

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMERISTAR PERIMETER SECURITY USA, INC., ASSA ABLOY INC.,
AND ASSA ABLOY AB,
Petitioner,

v.

RSA PROTECTIVE TECHNOLOGIES, LLC,
Patent Owner.

IPR2020-01369
Patent 8,215,865 B2

Before KEN B. BARRETT, JOHN P. PINKERTON, and
JAMES J. MAYBERRY, *Administrative Patent Judges*.

MAYBERRY, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. Background and Summary

Ameristar Perimeter Security USA Inc., ASSA ABLOY Inc., and
ASSA ABLOY AB (collectively, “Petitioner”), filed a Petition (“Pet.”)
requesting *inter partes* review of claims 1–35 (the “Challenged Claims”) of

IPR2020-01369
Patent 8,215,865 B2

U.S. Patent No. 8,215,865 B2 (Ex. 1001, the “’865 patent”). Paper 3. RSA Protective Technologies, LLC (“Patent Owner”), filed a Preliminary Response (“Prelim. Resp.”) to the Petition. Paper 9.

We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314 (2018); 37 C.F.R. § 42.4(a) (2020) (permitting the Board to institute trial on behalf of the Director). To institute an *inter partes* review, we must determine that the information presented in the Petition shows “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(a). For the reasons set forth below, upon considering the Petition, Preliminary Response, and evidence of record, we institute an *inter partes* review.

B. Real Parties in Interest

Petitioner identifies Ameristar Perimeter Security USA Inc., ASSA ABLOY Inc., and ASSA ABLOY AB as real parties-in-interest. Pet. 1. Patent Owner identifies itself as the real party-in-interest. Paper 6, 1.

C. Related Matters

Patent Owner lists four open litigations, two stayed litigations, and three dismissed litigations related to the ’865 patent, including an open litigation involving Petitioner and a stayed litigation involving Los Angeles International Airport (“LAX”). Paper 6, 1–2; *see also* Pet. 1 (“In the District of Delaware (D. Del.), Ameristar Perimeter Security USA Inc. and Barrier1 Systems, Inc. filed a declaratory judgment action (case nos.: 1:20-cv-00340, 1:20-cv-00341) on March 6, 2020[,] involving the ’865 [p]atent.”), *id.* (identifying the LAX litigation). Other open litigations include a matter involving Delta Scientific Corporation in the Central District of California, filed July 12, 2019, and a matter involving Gibraltar Perimeter Security, LP in the District of Delaware, filed August 26, 2020.

The parties indicate that the '865 patent was challenged in IPR2019-01161, IPR2019-01162, and *ex parte* reexamination control number 90/014,483. Paper 6, 2; Pet. 2.

D. '865 Patent

The '865 patent, titled “Anti-Ram System and Method of Installation,” issued July 10, 2012, from an application filed January 27, 2010. Ex. 1001, codes (54), (45), (22). The '865 patent is directed “to the assembly and installation of bollard systems for use in protecting building and other structures from being rammed by vehicles.” *Id.* at 1:40–42. We reproduce Figure 3 from the '865 patent below.

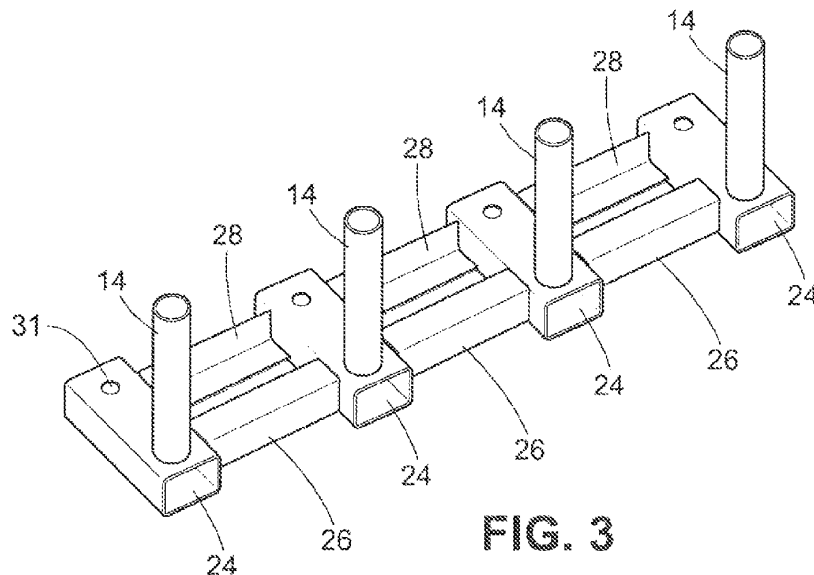


Figure 3 depicts “an embodiment of th[e] invention with four bollards mounted on the framework for the pad or base of the anti-ram system.” Ex. 1001, 6:1–3. Bollards 14 are mounted on framework 23 for the base, which includes transversely-extending tubular members 24, longitudinally-extending tubular members 26, and longitudinally-extending angular members 28. *Id.* at 7:51–55. Apertures 31 allow the tubular members to be filled with concrete or other material to add strength and weight to the base.

Id. at 8:7–10. A rebar cage may be added to the base framework. *Id.* at 8:11–16, Fig. 4.

With the bollard system of the '865 patent, “the striking forces from the crash vehicle are transmitted from the bollard down to the shallow mount pad (5[inches] to 14[inches] in depth) in a way that is different from standard deep trench foundations (4[feet] to 6[feet]).” Ex. 1001, 2:42–45. Also, “[t]he shallow base system makes for a much more effective and efficient load transfer into the soil which reduces the overall volume of displacement of soil by the base, as compared to the standard deep trench foundation systems.” *Id.* at 2:49–52. “In the shallow mount bollard system of [the '865 patent], the resistive forces are all at the base of the bollard (at the top of the trench) and therefore reduce the likelihood of the bollard rotating and vehicle breaching the security system.” *Id.* at 2:60–64.

E. Illustrative Claims

Of the Challenged Claims, claims 1, 16, and 33 are independent claims. Claim 1, reproduced below, are representative.

1. A bollard structure comprising:
 - at least one bollard; and
 - a base comprising opposed ends and a plurality of structural members which intersect and are tied together, for each bollard of the bollard structure at least one first structural member extending from a first of the opposed ends of the base to a second of the opposed ends of the base in a first direction intersecting with the opposed ends, and at least one structural member extending to intersect with the at least one first structural member;
 - each bollard being secured to at least one of the at least one first structural member and the at least one structural member of the base for the respective bollard and extending upwardly from the base so as to transmit forces applied to the at least one bollard to the base;

wherein the base is configured to be mounted in a shallow excavation with the at least one bollard extending above grade; and

wherein the at least one first structural member or the at least one structural member or both are configured or tied together to retain within the base supporting media introduced into the base when the base is mounted in the excavation such that the rotation is resisted of a bollard or bollards and the base from an impact against the bollard or bollards.

Ex. 1001, 9:17–41. Claim 16 is similar to claim 1 and recites “a plurality of bollards.” *Id.* at 10:5–31. Claim 33 is similar to claims 1 and 16, but adds the requirement that “at least one of the plurality of members that extend parallel to the ends of the base extending between a structural member to which a first bollard is secured and a structural member to which a second bollard adjacent to the first bollard is secured.” *Id.* at 11:8–12:13.

F. Prior Art and Asserted Grounds

Petitioner asserts that the Challenged Claims are unpatentable based on two grounds:

Claim(s) Challenged	35 U.S.C. §	References/Basis
1–4, 12–20, 28–35	103	Sniedze, ¹ Masuda ²
1–35	103	Sniedze, Masuda, Le Clercq ³

¹ Sniedze, AU 200071449 A1, published May 10, 2001 (Ex. 1005, “Sniedze”).

² Masuda, JP 2002-115324, published April 19, 2002 (Ex. 1007, “Masuda”). Ex. 1007 is an English translation of Ex. 1006. *See* Ex. 1007, 1 (providing a certification of translation), Ex. 1006 (providing Japanese version of Masuda).

³ Le Clercq, US 4,018,055, issued April 19, 1977 (Ex. 1008, “Le Clercq”).

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