

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BOYDSTUN EQUIPMENT MANUFACTURING, LLC,  
Petitioner,

v.

COTTRELL, INC.,  
Patent Owner.

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Case IPR2017-00962  
Patent 7,585,140 B1

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Before TIMOTHY J. GOODSON, JAMES A. WORTH, and  
JAMES J. MAYBERRY, *Administrative Patent Judges*.

MAYBERRY, *Administrative Patent Judge*.

DECISION

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

## I. INTRODUCTION

Petitioner, Boydstun Equipment Manufacturing, LLC (“Boydstun”), filed a Petition (“Pet.”) requesting *inter partes* review of claims 1–8 (the “Challenged Claims”) of U.S. Patent No. 7,585,140 B1 (Ex. 1001, the “140 patent”). Paper 2. Patent Owner, Cottrell, Inc. (“Cottrell”), did not file a Preliminary Response to the Petition.<sup>1</sup> We have jurisdiction under 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a). The Board institutes trial on behalf of the Director. 37 C.F.R. § 42.4(a).

To institute an *inter partes* review, we must determine that the information presented in the Petition shows “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); *see also* 37 C.F.R. § 42.108(c) (“*Inter partes* review shall not be instituted for a ground of unpatentability unless the Board decides that the petition supporting the ground would demonstrate that there is a reasonable likelihood that at least one of the claims challenged in the petition is unpatentable.”). For the reasons set forth below, upon considering the Petition and evidence, we conclude that the information presented in the Petition establishes a reasonable likelihood that Boydstun will prevail with respect to claims 1–8, and we institute *inter partes* review on all Challenged Claims and all grounds.

Our factual findings and legal conclusions at this stage of the proceeding are based on the evidentiary record developed, thus far. This

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<sup>1</sup> Under our rules, filing a Preliminary Response is optional. *See* 37 C.F.R. § 42.107 (“The patent owner *may* file a preliminary response to the petition.”) (emphasis added).

decision to institute trial is not a final decision as to patentability of the claims for which *inter partes* review is instituted. Our final decision will be based on the full record developed during trial.

#### *A. Related Matters*

Boydston indicates that the '140 patent is involved in district court litigation in the District of Oregon, in a case styled *Boydston Equip. Mfg. v. Cottrell, Inc.*, 3:16-cv-790 (D. Or.). Pet. 1; *see also* Paper 6, 1 (identifying the litigation as the only related matter).

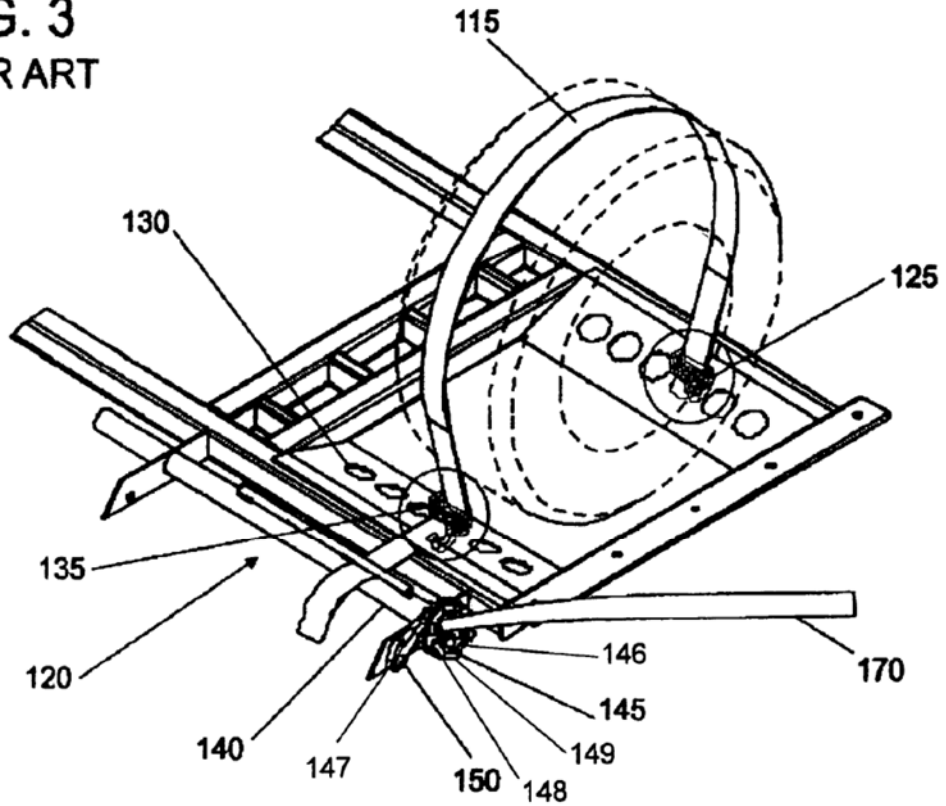
#### *B. The '140 Patent*

This section provides an overview of the '140 patent and an overview of the prosecution history of the application that matured into the '140 patent.

##### *1. Overview of the '140 Patent*

The '140 patent, titled “Vehicle and Cargo Transport Ratcheting Tie Down Apparatus and System,” issued September 8, 2009, with claims 1–8. Ex. 1001, (54), (45), 5:30–6:38. The '140 patent is directed to a ratcheting tie down system that replaces a conventional ratchet with a dual component that includes a ratchet gear and a ratchet head with cross holes for receiving a tie down bar. *Id.* at 2:52–56. Figures 2 and 4 of the '140 patent are reproduced below.

**FIG. 3**  
PRIOR ART



**FIG. 4**

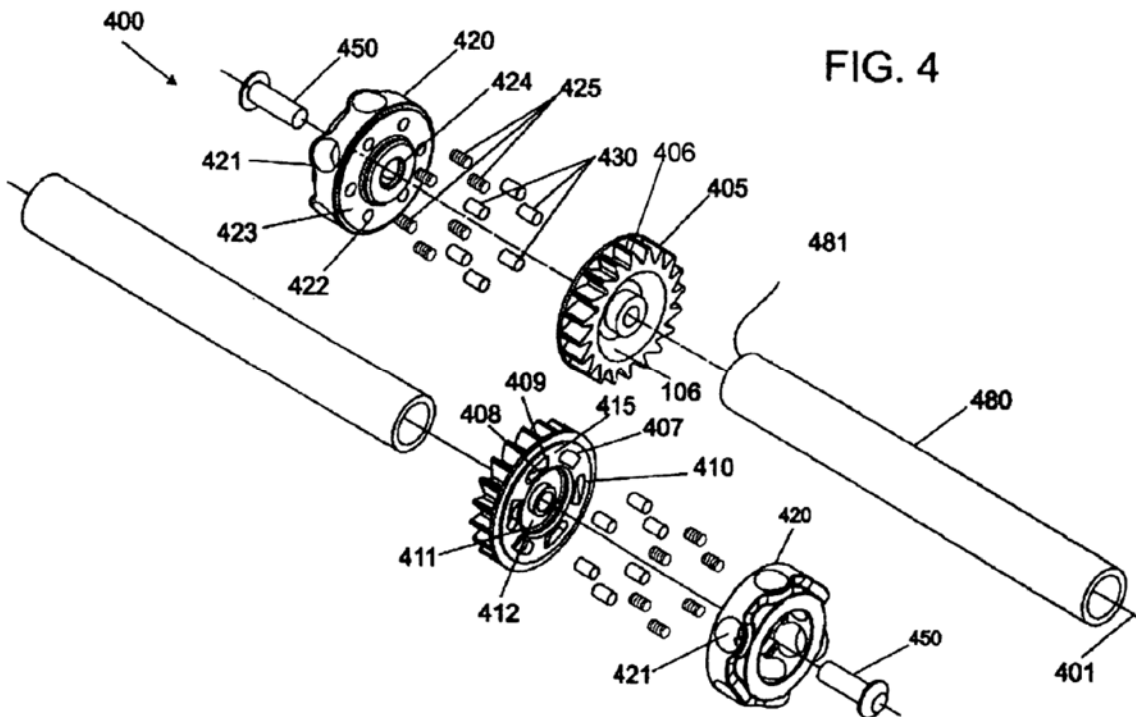


Figure 3 depicts “a top perspective view of [a] prior art vehicle trailer tie down system” and Figure 4 depicts “an exploded perspective view of a ratcheting tie down apparatus in accordance with exemplary embodiments” of the invention of the ’140 patent. Ex. 1001, 2:29–33. As seen in Figure 3, strap 115 contacts the wheel of a vehicle to hold the vehicle in place on the platform of a vehicle trailer. *See id.* at 1:15–18; *see also* Fig. 2 (depicting strap 115 around wheel 106 of vehicle 105 to secure the vehicle to platform 110 for a prior art system). Strap 115 is secured at one end at fixed hook 125 and the other end at shaft 140. *Id.* at 2:30–36. In the prior art system of Figure 3, ratchet 145 and pawl 150 are used to tighten strap 115 around shaft 140 to secure vehicle 105 to platform 110. Tie down bar 170 is inserted into cross-holes 149 of gear casting 146 (part of ratchet 145) and force is exerted on the bar to turn the gear. *Id.* at 1:38–50. According to the ’140 patent, in the typical prior art system as depicted in Figure 3:

tie down 170 bar can be rotated about 60 degrees at a time. If this rotation does not take up sufficient slack in the chain or strap, then the tie down bar 170 is pulled out of the current cross-hole 149, reinserted into the next convenient cross hole 149, and rotated again. This action may be repeated many times.

*Id.* at 1:52–57.

Apparatus 400 depicted in Figure 4 “allows an operator to insert the tie down bar once and tighten [the strap] to the desired tension without continually reinserting the tie down bar.” Ex. 1001, 2:54–56. Apparatus 400 includes ratchet gear 405 with engagement teeth 406 configured to engage a pawl mechanism (not depicted in Figure 4). *Id.* at 2:63–65.

Ratchet gear 405 includes ramped pockets 407 positioned on inner face 415

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