

Filed on behalf of:
Knauf Insulation, Inc., and Knauf Insulation SPRL
By: Joshua P. Larsen (Lead Counsel)
joshua.larsen@btlaw.com
James R. Sweeney II (Back-up Counsel)
james.sweeney@btlaw.com
Daniel J. Lueders (Back-up Counsel)
dlueders@uspatent.com

Paper No. 6
Date: July 5, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JOHNS MANVILLE CORPORATION AND JOHNS MANVILLE, INC.,
Petitioners,

v.

KNAUF INSULATION, INC., AND KNAUF INSULATION SPRL
Patent Owners.

IPR2018-00863
Patent 9,464,207

PATENT OWNERS' PRELIMINARY RESPONSE

TABLE OF CONTENTS

	<u>Page(s)</u>
Table of Authorities	iii
Exhibit List.....	v
I. INTRODUCTION	1
II. THE OFFICE HAS ALREADY CONSIDERED, AND REJECTED, THE PRIOR ART AND ARGUMENTS ADVANCED IN JM'S PETITION	4
III. JM HAS NOT SHOWN A REASONABLE LIKELIHOOD THAT IT WOULD PREVAIL IN PROVING THE OBVIOUSNESS OF ANY CHALLENGED CLAIM	14
A. JM Does Not Point To Any Example Of Maillard-Based Binders For Fiberglass Insulation In The Prior Art	14
B. JM Misrepresents And Improperly Relies Upon Prior Federal Circuit And Board Decisions	18
C. JM Does Not Identify The Differences Between The Prior Art And The Claims At Issue	23
1. JM's Reliance On Tutin Is Unclear	25
2. JM's Reliance On Worthington And Gogek Is Unclear	26
D. JM Does Not Provide A Valid Rationale To Combine Strauss, Tutin, And Worthington	28
1. Compatibility Does Not Mean Obvious To Combine	28
2. Using Thermoset Material Is Too Broad To Explain Obviousness	30

IPR2018-00863 (Patent 9,464,207)
Patent Owners' Preliminary Response

3.	A Need For Formaldehyde-Free Binders Is Not A Reason To Modify Strauss Or Tutin.....	31
4.	The Additional Reasons Cited With Regard To Gogek Are Also Deficient	32
E.	Conclusion As To Lack Of Reasonable Likelihood	33
IV.	CONCLUSION.....	34
	Certificate of Word Count	35
	Certificate of Service	36

TABLE OF AUTHORITIES

<u>Cases</u>	<u>Page(s)</u>
<i>Aqua Products, Inc. v. Matal</i> , 872 F.3d 1290 (Fed. Cir. 2017)	21
<i>Cuozzo Speed Techs., LLC v. Lee</i> , 136 S. Ct. 2131 (2016).....	5
<i>Graham v. John Deere Co.</i> , 383 U.S. 1 (1966).....	11, 24
<i>In re Am. Acad. of Sci. Tech Ctr.</i> , 367 F.3d 1359 (Fed. Cir. 2004)	18
<i>In re Rijckaert</i> , 9 F.3d 1531 (Fed. Cir. 1993)	19
<i>In re Spormann</i> , 363 F.2d 444 (CCPA 1966).....	19
<i>KSR Int'l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007).....	11, 24
<i>Polaris Indus., Inc. v. Arctic Cat, Inc.</i> , 882 F.3d 1056 (Fed. Cir. 2018)	29
<i>SAS Institute, Inc. v. ComplementSoft, LLC</i> , 825 F.3d 1341 (Fed. Cir. 2016)	5
<i>SAS Institute Inc. v. Iancu</i> , 138 S. Ct. 1348 (2018).....	4, 5, 6
<i>Unified Patents, Inc., v. Berman</i> , IPR2016-01571, Paper 10 (December 14, 2016) (informative).....	12, 13

IPR2018-00863 (Patent 9,464,207)
Patent Owners' Preliminary Response

Statutes

35 U.S.C. § 316.....	21
35 U.S.C. § 325.....	5, 13

Rules

37 C.F.R. § 42.65	18
-------------------------	----

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.