

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WENDT CORPORATION,
Petitioner,

v.

IQASR, LLC,
Patent Owner.

Case IPR2017-01080
Patent No. 9,132,432 B2

Before BEVERLY M. BUNTING, KEVIN W. CHERRY, and
RICHARD H. MARSCHALL, *Administrative Patent Judges*.

MARSCHALL, *Administrative Patent Judge*.

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

I. INTRODUCTION

Wendt Corporation (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1–15, 18–20, and 22 (“the challenged claims”) of U.S. Patent 9,132,432 B2 (Ex. 1001, “the ’432 patent”). Paper 1 (“Pet.”). IQASR, LLC (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”).

We review the Petition under 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted “unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” Upon consideration of the Petition and the Preliminary Response, we determine that Petitioner has failed to demonstrate a reasonable likelihood that it would prevail in showing the unpatentability of any of the challenged claims. Accordingly, we decline to institute an *inter partes* review.

A. *Related Proceedings*

The parties identified the following proceeding involving the ’432 patent: *IQASR, LLC v. Wendt, Corp.*, No. 1:16-cv-01782-MSK-KMT (D. Colo.). Pet. 54; Paper 5.

B. *The ’432 Patent (Ex. 1001)*

The ’432 patent discloses a method used to increase recyclable material recovery from automobile shredder residue. Ex. 1001, Abstract. When recycling cars, the cars are first stripped of reusable parts and then crushed into smaller pieces by an automobile shredder. *Id.* at 1:33–36. Metal chunks are then removed by a powerful magnet, leaving behind

“automobile shredder residue.” *Id.* at 1:37–38, 42–45, 4:24–29. According to the ’432 patent, automobile shredder residue includes recyclable metal and plastic as well as trash and “magnetic fuzz.” *Id.* at 1:48–50. The ’432 patent describes magnetic fuzz as “difficult to substantially identify” and may be “[d]isassociated magnetically active microparticles.” *Id.* at 6:27–29. According to the ’432 patent, “[o]ne of the biggest problems in automobile shredder residue sorting systems may be the magnetic fuzz.” *Id.* at 6:52–53. The ’432 patent discloses methods of removing the magnetic fuzz in a “non-ferrous recovery system” that employs wind tunnels and cyclones. *Id.* at 6:53–65, 7:28–33.

Figure 1 of the ’432 patent is reproduced below.

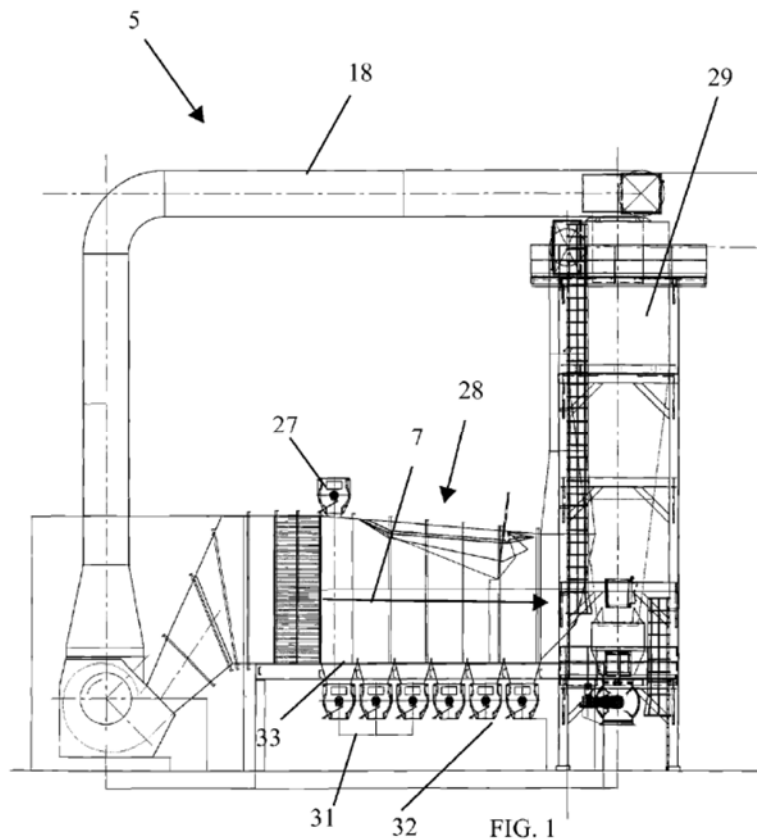


Figure 1 depicts sorting system 5 having air locks 27, wind tunnel 28, and cyclone 29. *Id.* at 15:52–60, 16:2–10. Horizontally flowing air 7 flows left to right in wind tunnel 28, depositing lighter materials 32, such as magnetic fuzz, in containers below the wind tunnel. *Id.* at 5:1–4, 14:5–9, 14:30–32, Fig. 1.

C. Illustrative Claim

Petitioner challenges claims 1–15, 18–20, and 22 of the '432 patent. Claim 1 is the only independent claim and is reproduced below.

1. A method of separation of automobile shredder residue comprising the steps of:

providing automobile shredder residue as a result from a ferrous sorting recovery system;

introducing said automobile shredder residue into an automobile shredder residue sorting, non-ferrous recovery system;

non-magnetically sorting magnetic fuzz from said automobile shredder residue with said automobile shredder residue sorting, non-ferrous recovery system;

wherein said sorted magnetic fuzz is substantially free of recyclable materials.

Ex. 1001, 23:7–18.

D. The Asserted Grounds of Unpatentability

Petitioner challenges the patentability of claims 1–15, 18–20, and 22 of the '432 patent on the following grounds. Pet. 12.

References	Basis	Claim(s) Challenged
Jody ¹	§ 102	1–8, 10–14, 18, 19, and 22
Jody and 1998 Handbook ²	§ 103	1–15, 18–20, and 22

Petitioner also relies on the Declaration of Fred Smith (Ex. 1004).

II. ANALYSIS

A. *Claim Construction*

In an *inter partes* review, claim terms in an unexpired patent are interpreted according to their broadest reasonable constructions 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) (upholding the use of the broadest reasonable interpretation standard). Under the broadest reasonable construction standard, claim terms are presumed to have their ordinary and customary meaning, as would be understood by one of ordinary skill in the art³ in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

¹ U.S. Patent No. 6,329,436 B1, filed Nov. 5, 1992, issued Dec. 11, 2001 (Ex. 1002) (“Jody”).

² Alfred A. Nijkerk and Wijnand L. Dalmijn, *Handbook of Recycling Techniques* (4th printing, March 1998) (Ex. 1003, Ex. A) (“1998 Handbook”).

³ Petitioner proposes that a person ordinary skill in the art “would have a bachelor’s degree in mechanical engineering or similar training and would have at least five years of familiarity with the methods, processes, and machines used to recover recyclable material from a heterogeneous material stream.” Pet. 46. For purposes of this Decision, we adopt Petitioner’s proposed level of ordinary skill in the art.

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