

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

YITA LLC,
Petitioner,

v.

MACNEIL IP LLC,
Patent Owner.

Case No. IPR2020-01142
Patent No. 8,833,834

PATENT OWNER'S SUR-REPLY TO PETITIONER'S REPLY

TABLE OF CONTENTS

	Page
I. MacNeil’s Lada Niva scans prove that Rabbe’s tray did not closely conform.....	1
II. Rabbe discloses a prior art upper-perimeter interference fit, not the claimed closely conforming panels.	8
A. Rabbe describes an interference fit that was well-known in the prior art.	9
B. Rabbe does not teach that its tray sides meet the conformance limitations.....	14
III. Yita has not shown a reasonable expectation of success.....	18
IV. Yita fails to articulate how it proposes combining Rabbe, Yung, and Gruenwald.....	21
V. Rabbe’s floor tray geometry would have turned a POSITA away from thermoforming.	24
VI. A POSITA would understand Yung to disclose compression molding.	32
VII. Rabbe discloses only thermoset natural rubber.....	38
VIII. Yita’s Recycling Assertions Are Wrong.	39
IX. Objective evidence confirms that the claims of the ’186 Patent would not have been obvious.	39
X. Conclusion	41

TABLE OF AUTHORITIES

	Page(s)
Federal Cases	
<i>Continental Can Co. USA, Inc. v. Monsanto Co.</i> , 948 F.2d 1264 (Fed. Cir. 1991)	40, 41
<i>Ex Parte Nobuya Sato & Kazunari Saitou</i> , No. 2012-001276, 2014 WL 1154010 (P.T.A.B. Mar. 20, 2014)	8
<i>In re Heinle</i> , 342 F.2d 1001 (C.C.P.A. 1965)	8
<i>Sensonics, Inc. v. Aerosonic Corp.</i> , 81 F.3d 1566 (Fed. Cir. 1996)	20
<i>Standard Oil Co. v. Am. Cyanamid Co.</i> , 774 F.2d 448 (Fed. Cir. 1985)	20
<i>World Bottling Cap, LLC, v. Crown Packaging Technology, Inc.</i> , IPR2015-01651, Paper 34 (P.T.A.B. Jan. 19, 2017)	40
Regulations	
37 C.F.R. § 42.8	43
37 C.F.R. § 42.24(a)(1)(i)	43

EXHIBIT LIST

Exhibit No.	Description
2001	<i>Reserved</i>
2002	<i>Reserved</i>
2003	<i>Reserved</i>
2004	Declaration of James L. Throne, Ph.D. ¹
2005	<i>Reserved</i>
2006	<i>Reserved</i>
2007	<i>Reserved</i>
2008	<i>Reserved</i>
2009	<i>Reserved</i>
2010	<i>Reserved</i>
2011	Strong, A. Brent, <i>Plastics Materials and Processing</i> , Prentice-Hall, Inc., 2nd Edition, 2000 (“Strong”)
2012	U.S. Patent No. 6,261,667 to Yang, issued July 17, 2001
2013	U.S. Patent No. Des. 408,342 to Yang, issued April 20, 1999
2014	U.S. Patent and Trademark Office, Office Action issued on U.S. Application No. 11/463,215 on June 6, 2007
2015	U.S. Patent No. 3,288,187 to Wheaton, issued November 29, 1966
2016	U.S. Patent No. 3,401,975 to Oger, issued September 17, 1968
2017	U.S. Patent and Trademark Office, Office Action issued on U.S. Application No. 11/463,215 on November 27, 2007
2018	U.S. Patent and Trademark Office, Office Action issued on U.S. Application No. 12/332,757 on June 11, 2009
2019	Husky Deep Tray Floor Liner, downloaded from http://www.truckstuffusa.com/cusfitdeeptr.html on January 3, 2005
2020	Advertisement for Highland’s Black Armor Floor Guard, Stylin Concepts “Custom Truck Accessors” catalog, 2003, pp. 1, 2, and 109

¹ Patent Owner has affirmatively withdrawn the testimony of Dr. Throne in Exhibit 2004 pursuant to the Patent Trial and Appeal Board Consolidated Trial Practice Guide 2019.

2021	Advertisement for Highland floor guards, Counterman Info Pages, prior to Nov. 2002, page 27
2022	Merriam Webster's Online Dictionary, "Contour" https://www.merriam-webster.com/dictionary/contour (last visited October 14, 2020)
2023	Chinese Patent Application No. 87212432 to Yang, filed July 29, 1998, with attached certified English-language translation
2024	Declaration of Bruce D. Popp, Ph.D., March 3, 2021
2025	Collins Le Robert Comprehensive Dictionary: French-English, English-French © 2017 Dictionnaires Le Robert/HarperCollins Publishers
2026	Beryl T. Atkins et al., Collins-Robert French to English Dictionary, entry for rebord (2d ed. 1993)
2027	Larousse French to English Dictionary, entry for rebord (unabridged ed. 2010)
2028	Gustave Rudler and Norma C. Anderson, Collins French Gem Dictionary, French to English, entry for rebord (1964)
2029	Richard Ernst, Dictionnaire des techniques et sciences appliquées, entries for bride, collarete and rebord (Paris 2002)
2030	Image from https://wholesalecoolies.com/product/blank-thick-hard-foam-old-school-can-koozie/
2031	Declarations of Vladimir Orlov and Janina Kaminskiene, March 23, 2021
2032	Richard Ernst, Dictionnaire des techniques et sciences appliquées, entry for contour (Paris 2002)
2033	Screen Shot of Google Translate from ENGLISH Contour to FRENCH Contour, https://translate.google.com/?sl=auto&tl=fr&text=contour&op=translate
2034	Richard Ernst, Dictionnaire des techniques et sciences appliquées, entry for topographie (Paris 2002)
2035	Screen Shot of Google Translate of ENGLISH Topography to FRENCH Topography, https://translate.google.com/?sl=auto&tl=fr&text=topography&op=translate
2036	Jinrong Invalidity Contentions, Western District of Washington at Seattle, Case No. C20-856 TSZ

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.