

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RIDDELL, INC.,
Petitioner,

v.

KRANOS IP II CORP.,
Patent Owner.

Case IPR2018-01164
Patent 6,434,755 B1

Before HYUN J. JUNG, JAMES A. TARTAL, and
JEFFREY A. STEPHENS, *Administrative Patent Judges*.

TARTAL, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Riddell, Inc. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting institution of *inter partes* review of claim 11 of U.S. Patent No. 6,434,755 B1 (Ex. 1001, “the ’755 patent”). Kranos IP II Corp. (“Patent Owner”) filed a Preliminary Response (Paper 9, “PO Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted “unless . . . the information presented in the petition . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.”

Upon consideration of the Petition and the Preliminary Response, we conclude the information presented shows there is a reasonable likelihood that Petitioner would prevail in showing the unpatentability of claim 11 of the ’755 patent. Accordingly, we authorize an *inter partes* review to be instituted as to all grounds raised in the Petition. Our factual findings and conclusions at this stage of the proceeding are based on the evidentiary record developed thus far (prior to Patent Owner’s Response). This is not a final decision as to patentability of the claim for which *inter partes* review is instituted. Any final decision will be based on the record, as fully developed during trial.

II. BACKGROUND

A. *The ’755 Patent*

The ’755 patent, titled “Helmet,” issued August 20, 2002, from U.S. Application No. 09/586,124, filed June 2, 2000. Ex. 1001, [21] [22], [45], [54]. The ’755 patent generally relates to “a helmet suitable for use as a football helmet and having reduced weight and improved comfort

characteristics as compared to conventional football helmets.” Ex. 1001, 1:20–24.

Figures 1 and 2 of the '755 patent are reproduced below.

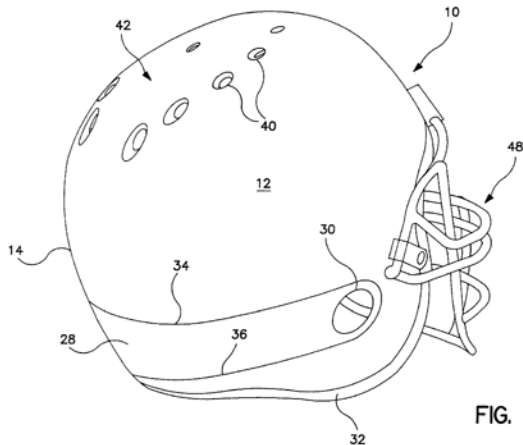


FIG. 1

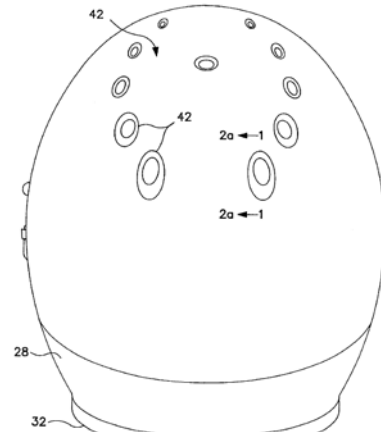


FIG. 2

Figure 1 illustrates a side perspective view of a helmet in accordance with the '755 patent, and Figure 2 is a rear perspective view of the helmet in Figure 1. *Id.* at 2:37–39. Helmet 10 includes substantially rigid shell 12 with substantially continuous exterior surface 14 spaced apart from substantially continuous interior surface 16. *Id.* at 3:3–7. Shell 12 includes elongate offset 28 on exterior surface 14 extending around the rear of helmet 10 and between ear holes 30. *Id.* at 3:20–22. The '755 patent further states as follows:

The offset 28 defines an exterior surface that lies in a plane below the exterior surface 14 and an interior surface that lies in a plane below the interior surface 16. The offset 28 preferably is from about 0.125 to about 0.375 inches below the surface 14, most preferably about 0.2 inches. The thickness of the offset 28 is preferably substantially the same as the thickness defined between the surface 14 and 16.

Conventionally, a desired flexural resistance is provided to a shell by making the shell sufficiently thick. However, the thickness normally required increases the weight of the shell and

makes the shell sufficiently heavy so as to be uncomfortable to the wearer. The offset 28 functions to rigidify and increase the flexural resistance of the shell 12. Thus, the shell 12 incorporating the offset 28 may have a reduced thickness as compared to conventional helmet shells without compromising flexural resistance properties of the shell. This advantageously enables reductions in weight and materials. A lip 32 may also preferably be provided at the exposed edge of the shell for increasing the flexural resistance of the shell.

Id. at 3:22–42. According to the '755 patent, offset 28 preferably has upper latitudinal line 34 “located proximate the portion of the shell adjacent the occipital protuberance of the cranium of the user” and lower latitudinal line 36 just above lip 32. *Id.* at 48–51. “The length of the offset preferably extends the circumferential distance between the ear holes 30, with the length preferably being at least as long as the circumferential distance of the portion of the shell adjacent the occipital protuberance of the user.”

Id. at 54–58.

B. Challenged Claim

Challenged claim 11 is reproduced below:

11. A helmet, comprising a shell having a rear portion and opposite side portions having ear holes and an offset defined on a substantially continuous portion of the shell extending between the rear and opposite side portions for increasing the flexural resistance of the shell, wherein the offset extends substantially between the ear holes.

Ex. 1001, 8:29–34.

C. Related Proceedings

The parties indicate that the '755 patent is asserted in the United States District Court for the Northern District of Illinois, in a case captioned *Kranos IP Corp. et al. v. Riddell, Inc.*, Case No. 1:17-cv-06802 (N.D. Ill.). Pet. 1–2; Paper 5, 1.

D. Real Parties in Interest

Petitioner identifies itself, BRG Sports, Inc., and Riddell Sports Group, Inc., as real parties in interest. Pet. 1. Patent Owner identifies only itself as a real party in interest. Paper 5, 1.

E. The Asserted Grounds of Unpatentability

Petitioner challenges the patentability of claim 11 of the '755 patent on the following grounds:

Reference(s)	Basis
Cooper ¹	§ 102
Tang ²	§ 102
Clement ³	§ 103
Cooper and Clement	§ 103
Tang and Clement	§ 103

Pet. 3. Petitioner supports its challenge with a Declaration by Nicholas Shewchenko, dated May 24, 2018 (Ex. 1006).

III. 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); *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2142 (2016) (upholding the use of the broadest reasonable interpretation standard). In determining the broadest reasonable

¹ Canadian Ind. Des. No. 50782, reg. Jan. 24, 1983 (Ex. 1002, “Cooper”). The Petition and the Patent Owner Preliminary Response refer to this reference as “Cooper 50782.”

² U.S. Pat. No. Des. 412,766, iss. Aug. 10, 1999 (Ex. 1003, “Tang”).

³ U.S. Pat. No. 4,539,715, iss. Sept. 10, 1985 (Ex. 1004, “Clement”).

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