portion configured to be secured to a series of fixed connectors at any position along a length of the beam; and
>
> a second track portion extending integrally parallel to the first portion;
>
> a plurality of seats,
>
> each of the seats including at least one support with a clamp portion configured to mount to the second track portion of the beam at any position along the length of the beam,
>
> the clamp portion being removable from the second track portion to facilitate repositioning along the beam after installation;
>
> wherein the clamp portion remains free from the first track portion so as to avoid interfering with any of the fixed connectors;
>
> wherein the fixed connectors remain free from the second track portion to avoid interfering with any of the supports; and
>
> wherein the second track portion includes a pair of overhangs that extend outwardly along opposite elongate sides of the beam and
>
> the clamp portion of the support includes a return portion shaped to cooperatively fit over one of the overhangs.

Id. at 11:66–12:22 (with line breaks for clarity).

II. ANALYSIS

A. CLAIM INTERPRETATION

"A claim in an unexpired patent that will not expire before a final written decision is issued shall be given its broadest reasonable construction in light of the specification of the patent in which it appears." 37 C.F.R. § 42.100(b); *see also Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016) (affirming that USPTO has statutory authority to construe claims according to Rule 42.100(b)). When applying that standard, we interpret the claim language as it would be understood by one of ordinary skill in the art in light of the specification. *In re Suitco Surface, Inc.*, 603 F.3d 1255, 1260 (Fed. Cir. 2010). Thus, we give claim terms their ordinary and customary meaning. *See In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007) ("The ordinary and customary meaning 'is the meaning that the term would have to a person of ordinary skill in the art in question.'"). Only terms which are in controversy need to be construed, and then only to the extent necessary to resolve the controversy. *Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999). Based upon our review of the Petition and Preliminary Response, we do not consider it necessary to interpret expressly any terms in the challenged claims to resolve a controversy presented by the parties.

B. THE CHALLENGES TO THE CLAIMS

Irwin challenges the patentability of claims 13, 17–33, 35, and 36 on the grounds that the claims would have been obvious in light of various references including: Head, Allison, Burdick, Piretti, and Magnuson. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007), reaffirmed the framework for determining obviousness as set forth in

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