

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*.

DECISION
Decision Instituting *Inter Partes* Review
37 C.F.R. § 42.108

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).

We have authority under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted unless the information presented in the Petition shows “there is 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; *see also* 37 C.F.R. § 42.4(a). Upon consideration of the Petition, we are persuaded that Petitioner has met its burden of showing a reasonable likelihood that it would prevail in showing 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.

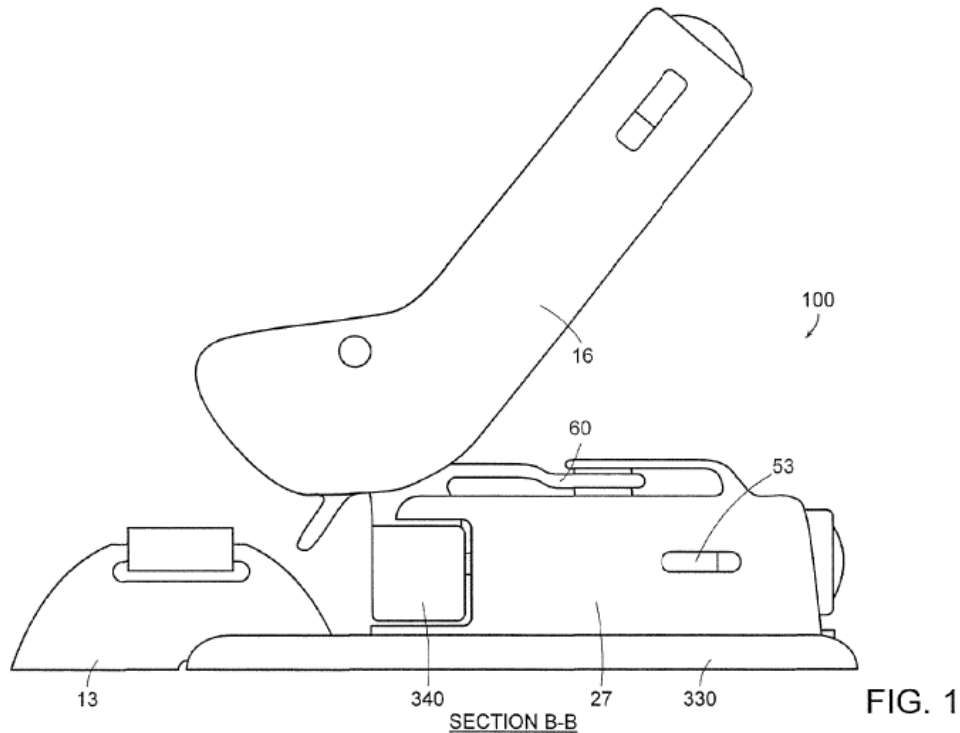


Figure 1 is a side view of the alpine ski binding heel unit.

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.

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

Petitioner challenges claims 1 and 4–9 on the following grounds.

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

To support its Petition, Petitioner proffers a Declaration of Jasper Shealy Ph.D. Ex. 1006.

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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