



One World Technologies, Inc. (Petitioner)
v.
The Chamberlain Group, Inc. (Patent Owner)
Patent Owner Demonstratives

Case Nos. IPR2017-01132 / IPR2017-01137

U.S. Patent No. 6,998,977

Before Hon. Joni Y. Chang, Justin T. Arbes, and Jon M. Jurgovan
Administrative Patent Judges

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Introduction

Instituted Grounds

IPR2017-01132

- Ground 1 – Claims 12-21 anticipated by Menard
- Ground 2 – Claims 13 and 21 obvious over Menard in view of Lee

IPR2017-01137

- Ground 1 – Claims 1-4, 6-11 and 22-25 anticipated by Menard
- Ground 2 – Claims 11 and 25 obvious over Menard in view of Lee
- Ground 3 – Claim 5 obvious over Menard in view of Held
- Ground 4 – Claim 5 obvious over Menard in view of HomeRF

Independent Claim 12

12. A method for checking the status of a movable barrier comprising the steps of:

receiving from a network client over a network, a status request for a movable barrier;

determining a status of the movable barrier;

sending a status of the movable barrier over the network to the network client in response to the status request and;

wherein the movable barrier comprises a barrier movement operator for controlling the movement of the barrier and the method comprises receiving a status change request from the network client and controlling movement of the barrier in response to the status change request.

'977 Patent, claim 12

Independent Claim 1

1. An apparatus comprising:
a movable barrier operator including a controller for controlling movement of a movable barrier; and
a network interface electronically connected to the controller for connecting the controller to a network;
wherein the network interface responds to requests received on the network by sending a status of the movable barrier over the network and;
wherein the network interface receives a status change request from the network and the controller responds to the status change request by moving the barrier.
2. The apparatus of claim 1 further comprising a push button control unit for the movable barrier operator.

'977 Patent, claim 1

Menard, paragraph 50

[0050] In one embodiment using a pager system, system 100 provides a pager signal to indicate the position of the door or any other information relative to the garage or the door opener. Using a one way pager, the user may operate the door opener, or operate an actuator, using another communication channel, including for example, a cellular telephone or a personal communication device. Using a two way pager, the user may operate the door opener, or operate an actuator, using the reply communication channel of the pager. The outbound signal (e.g., indicating the door position) may be transmitted to the pager on a predetermined schedule, or upon inquiry, or upon a change of position of the door (or actuator) at any time.

Menard, ¶ 50

Dependent Claim 9

9. The apparatus of claim 1 wherein the network interface is a TCP/IP network interface.

Dependent Claim 14

14. A method of claim 12 further comprising the step of retrieving from a memory a web page in response to the receiving step.

Dependent Claims 17-20

17. The method of claim 12 wherein the network client is a computer.

18. The apparatus of claim 17 wherein the status of the movable barrier is displayed on a monitor of the computer.

19. The method of claim 12 wherein the network client is a personal digital assistant.

20. The method of claim 12 wherein the network client is a cellular telephone.

**Menard does not anticipate
Independent claims 1 and 12**

Menard does not anticipate Claims 1 & 12

1. An apparatus comprising:
a movable barrier operator including a controller for controlling movement of a movable barrier; and
a network interface electronically connected to the controller for connecting the controller to a network;
wherein the network interface responds to requests received on the network by sending a status of the movable barrier over the network and;
wherein the network interface receives a status change request from the network and the controller responds to the status change request by moving the barrier.
2. The apparatus of claim 1 further comprising a push button control unit for the movable barrier operator.

'977 Patent, claim 1

Menard does not anticipate Claims 1 & 12

12. A method for checking the status of a movable barrier comprising the steps of:

receiving from a network client over a network, a status request for a movable barrier;

determining a status of the movable barrier;

sending a status of the movable barrier over the network to the network client in response to the status request and;

wherein the movable barrier comprises a barrier movement operator for controlling the movement of the barrier and the method comprises receiving a status change request from the network client and controlling movement of the barrier in response to the status change request.

'977 Patent, claim 12

Menard does not anticipate Claims 1 & 12

Petitioner argues:

For example, Menard discloses that “[i]n one embodiment... system 100 provides a pager signal to indicate the position of the door or any other information relative to the garage or the door opener.” Ex. 1003 ¶0050. Menard teaches that “[t]he outbound signal (*e.g.*, indicating the door position) may be transmitted to the pager on a predetermined schedule, or **upon inquiry**, or upon a change of position of the door (or actuator) at any time.” *Id.* A PHOSITA would understand that an “inquiry” is another word for a “status request.” Ex. 1008 ¶78.

Petition, p. 19

Menard does not anticipate Claims 1 & 12

pager. The outbound signal (e.g., indicating the door position) may be transmitted to the pager on a predetermined schedule, or upon inquiry, or upon a change of position of

Menard, ¶ 50

receiving from a network client over a network, a status request for a movable barrier;

'977 patent, claim 12

Menard does not anticipate Claims 1 & 12

Patent Owner:

Menard – the source of the “inquiry” is not express

However, the Petition does not identify any disclosure from Menard that indicates the source of the “inquiry,” that it is received from a network client, or even that it is received over a network. There is none. Nothing within the text of ¶ 50 describes this “inquiry” as being received over a network, and the remainder of Menard provides no further detail. In fact, beyond this one mention, Menard does not further reference an “inquiry” or any other status request. *See* Menard, ¶ 50. The Petition presented no explanation of how the term “inquiry” could expressly disclose receipt of a request over a network, and the term “inquiry” in fact carries no such connotation to a POSITA. Davis Dec., ¶ 25.

Menard does not anticipate Claims 1 & 12

Patent Owner:

Menard – the source of the “inquiry” is not inherent

Like anticipation, anticipation by inherency is a high bar. “A party seeking to establish inherent anticipation must show that a person of ordinary skill in the art would recognize that missing descriptive matter in a prior art reference is nevertheless necessarily present.” *HTC v. Cellular Comm. Equip.*, Case No. 2016-1880, slip op. at 12 (Fed. Cir. 2017) (emphasis added) (citing *Cont’l Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1268 (Fed. Cir. 1991)). “Inherency, however, may not be established by probabilities or possibilities.” *Cont’l Can*, 948 F.2d at 1269. “The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *Id.* (emphasis in original).

Menard does not anticipate Claims 1 & 12

Patent Owner:

**Menard – the “inquiry” is not inherently over the network;
other possibilities exist**

the “status request” features. Petitioner lays general disclosure of different network devices (e.g., pagers, cell phones) “communicating over multiple networks” (e.g., cellular network, pager network) from other portions of Menard alongside the disclosure of the “inquiry” in ¶ 50 and infers that the “inquiry” must be received from the network. Petition, p. 18 (citing Menard, ¶¶ 0028, 0044; Lipoff Dec., ¶ 76). But this is merely one possibility, as Menard describes other ways of communicating with the garage door opener that do not involve communicating over a network. For example, Menard describes a user interacting with a physical

POR, p. 12:

Menard does not anticipate Claims 1 & 12

Patent Owner:

Menard – other possible sources of the “inquiry”

over a network. For example, Menard describes a user interacting with a physical interface of Menard’s system or interacting with the system using their voice. *See*, e.g., Menard, ¶ 0060 (describing voice recognition functionality), ¶ 0065 (describing a user interacting with the system using a “wired button”); Davis Dec., ¶ 33. Neither the physical interface nor the voice control would entail either a network client or a network. *Id.*

POR, p. 12:

Menard does not anticipate Claims 1 & 12

Patent Owner:

Menard – other possible sources of the “inquiry”

“The source of the “inquiry” could even be [Menard’s] system itself. As discussed above, the sentence discussing the “inquiry” provides three examples of when an outbound signal is sent to the two way pager – “on a predetermined schedule, or upon inquiry, or upon a change of position of the door (or actuator).” Menard ¶ 50. Two of the three examples are unambiguously actions of something other than the two way pager, perhaps Menard’s system 100 (Menard does not say). Davis Dec., ¶ 33. Rather than the “inquiry” referring to an inquiry from a device remote from Menard’s system 100, it would be more consistent with the two other provided examples – two examples of actions likely occurring within Menard’s system 100 – if the “inquiry” was also an action of Menard’s system. For example, the “upon inquiry” could refer to an inquiry sent by Menard’s system 100 to its door position sensor, such as at power up of the system 100 or when system 100 establishes or reestablishes, after an interruption, the connection to its door position sensor. Davis Dec., ¶ 33.”

Menard does not anticipate Claims 1 & 12

Menard – other possible sources of the “inquiry”

⁷ During his deposition, Patent-Owner’s expert added that a security or HVAC system may make the status inquiry. *See* Depo. 143:13-18. Menard discloses n

Reply, p. 13, note 7

Menard does not anticipate Claims 1 & 12

Patent Owner:

Because inherency “may not be established by probabilities or possibilities,” and the “mere fact that a certain thing may result from a given set of circumstances is not sufficient” to show that a feature is inherent, Petitioner has not shown that Menard inherently discloses that the “inquiry” is received from a network client over a network. *See Cont’l Can*, 948 F.2d at 1269. In light of Menard’s disclosure of other possibilities regarding how the “inquiry” may be communicated, it would be legal error to conclude that Menard inherently discloses that the “inquiry” is sent over a network.

POR, p. 12:

Menard does not anticipate Claim 9

Menard does not anticipate Claim 9

9. The apparatus of claim 1 wherein the network interface is a TCP/IP network interface.

Menard does not anticipate Claim 9

Petitioner argues:

distance networks, including a telephone network. Menard further discloses that “[t]he telephone network may include communicating using an intranet or the Internet.” Ex.1003¶0044. The Internet uses the TCP/IP protocol. Ex.1008¶167. Further, “web pages” use the HTTP or HTTPS protocols, both of which utilize TCP/IP. Ex.1008¶169. Accordingly, a PHOSITA would understand that by disclosing communicating with the Internet, and specifically sending web pages over the Internet, Menard inherently discloses communicating over “a TCP/IP network interface,” as communicating using web pages over the Internet necessarily requires TCP/IP. *Id.*; see Ex.1003 Claim 25 (“The method...

Petition, p. 39:

Menard does not anticipate Claim 9

Patent Owner:

“neither communicating over the Internet nor communicating using the HTTP protocol necessarily require TCP/IP.” *See id.*; Davis, ¶ 49. For example, the Universal Datagram Protocol over Internet Protocol (UDP/IP) is an alternative to TCP/IP that was in widespread use on the Internet for many applications as of the Critical Date of the '977 patent, and remains so today. Davis, ¶ 50; *see, e.g.*, Henry,² ¶ 0037

POR, p. 26:

Menard does not anticipate Claim 9

Patent Owner:

A PHOSITA before 2003 would necessarily have understood that sending the claimed web page over the Internet necessarily requires TCP/IP, and, thus, that Menard discloses a TCP/IP network interface. Ex.1014¶54. Patent Owner has not provided any evidence to show that it does not. Ex.1014¶65. Indeed, that web

POR, p. 26:

Menard does not anticipate Claim 9

Patent Owner:

A PHOSITA before 2003 would necessarily have understood that sending the claimed web page over the Internet necessarily requires TCP/IP, and, thus, that Menard discloses a TCP/IP network interface. Ex.1014¶54. Patent Owner has not provided any evidence to show that it does not. Ex.1014¶65. Indeed, that web

POR, p. 26:

Menard does not anticipate Claim 14

Menard does not anticipate Claim 14

14. A method of claim 12 further comprising the step of retrieving from a memory a web page in response to the receiving step.

12. A method for checking the status of a movable barrier comprising the steps of:
receiving from a network client over a network, a status request for a movable barrier;

Menard does not anticipate Claim 14

Patent Owner:

12. The Petition maps this status request to the “inquiry” in the two way pager example. *See*, Petition, p. 19 (citing Menard, ¶ 50). In arguing dependent claim 14, however, Petitioner cites to disclosure in Menard of a device retrieving a web page using “an Internet browser.” *See* Petition, pp. 33-34 (citing Menard, ¶¶ 0058-0059). The Petition, fails to fully address this claim.

POR, p. 19

Menard does not anticipate Claim 14

Patent Owner:

see, e.g., Menard, ¶ 0069. Petitioner has provided no evidence that such pager devices were even capable of running an “Internet browser,” much less identified any express disclosure in Menard describing such an implementation. Davis Dec., ¶ 43.

POR, p. 20

Claim 14: ReFLEX

Petitioner argues:

Ex.1017 Cover (color, cropped). When combined with the optional PocketGenie Internet service package, the pager could navigate and display webpages at least as early as 2001. Ex.1014¶55. Patent-Owner’s expert has taken the position that “Menard includes no express disclosure describing” such a pager. Ex.2001¶43. This, however, is also incorrect, as Menard expressly discloses this ReFLEX pager. See Ex.1003¶0049 (“Examples of two way pager protocols include ReFLEX™ (Motorola)...”), ¶0043 (disclosing “ReFLEX (by Motorola)”); Ex.1014¶58.

Reply, p. 23

Claim 14: ReFLEX

Petitioner argues:

Menard expressly discloses **this ReFLEX pager.**

Reply, p. 23

Citing Menard:

others. Examples of **two way pager protocols include ReFLEX™** (Motorola) format. InFLEXion™ (Motorola)

Menard, ¶ 49

other type of wireless communication link. Examples of **PCS technology includes Code-Division Multiple Access (CDMA by Qualcomm Inc.), ReFLEX (by Motorola)** Time

Menard, ¶ 43

Claim 14: ReFLEX

Petitioner argues:

Menard expressly discloses this ReFLEX pager.

Reply, p. 23

Citing Lipoff:

58. Menard expressly discloses the use of the Motorola ReFLEX two-way pagers. See Ex. 1003 ¶0049 (“Examples of two way pager protocols include **ReFLEX™ (Motorola)**, InFLEXion™ (Motorola) format, NexNet™ (Nexus Telecommunications Ltd. of Israel) format and others.”) (emphasis added), ¶0043 (disclosing “ReFLEX (by Motorola)”).

Ex. 1014, ¶ 58

Menard does not anticipate Claim 17

Menard does not anticipate Claim 17

17. The method of claim 12 wherein the network client is a computer.

Menard does not anticipate Claim 17

12. A method for checking the status of a movable barrier comprising the steps of:

receiving from a network client over a network, a status request for a movable barrier;

determining a status of the movable barrier;

sending a status of the movable barrier over the network to the network client in response to the status request and;

wherein the movable barrier comprises a barrier movement operator for controlling the movement of the barrier and the method comprises receiving a status change request from the network client and controlling movement of the barrier in response to the status change request.

Menard does not anticipate Claim 17

Petitioner argues:

6. Claim 17

Claim 17 requires “[t]he method of claim 12 wherein the network client is a computer,” which is disclosed by Menard. Ex. 1008 ¶145.

As discussed with respect to claim 12, incorporated here, Menard discloses that numerous wired and wireless network devices, and including computers, may be used with the networked garage door opener. For example, Menard teaches that “[t]he device may be... a **computer** or other device that communicates using a network.” Ex. 1003 ¶0009. Menard similarly discloses that “a user may communicate with system 100 using... a **computer**, or other wired or wireless communication device.” Ex. 1003 ¶0029.

Accordingly, Menard discloses this claim. Ex. 1008 ¶¶146-47.

Menard does not anticipate Claim 17

Patent Owner:

resources to execute software programs. Davis Dec., ¶ 45. Petitioner merely identified disclosure of the claim term “computer” in Menard that is separate from the disclosure used originally to address the claim term “network client.” Petition, p. 37; Davis Dec., ¶ 45. Moreover, the recitation of a “computer” in claim 17 is

POR, p. 21:

Menard does not anticipate Claim 17

Petitioner argues:

The '977 Patent itself uses the term “client computer” interchangeably with “network client.” Ex.1001 1:55-60, Claim 12. Indeed, Patent-Owner’s expert

Reply, p. 25

In support Petitioner cites the '977 patent:

Another embodiment includes a method for sending the status of a movable barrier comprising the steps of receiving over a network from a client computer, a status request for a movable barrier; determining a status of the movable barrier; and sending the status of the movable barrier over the network to the client computer in response to the status request.

Ex. 1001 ('977 patent), 1:55-60

Menard does not anticipate Claim 17

Petitioner argues:

The '977 Patent itself uses the term “client computer” interchangeably with “network client.” Ex.1001 1:55-60, Claim 12. Indeed, Patent-Owner’s expert

Reply, p. 25

Citing '977 patent:

12. A method for checking the status of a movable barrier comprising the steps of:
receiving from a network client over a network, a status request for a movable barrier;
determining a status of the movable barrier;
sending a status of the movable barrier over the network to the network client in response to the status request and;
wherein the movable barrier comprises a barrier movement operator for controlling the movement of the barrier and the method comprises receiving a status change request from the network client and controlling movement of the barrier in response to the status change request.

Ex. 1001 ('977 patent), claim 12

Menard does not anticipate Claim 17

Petitioner argues:

“network client.” Ex.1001 1:55-60, Claim 12. Indeed, Patent-Owner’s expert stated that “if you look at all of the devices back in column 2 that were mentioned, a cellular phone, a personal computer, a PDA, at some level, **they're all a computer.**” *Id.* 87:3-7. Thus, despite Patent-Owner’s contrary assertion, Menard’s pager is a computer.¹² Ex.1014¶62.

Reply, p. 25

Menard does not anticipate Claim 17

Patent Owner:

p. 37; Davis Dec., ¶ 45. Moreover, the recitation of a “computer” in claim 17 is properly interpreted as to be computer, like a personal computer, rather than a pager, because the ‘977 patent specification and claims consistently describe and refer to a “computer” as a device distinct from other devices, such as a PDA or cellular telephone. ‘977 patent, 2:28-31 (“such as personal computer 108 and properly equipped PDAs 112 and cellular telephone 110”); claims 19 and 20 (the network client is “a personal digital assistant” and “a cellular telephone,” respectively); Davis Dec., ¶ 45. “The correct inquiry in giving a claim term its

POR, p. 21

Menard does not anticipate Claim 17

Patent Owner cites:

example, be the well known Internet. Access to the barrier status may be obtained from any device which can communicate over network 102 such as personal computer 108 and properly equipped PDAs 112 and cellular telephone 110. As

POR, p. 21

19. The method of claim 12 wherein the network client is a personal digital assistant.

20. The method of claim 12 wherein the network client is a cellular telephone.

Menard does not anticipate Claim 17

Patent Owner:

respectively); Davis Dec., ¶ 45. “The correct inquiry in giving a claim term its broadest reasonable interpretation in light of the specification is not whether the by the examiner. And it is not simply an interpretation that is not inconsistent with the specification. It is an interpretation that corresponds with what and how the inventor describes his invention in the specification, i.e., an interpretation that is ‘consistent with the specification.’” *In re Smith Int’l, Inc.*, 871 F.3d 1375, 1383 (Fed. Cir. 2017), citing *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997) and *In*

POR, p. 21

Menard does not anticipate Claim 17

Petitioner argues:

“personal computer.” Response, p21. But, Menard discloses numerous examples of suitable network clients including cellular phones, pagers, and computers, and explicitly states that they are interchangeable and can even be combined together into a single device. See §II.C.

Reply, p. 24

Menard does not anticipate Claim 17

But Petitioner also argues:

“Following this sentence in ¶50, Menard explicitly states that the ‘outbound signal (e.g., indicating the door position) may be transmitted to the pager...upon inquiry.’
Ex.1003¶0050; Ex.1014¶26.”

Reply, p. 4

“[T]his necessarily means that the outbound signal (e.g., indicating the door position) is sent to the two-way pager that sent the inquiry.”

Reply, p. 4

Menard does not anticipate Claim 17

Petitioner argues:

Regardless, Menard discloses “a computer.” See Ex.1003¶0009 (“The device may be a cellular telephone, a pager, a personal digital assistant, a **computer** or other device that communicates using a network.”).

Reply, p. 25

Patent Owner:

As previously discussed, in an anticipation context, it is improper to pull “multiple, distinct teachings” from a reference “that the artisan might somehow combine to achieve the claimed invention,” which is exactly what Petitioner has done in identifying Menard’s distinct teachings of a pager device and a computer to address dependent claim 17. See *Net MoneyIN*, 545 F. 3d at 1371.

POR, p. 21

Menard does not anticipate Claim 18

Menard does not anticipate Claim 18

18. The apparatus of claim 17 wherein the status of the movable barrier is displayed on a monitor of the computer.

Menard does not anticipate Claim 18

Petitioner argues:

fail. Menard explicitly discloses that “[t]he door position may be indicated... by a graphical image on a screen.” Ex.1003¶0069. A PHOSITA would have

Reply, p. 25:

Menard states:

120. At 370, the user receives notification of the door position information. The door position may be indicated by a pair of lights on a pager (one light labeled “open” and another “close”), by a graphical image on a screen, a recognizable audio tone, a recognizable vibration, or any other means of indicating position to a user. At 375, the user

Menard, ¶ 69

Menard does not anticipate Claim 18

Patent Owner:

added) (citing Menard, ¶ 0069). This disclosure from Menard makes clear that the pager device only includes “a pair of lights,” rather than a screen capable of displaying a graphical image as included in the computer. See Menard, ¶ 0069; Davis Dec., ¶ 47. Menard does not disclose that the screen capable of displaying a graphical image from the computer can be incorporated into the pager device. Davis Dec., ¶ 47. Further, as Menard indicates, pager devices as of the Critical

POR, p. 23

Menard does not anticipate Claim 19

Menard does not anticipate Claim 19

19. The method of claim 12 wherein the network client is a personal digital assistant.

Menard does not anticipate Claim 19

12. A method for checking the status of a movable barrier comprising the steps of:

receiving from a network client over a network, a status request for a movable barrier;

determining a status of the movable barrier;

sending a status of the movable barrier over the network to the network client in response to the status request and;

wherein the movable barrier comprises a barrier movement operator for controlling the movement of the barrier and the method comprises receiving a status change request from the network client and controlling movement of the barrier in response to the status change request.

Menard does not anticipate Claim 19

Petitioner argues:

8. Claim 19

Claim 19 requires, “[t]he method of claim 12 wherein the network client is a **personal digital assistant**,” which is disclosed by Menard. Ex. 1008 ¶157.

As discussed above with respect to claim 17, incorporated here, Menard discloses that its networked garage door opener can be accessed “using a wired or wireless communication device.” Ex. 1003 ¶0009. It explains that “[t]he device may be... **a personal digital assistant**...” *Id.* Menard later clarifies that “a user may communicate with system 100 using... a personal communication device (such as a **personal digital assistant, PDA**).” Ex. 1003 ¶0029.

Thus, Menard discloses this claim. Ex. 1008 ¶¶159-60.

Petition, p. 39:

Menard does not anticipate Claim 19

Patent Owner:

Menard does not teach that the pager device is a personal digital assistant or that it includes the features of a personal digital assistant. Davis Dec., ¶ 49. Petitioner merely identified disclosure of the claim term “personal digital assistant” in Menard that is separate from the disclosure used originally to address the claim term “network client.” Petition, p. 39; Davis Dec., ¶ 49. As previously discussed,

POR, p. 25

Menard does not anticipate Claim 19

Menard states:

[0050] In one embodiment using a pager system, system 100 provides a pager signal to indicate the position of the door or any other information relative to the garage or the door opener. Using a one way pager, the user may operate the door opener, or operate an actuator, using another communication channel, including for example, a cellular telephone or a personal communication device. Using a two way pager, the user may operate the door opener, or operate an actuator, using the reply communication channel of the pager. The outbound signal (e.g., indicating the door position) may be transmitted to the pager on a predetermined schedule, or upon inquiry, or upon a change of position of the door (or actuator) at any time.

Menard does not anticipate Claim 19

Menard states:

compatible with BLUETOOTH®. Furthermore, it will be appreciated that each of the aforementioned devices, namely a cellular telephone, a two-way pager, and a device compatible with BLUETOOTH®, may be combined in a single portable housing.

Menard, ¶ 48

Menard does not anticipate Claim 19

Petitioner argues:

Response p24-27. But, Menard discloses that its system can be accessed and operated using any “wired or wireless communication device” and explains that examples include “a cellular telephone, a pager, a personal digital assistant, a computer or other device that communicates using a network.” Ex.1003¶0009; Ex.1014¶66. Menard then uses various examples of such devices to describe its inventions. *Id.* As discussed in §II.B, above, both Menard and the '977 Patent

Reply, p. 26

Menard does not anticipate Claim 19

Petitioner argues:

Therefore, a PHOSITA would understand that Menard's system may be used with any of the disclosed devices, including the explicit examples of a cellphone and PDA. Ex.1014¶66. As such, Menard explicitly discloses claims 19-20.

Reply, p. 26

Patent Owner:

“[I]n an anticipation context, it is improper to pull “multiple, distinct teachings” from a reference “that the artisan might somehow combine to achieve the claimed invention,” which is exactly what Petitioner has done[.] *See Net MoneyIN*, 545 F.3d at 1371.”

POR, p. 21

Menard does not anticipate Claim 20

Menard does not anticipate Claim 20

20. The method of claim 12 wherein the network client is a cellular telephone.

Menard does not anticipate Claim 20

12. A method for checking the status of a movable barrier comprising the steps of:

receiving from a network client over a network, a status request for a movable barrier;

determining a status of the movable barrier;

sending a status of the movable barrier over the network to the network client in response to the status request and;

wherein the movable barrier comprises a barrier movement operator for controlling the movement of the barrier and the method comprises receiving a status change request from the network client and controlling movement of the barrier in response to the status change request.

Menard does not anticipate Claim 20

Petitioner argues:

9. Claim 20

Claim 20 requires, “[t]he method of claim 12 wherein the network client is a **cellular telephone**,” which is disclosed by Menard. Ex. 1008 ¶161. As discussed above with respect to claim 17, incorporated here, Menard discloses that its networked garage door opener can be accessed “using a wired or wireless communication device.” Ex. 1003 ¶0009. It describes that “[t]he device may be a **cellular telephone**....” Id. Menard later clarifies that “a user may communicate with system 100 using... a **cellular telephone**.” Ex. 1003 ¶0029.

Thus, Menard discloses this claim. Ex. 1008 ¶162-63.

Petition, p. 39:

Menard does not anticipate Claim 20

Patent Owner:

separately from the “pager device” in Menard. *Id.* at 39. Menard does not teach that the pager device is a cellular telephone or that it includes the features of a cellular telephone. Davis Dec., ¶ 51. Petitioner merely identified disclosure of the claim term “a cellular telephone” in Menard that is separate from the disclosure used originally to address the claim term “network client.” Petition, p. 39; Davis Dec., ¶ 51. As previously discussed, in an anticipation context, it is improper to

POR, p. 26:

Menard does not anticipate Claim 20

Petitioner argues:

Response p24-27. But, Menard discloses that its system can be accessed and operated using any “wired or wireless communication device” and explains that examples include “a cellular telephone, a pager, a personal digital assistant, a computer or other device that communicates using a network.” Ex.1003¶0009; Ex.1014¶66. Menard then uses various examples of such devices to describe its inventions. *Id.* As discussed in §II.B, above, both Menard and the '977 Patent

Reply, p. 26

Menard does not anticipate Claim 20

Petitioner argues:

Therefore, a PHOSITA would understand that Menard's system may be used with any of the disclosed devices, including the explicit examples of a cellphone and PDA. Ex.1014¶66. As such, Menard explicitly discloses claims 19-20.

Reply, p. 26

Patent Owner:

“[I]n an anticipation context, it is improper to pull “multiple, distinct teachings” from a reference “that the artisan might somehow combine to achieve the claimed invention,” which is exactly what Petitioner has done[.] See *Net MoneyIN*, 545 F.3d at 1371.”

POR, p. 21

***Kennametal* does not permit missing elements in the prior art to be filled in**

***Kennametal* (Fed. Cir. 2015)**

“In *Kennametal*, the challenged claim required a ruthenium binding agent and a PVD coating to be used together. The prior art reference disclosed five binding agents (one of which was ruthenium) and three coating techniques (one of which was PVD). The reference never disclosed the specific combination of ruthenium and PVD, but it taught that any of the five binding agents could be used with any of the three coating techniques.”

The Federal Circuit “held that substantial evidence supported the Board's finding that the reference effectively taught fifteen combinations, one of which anticipated the challenged claim. *Kennametal*, 780 F.3d at 1382-83.”

* Quotes from *Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co. Ltd.*, 851 F.3d 1270, 1274 (Fed. Cir. 2017) (cited at POR, pp. 27-28)

Nidec (Fed. Cir. 2017)

“Kennametal does not stand for the proposition that a reference missing a limitation can anticipate a claim if a skilled artisan viewing the reference would ‘at once envisage’ the missing limitation. Rather, Kennametal addresses whether the disclosure of a limited number of combination possibilities discloses one of the possible combinations.” *Nidec* at 1274.

“Kennametal does not permit the Board to fill in missing limitations [] simply because a skilled artisan would immediately envision them.” *Nidec* at 1274 (internal quotes and cites omitted).

***WesternGeco* (Fed. Cir. May 2018)**

“As we have explained, substantial evidence supports the Board's determination that the '636 PCT anticipates the challenged claims of the '967 Patent. *See Kennametal, Inc. v. Ingersoll Cutting Tool Co.*, 780 F.3d 1376, 1381 (Fed. Cir. 2015) (affirming anticipation determination where a person of skill in the art would "at once envisage the claimed arrangement or combination").” *WesternGeco* at 20.