

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIFECORE FITNESS, INC.
d/b/a ASSAULT FITNESS
Petitioner,

v.

WOODWAY USA, INC.
Patent Owner.

U.S. Patent No. 10,799,745 to Bayerlein et al.

Case No.: IPR2023-00849

PETITIONER'S REPLY TO PATENT OWNER RESPONSE

Table of Contents

| | |
|--|-----|
| Table of Authorities | iii |
| List of Exhibits | v |
| I. Introduction | 1 |
| II. Claim Construction | 1 |
| A. “bearings” / “support” / “disposed . . . on” | 2 |
| III. Level of Ordinary Skill in the Art | 4 |
| IV. The Asserted Combinations Render the Challenged Claims Unpatentable | 5 |
| A. Socwell discloses “ <i>a plurality of bearings</i> ” (Claims [1.4], 17, 18) (Ground 3) | 5 |
| B. Socwell discloses “ <i>the plurality of bearings at least partially supporting the running belt</i> ” (Claim 17) and “ <i>disposing a running belt on the plurality of bearings</i> ” (Claim 18)..... | 5 |
| C. A POSA would have been motivated to combine Schonenberger and Socwell | 6 |
| 1. The Combination of Schonenberger and Socwell discloses rollers that “ <i>define at least a portion of a curved top profile.</i> ” | 6 |
| 2. Modified Schonenberger is not merely Schonenberger flipped over..... | 7 |
| 3. Schonenberger’s Slat-type Running Belt Could be Used with a Curved Running Surface | 9 |
| a. Petition accounted for the slat-style belt of Schonenberger | 9 |
| b. Dr. Blair relies on an unused embodiment to allege Schonenberger’s belt cannot be curved. | 9 |
| 4. Schonenberger does not teach away from combining with Socwell. | 10 |
| D. A POSA would have motivated to combine Magid with Schonenberger and Socwell | 13 |
| 1. Schonenberger, Socwell, and Magid are all in the same field: Exercise Equipment, which includes exercise use and therapeutic use..... | 13 |
| 2. Magid does not teach away from its combination with Schonenberger and Socwell | 15 |

| | | |
|-----|---|----|
| E. | A POSA would have been motivated to substitute Sclater for Magid. | 15 |
| 1. | Petitioner’s obviousness arguments do not rely on hindsight | 15 |
| V. | Secondary Considerations Fail | 18 |
| A. | Commercial Success | 18 |
| 1. | PO’s Sales Did Not Result From Unique Claim Characteristics | 19 |
| 2. | Sales Figures Do Not Show Commercial Success Absent Market Share Evidence | 22 |
| 3. | No Other Factor Evidence..... | 24 |
| 4. | PO’s Sales Data is Missing Samsara’s Data | 25 |
| B. | Industry Praise Was Not Due to the Claimed Invention | 28 |
| C. | Copying | 29 |
| 1. | Treadmills..... | 29 |
| 2. | LifeCORE Documents | 31 |
| D. | Failure of Others | 33 |
| E. | Passage of Time Between Prior Art and the Invention | 33 |
| VI. | Conclusion..... | 34 |
| | Certificate of Service | |
| | Certificate of Compliance Pursuant to 37 C.F.R. § 42.24..... | |

Table of Authorities

Cases

| | |
|---|----------------|
| <i>Dow Chemical Co. v. Halliburton</i> , 324 U.S. 320 (1945)..... | 18 |
| <i>Ex parte Detroit Radiant Prod. Co.</i> , Appeal 2008-6291, 2009 WL 164096 (BPAI Jan. 22, 2009) | 19, 21, 24 |
| <i>Ex parte Jamieson</i> , Appeal 2015-002630, 2016 WL 5543491 (PTAB Sept. 27, 2016) | 33 |
| <i>Ex parte Jellá</i> , Appeal 2008-1619, 90 U.S.P.Q.2d 1009, 2008 WL 5693899 (BPAI Nov. 3, 2008) | 19, 21, 22, 25 |
| <i>Ex parte Jun Yang</i> , Appeal 2014-006514, 2017 WL 1150710 (PTAB February 23, 2017) | 25 |
| <i>Ex parte Sansone</i> , Appeal 2023-001331, 2023 WL 4677708 (PTAB July 19, 2023)..... | 33 |
| <i>Ex parte Whirlpool Corp.</i> , Appeal 2013-008232, 2013 WL 5866602 (PTAB, Oct. 30, 2013)..... | 28 |
| <i>Fox Factory, Inc. v. SRAM, LLC</i> , 944 F.3d 1366 (Fed. Cir. 2019) | 18 |
| <i>In re Gurley</i> , 27 F.3d 551 (Fed. Cir. 1994)..... | 15 |
| <i>In re Huang</i> , 100 F.3d 135 (Fed. Cir. 1996)..... | 22 |
| <i>In re Kahn</i> , 441 F.3d 977 (Fed. Cir. 2006)..... | 33 |

In re Keller,
642 F.2d 413 (CCPA 1981) 8

In re Sneed,
710 F.2d 1544 (Fed. Cir. 1983) 8

Iron Grip Barbell Co., Inc. v. USA Sports, Inc.,
392 F.3d 1317 (Fed. Cir. 2004)34

Lectrosonics, Inc., v. Zaxcom, Inc.,
IPR2018-01129, Paper 33 (PTAB January 24, 2020).....18

Meiresonne v. Google, Inc.,
849 F.3d 1379 (Fed. Cir. 2017) 12, 15

Merck & Co., Inc. v. Teva Pharm. USA, Inc.,
395 F.3d 1364 (Fed. Cir. 2005)18

Stratoflex, Inc. v. Aeroquip Corp.,
713 F.2d 1530 (Fed. Cir. 1983)33

Syntex (U.S.A.) LLC v. Apotex, Inc.,
407 F.3d 1371 (Fed. Cir. 2005)19

Thorner v. Sony Computer Entm't Am. LLC,
669 F.3d 1362 (Fed. Cir. 2012) 2

Wyers v. Master Lock Co.,
616 F.3d 1231 (Fed. Cir. 2010) 29, 30, 32, 33

Rules

37 C.F.R. § 42.1132
PTAB Consolidated Trial Practice Guide, November 2019 2

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.