Paper 7 Filed: September 6, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FUEL AUTOMATION STATION, LLC, PETITIONER,

V.

FRAC SHACK INC., PATENT OWNER.

CASE IPR2017–01349 PATENT 9,346,662

FRAC SHACK INC.'S PRELIMINARY RESPONSE 37 C.F.R. § 42.107

DOCKET A L A R M Find authenticated court documents without watermarks at <u>docketalarm.com</u>.

TABLE OF CONTENTS

I.	INTROI	DUCTION	1
II.	OVERV	TEW OF THE '662 PATENT	3
III.	LEVEL	OF ORDINARY SKILL IN THE ART	9
IV.	CLAIM	CONSTRUCTION	11
	А.	"A fuel delivery connection for securing the second end of the hose to a corresponding one of the multiple pieces of equipment to which fuel is to be delivered"	
		(Claim 1)	11
		1. Term Is Governed by §112(6)	11
		 a. Means-Plus-Function Standard b. The Claim Limitation Uses a Generic Placeholder for Performing a Claimed Function 	
		c. The Generic Placeholder Is Modified by Functional Language Linked by the	
		Transition Word "For" d. The Generic Placeholder Is Not Modified by Sufficient Structure for Performing the	12
		Claimed Function	
		e. Summary: §112(6) Controls	14
		2. Corresponding Structure	15
	B.	Term Found in the Preamble	16
		1. The Preamble Is Limiting	16
		a. Petition's Introductory Case Law Does Not Support Petitionerb. Case Law in Petitioner's Analysis Does	16
		Not Support Petitioner c. Other "Guideposts" Indicate the Preamble	
		is Limiting	
		d. Summary: Preamble	
		2. "Work Site" (Claim 1)	24
	C.	Relevant Terms Proposed by Petitioner	26
		1. "Manifold" (Claims 1–2)	26

 "Set Up for Delivery of Fuel at a Well Site During Fracturing of a Well" (Claim 7)
 a. Claim 7 Has Three Valid and Connected Limitations
Capability
"Work Site"
Specific Limited Duration
Position
V. TOSHIO IN LIGHT OF HOSE HANDBOOK OR GRISWOLD FAILS TO RENDER CLAIM 1—AND, HENCE, ANY REMAINING CLAIM—
OBVIOUS
A. Claim 1
 Toshio Does Not Disclose Capability of Delivery to Multiple Pieces of Equipment at a Work Site
a. Petitioner Puts Forth No Credible
Argument
 Toshio Does Not Disclose Structure Corresponding to Hoses or Hose Connections and Petitioner Does Not Combine References to Create the '662 Patent's Claimed Invention
 a. Petitioner Impermissibly Relies upon Visual Appearance in a Drawing

	d. Summary: "Hoses" and "Hose Connections"
	3. Toshio Does Not Have "A Fuel Delivery Connection"
	 a. Petitioner Ignores the Claim Language
	Hose Handbook Remedy Toshio's "Fuel Delivery Connection" Deficiencies
	 4. Toshio's Fuel Delivery System Does Not Have a Sensor and Toshio's Sensors Are Not Associated with a Fuel Outlet, Hose and Fuel Delivery Connection Combination
В.	Claims 2–11: All Remaining Dependent Claims are Similarly Non-Obvious
C.	Claims 7 and 10–11: Additional Reasons for Non- Obviousness
	 Claim 7: Petitioner Has Not Shown References Set Up for Delivery at a Well Site During Fracturing of a Well
	 a. Petitioner May Not Ignore Claim 7
	Claim 7's Further Limitations
	 Claim 10: Petitioner Does Not Show Independent Start of Fuel Flow and Toshio Appears to Describe Sequential Operation
	independent Stopping of Fuel Flow

D.	Claim 12 Is Not at Issue	62
VI. CONCL	USION	62

DOCKET A L A R M



Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.