

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MARKER VOLKL USA, INC.,
Petitioner,

v.

KNEEBINDING, INC.,
Patent Owner.

Case IPR2017-01265
Patent 8,955,867 B2

Before MICHAEL W. KIM, PATRICK R. SCANLON, and
MATTHEW S. MEYERS, *Administrative Patent Judges*.

MEYERS, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. *Background*

Marker Volkl USA, Inc. (“Petitioner”) filed a Petition requesting *inter partes* review of claims 1 and 4–9 of U.S. Patent No. 8,955,867 B2 (Ex. 1001, “the ’867 Patent”). Paper 1 (“Pet.”). Kneebinding, Inc. (“Patent Owner”) filed their Mandatory Notices in response to the Petition for *Inter Partes* Review (Paper 5), but did not file an optional Preliminary Response. *See* 37 C.F.R. § 42.107 (“The patent owner *may* file a preliminary response to the petition.”) (emphasis added).

On October 18, 2017, we instituted an *inter partes* review of claims 1 and 4–9 on all grounds of unpatentability set forth in the Petition. Paper 10 (“Dec.”). After institution of trial, Patent Owner filed a Patent Owner Response (Paper 18, “PO Resp.”) and Petitioner filed a Reply (Paper 22, “Pet. Reply”). Petitioner relies on the Declaration of Jasper Shealy (Ex. 1025). Patent Owner relies on the Declaration of David J. Dodge (Ex. 2001). An oral hearing was held on June 25, 2018. Paper 30 (“Tr.”).

In this Final Written Decision, issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73, 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 and 4–9 of the ’867 patent are unpatentable.

B. *Related Proceedings*

Petitioner and Patent Owner identify that the ’867 Patent is involved in *Kneebinding, Inc. v. Marker Volkl USA, Inc.*, Case No. 2:15-cv-121-wks (D. Vt.). Pet. 3; Paper 5, 2. Petitioner and Patent Owner also identify several patents and patent applications related to the ’867 Patent. Pet. 3; Paper 5, 2.

C. The '867 Patent

The '867 Patent relates generally “to alpine ski bindings and, in particular, to multi-directional release alpine ski binding heel units that release in the vertical and lateral directions.” Ex. 1001, 1:18–20. Figure 1 illustrates a side view of the alpine ski binding heel unit of the '867 Patent, and is set forth below.

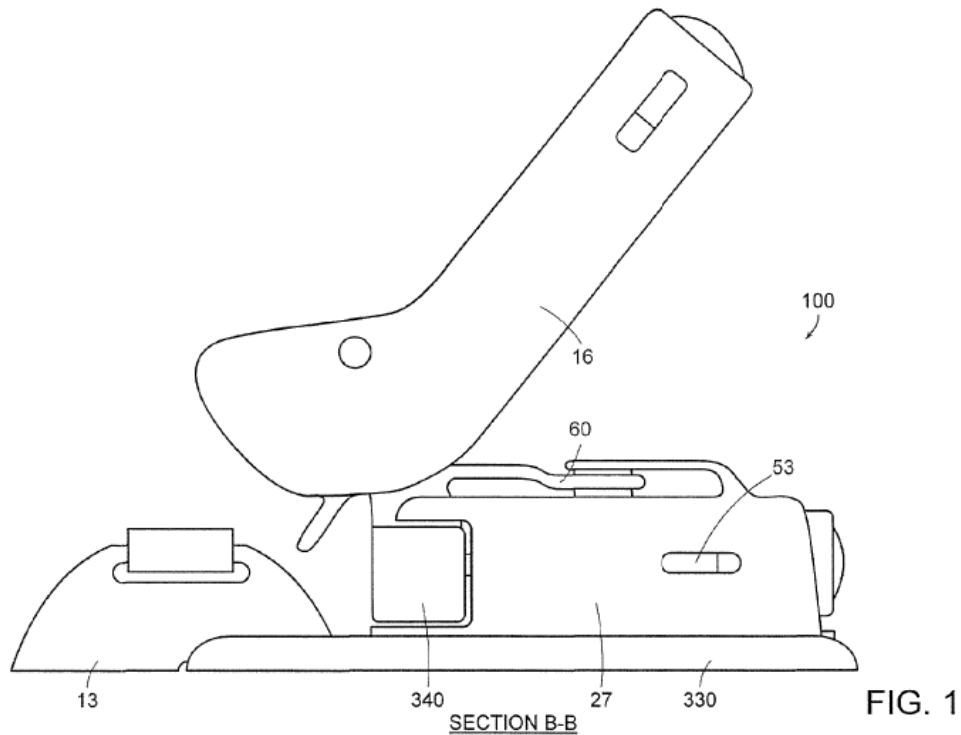


Figure 1 is a side view of the alpine ski binding heel unit.

As shown above in Figure 1, ski binding heel unit 100 includes upper heel housing 16, lower heel housing 27, heel pad 13, lateral release 340, interface support 330, and vector decoupler mechanism 60. Ex. 1001, 1:53–55. Figure 2 is a more detailed side view of the ski binding heel unit 100 of the '867 Patent and is set forth below.

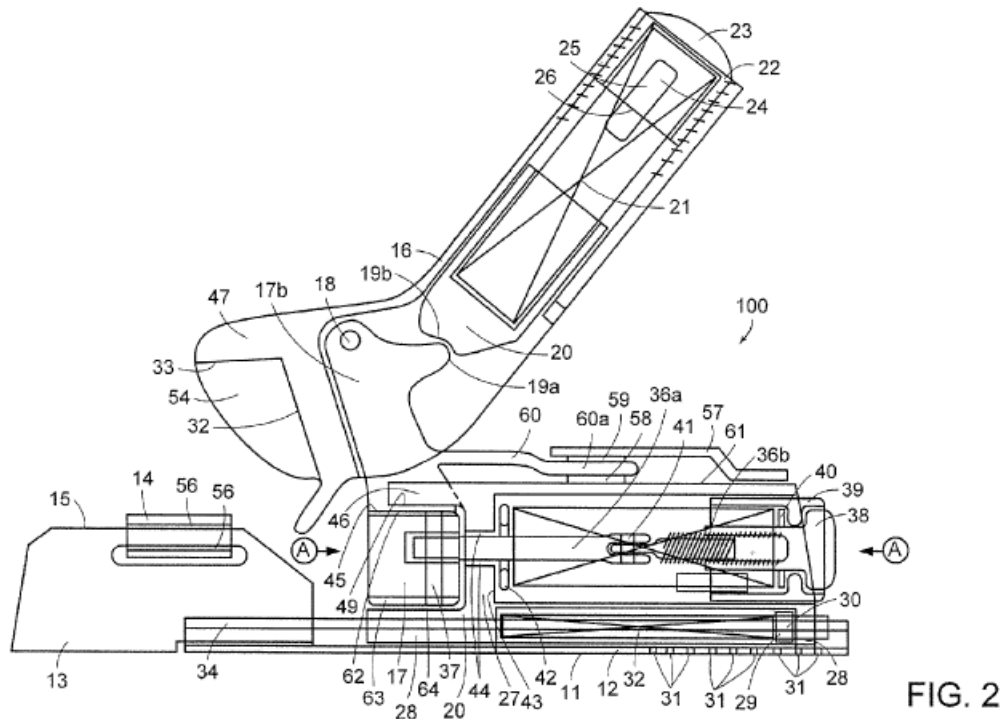


Figure 2 is a more detailed side view of the alpine ski binding heel unit 100.

As shown above, ski binding heel unit 100 further depicts that upper heel housing 16 includes pivot rod 18, cam surfaces 19a and 19b, stem section 17b, lateral release cam assembly 17, vertical release cam follower 20, vertical release spring 21, threaded cap 22, window 24, polymer piece 25, surface 26, region 33, and heel cup assembly 47. Ex. 1001, 1:59–64.

D. Illustrative Claim

Of instituted claims 1 and 4–9, independent claim 1 is the only independent claim. Independent claim 1 is illustrative, and is reproduced below:

1. A vector decoupling assembly for separating and isolating two or more force vectors applied to a safety binding securing a heel portion of a ski boot to a ski, comprising:
 - a lower heel assembly attached to the ski;

an upper heel assembly coupled to the lower heel assembly and having a lateral release assembly for applying lateral securing pressure to the ski boot, the upper heel assembly comprising an upper heel housing that is configured to compress the heel portion of the ski boot downward;

a linkage element fixedly attached to the lateral release assembly;

wherein the linkage element, a first surface and a second surface cooperate to limit motion of the lateral release assembly to within a predetermined region within a plane defined by the longitudinal and horizontal axes of the ski.

E. Asserted Grounds of Unpatentability

A trial was instituted for claims 1 and 4–9 on all the asserted grounds, as follows (Dec. 30–31):

Reference(s)	Basis	Challenged Claims
DE '298 ¹	§ 102(b)	1 and 4–9
Boussemart ² and DE '298	§ 103(a)	1 and 4–9

II. ANALYSIS

A. Claim Construction

In an *inter partes* review, a claim in an unexpired patent 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, 2142 (2016) (affirming that USPTO has

¹ German Published Patent Application No. 23 64 298, published June 26, 1975 (Ex. 1008; “DE ’298”). Unless indicated otherwise, all subsequent citations to DE ’298 in this decision refer to its English language translation, which is Exhibit 1004.

² U.S. Patent No. 4,553,772, issued Nov. 19, 1985 (Ex. 1005; “Boussemart”).

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