

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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COASTAL INDUSTRIES, INC.,  
Petitioner,

v.

SHOWER ENCLOSURES AMERICA, INC.,  
Patent Owner.

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Case IPR2017-00573  
Patent 7,174,944 B1

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Before MICHAEL W. KIM, CARL M. DEFRANCO, and  
ALYSSA A. FINAMORE, *Administrative Patent Judges*.

Opinion for the Board filed by *Administrative Patent Judge* KIM.

Opinion Dissenting-in-Part filed by *Administrative Patent Judge*  
DEFRANCO.

FINAL WRITTEN DECISION  
*35 U.S.C. § 318(a) and 37 C.F.R. § 42.73*

## I. INTRODUCTION

### A. *Background*

Coastal Industries, Inc. (“Petitioner”) filed a Petition requesting *inter partes* review of claims 1–26 of U.S. Patent No. 7,174,944 (Ex. 1001, “the ’944 patent”). Paper 1 (“Pet.”). Shower Enclosures America, Inc. (“Patent Owner”) filed a Patent Owner’s Election to Waive Under 37 C.F.R. § 42.107(b). Paper 8.

On July 20, 2017, we instituted an *inter partes* review only on certain claims 1–3, 5, 7–9, 11–14, and 16–26, and only on certain grounds of unpatentability, set forth in the Petition. Paper 9 (“Dec.”). After institution of trial, Patent Owner filed a Patent Owner Response (Paper 13, “PO Resp.”), Petitioner filed a Reply (Paper 20, “Pet. Reply”), and, with Board authorization (Paper 21), Patent Owner filed a Sur-Reply (Paper 39, “PO Sur-Reply”) “to respond to new evidence and corresponding arguments set forth in Petitioner’s Reply.” Paper 21, 2. An oral hearing was held on March 28, 2018. Paper 43 (“Tr.”).

On April 24, 2018, the Supreme Court held that a decision to institute under 35 U.S.C. § 314 may not institute on fewer than all claims challenged in a petition. *SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348, 1355 (2018). Consistent with *SAS*, we modified the trial to institute on all claims and grounds set forth in the Petition. Paper 44, 2 (“SAS Order”). We also authorized additional briefing and evidence, but noted that “the additional briefing and evidence is restricted to that which the parties did not have an opportunity to respond.” Paper 49, 3 (“Briefing Order”).

Subsequent to that authorization, Patent Owner filed a Further Response Under 37 C.F.R § 42.120(a), Redacted as Per Paper #54

(Paper 55; “Further Response”; “PO Supp. Resp.”), to which Petitioner filed a Supplemental Reply to Patent Owner’s Further Response (Paper 60; “Supplemental Reply”; “Pet. Supp. Reply”).

Patent Owner additionally filed a Motion to Amend Claims (Paper 52; “PO Amend.”), to which Petitioner filed an Opposition to Patent Owner’s Motion to Amend Claims (Paper 59; “Pet. Amend.”)<sup>1</sup>, and Patent Owner filed a Reply to Petitioner’s Opposition to Patent Owner’s Motion to Amend Claims (Paper 69; “PO Reply”).

Patent Owner also filed a Motion to Exclude Exhibits 1003, 1009, 1034 (Paper 80; “PO Mot.”) to which Petitioner filed an Opposition to Patent Owner’s Motion to Exclude Exhibits 1003, 1009, 1034 (Paper 83; “Pet. Opp.”). A supplemental oral hearing was held on October 3, 2018. Paper 84 (“Supp. Tr.”).

The Board has jurisdiction under 35 U.S.C. § 6. In this Final Written Decision, after reviewing all relevant evidence and assertions, we determine that Petitioner has met its burden of showing, by a preponderance of the evidence, that claims 1–3, 5, 7–9, 11–14, and 16–26 of the ’944 patent are unpatentable. We determine further that Petitioner has not met its burden of showing, by a preponderance of the evidence, that claims 4, 6, 10, and 15 of the ’944 patent are unpatentable. We additionally grant Patent Owner’s Motion to Amend for substitute claims 33 and 34. We further deny Patent Owner’s Motion to Exclude.

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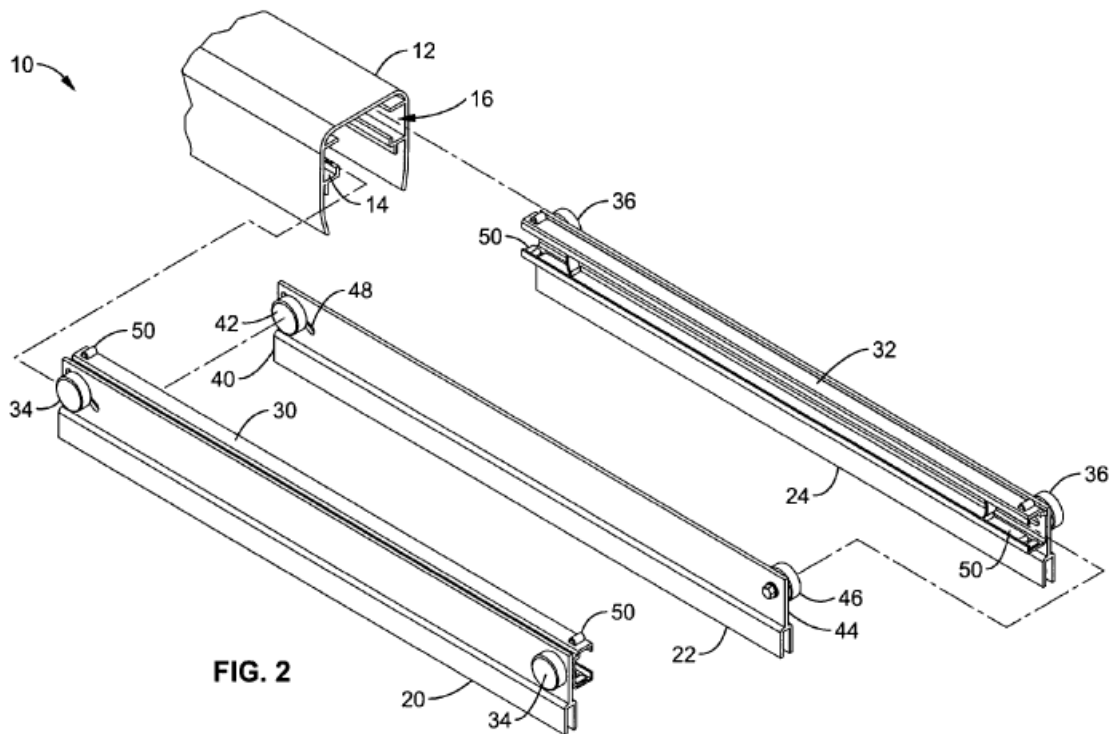
<sup>1</sup> Paper 59 has the same title and was filed at the same time as Paper 58. In a communication to the Board, Petitioner requested that the Board refer to Paper 59 only.

*B. Related Proceedings*

Petitioner and Patent Owner identify the following action as related to the '944 patent: *Shower Enclosures America, Inc. v. BBC Distribution Corp.*, Case No. 3:15-cv-627 (N.D. Ind.). Pet. 6; Paper 7, 1.

*C. The '944 Patent*

The '944 patent relates generally to “a track mechanism for a tri-panel door assembly that uses a header with two tracks and has an interlocking function that allows the movement of an outer door to guide the middle door with a smooth sliding operation.” Ex. 1001, 1:40–45. Figure 2 of the '944 patent is a partially exploded perspective view of triple slide assembly 10, and is set forth below.



Ex. 1001, Fig. 2.

As shown above in Figure 2, triple slide assembly 10 includes two track header 12, with front header track 14 and rear header track 16 in the

walls of two track header 12. Ex. 1001, 6:27–30. Triple slide assembly 10 further includes three interlocking slider rails, front rail 20, middle rail 22, and rear rail 24. Ex. 1001, 6:31–32.

Front rail 20 has front track 30 facing middle rail 22 and rear rail 24 has rear track 32 facing middle rail 22. Middle rail 22 is interconnected with rails 20, 24 through front track 30 and rear track 32. Front rollers 34 support front rail 20 in header track 14 and rear rollers 36 support rear rail 24 in header track 16.

Ex. 1001, 6:32–37.

Referring to FIG. 2, middle rail 22 has left end 40 with a middle front roller 42 aligned with front track 30 and a right end 44 with a middle rear roller 46 aligned with rear track 34. Middle front roller 42 rides in front track 30 attached to front rail 20. Middle rear roller 46 rides in rear track 32 attached to rear rail 24. In this configuration, middle rail 22 is supported on left end 40 by front rail 20 through track 30 and roller 42 and on the right end 44 by rear rail 24 through track 32 and roller 46. This configuration of alternating rollers on front and rear tracks provides two direction movement of the middle rail 22 and couples front, rear tracks 30, 32 to middle rail 22 to allow simultaneous gliding, interlocking and adjustability. Angled slot 48 is provided for adjustment of middle rail 22 in relation to header 12.

Ex. 1001, 6:40–55.

#### *D. Claims*

Claims 1–26 are challenged, which are all of the current claims in the '944 patent. Claims 1, 12, 19, and 22 are independent. Independent claim 1 is illustrative, and is reproduced below:

1. A slide assembly for three sliding panels adapted to couple to a header having first and second header tracks comprising:

first and second rail members adapted to slidably couple to the first and second header tracks respectively;

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