## UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

#### SCHUL INTERNATIONAL COMPANY, LLC.,

Petitioner,

v.

EMSEAL JOINT SYSTEMS, LTD.,

Patent Owner.

Case No. PGR2017-00053 U.S. Patent 9,528,262 B2

PETITIONER'S REPLY



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	A.		othing in the '9,495 Patent provides support for foam, alone, being configured to pass testing mandated by UL2079."	
		1.	The original claims of the '9,495 patent do not support foam alo being "configured to pass testing mandated by UL2079" because a joi system having both fire retardant infused foam and a water resistal layer was claimed, and the functionality is discussed with respect to t joint system, not with respect to the foam	int int he
		2.	The examiner did not consider functional abilities of the foam alo during prosecution of the '9,495 patent because only functional feature of the expansion joint system as a whole were claimed	es
	B.		othing in the common specification of the '262 patent or alleged prioricuments provide the required support.	-
		1.	The fact that the foam is fire retardant and provides fire resistance do not mean the foam alone has the claimed functional features	
		2.	The "resultant composite" does not refer to the foam alone	17
	C.		he claims of continuation applications cannot provide written descriptions of the claims of continuation cannot add new matter.	



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VIII.	Ground 4
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IX. Gro	und 530
A.	The USPTO has found that this claim element is without written description support
В.	The Board and Emseal improperly assume that these limitations are related to UL2079, rendering them superfluous
X. Gro	und 632
A.	The USPTO has found this claim term indefinite
В.	The Board and Emseal assume that these limitations are related to UL2079, rendering them superfluous
C.	Emseal again misleads
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#### PETITIONER'S UPDATED EXHIBIT LIST

Exhibit	Description
1001	U.S. Patent 9,528,262 B1
1002	US Endodontics, LLC v. Gold Standard Instruments, LLC, PGR2015-
	00019, Paper 54 (Dec. 28, 2016).
1003	U.S. Appl. S/N 14/540,514 Specification, Abstract, Claims and
	Drawings as filed November 13, 2014.
1004	U.S. Appl. S/N 14/540,514 Amendment and Response to Final Office
	Action Filed Concurrently with a Request for Continued Examination
	(August 31, 2016).
1005	U.S. Appl. S/N 14/540,514 Notice of Allowance and Fee(s) Due
	(November 3, 2016).
1006	American Heritage® Dictionary of the English Language, Fifth
	Edition. Copyright 2011 by Houghton Mifflin Harcourt Publishing
	Company ("withstand").
1007	Underwriter Laboratories, Inc.'s UL 2079 Tests for Fire Resistance of
	Building Joint Systems, Fourth Edition of October 21, 2004, as revised
	through June 30, 2008.
1008	Original Complaint, Emseal Joint Systems, Ltd. v. Schul International
	Co., LLC and Steven R. Robinson; In the United States District Court
	for the District of New Hampshire (McAuliffe).
1009	Original Complaint, Cause No. 1:14-CV-00359; Emseal Joint
	Systems, Ltd. v. Willseal, LLC, Ion Management, LLC, Brian J. Iske,
	and Steven R. Robinson; In the United States District Court for the
	District of New Hampshire (Barbadoro).
1010	U.S. Provisional Patent Application 61/116,453.
1011	U.S. Patent 8,341,908, issued January 1, 2013 to Hensley et al.
1012	Amended Complaint, Cause No. 1:14-CV-00358; Emseal Joint
	Systems, Ltd. v. Willseal, LLC, Ion Management, LLC, Brian J. Iske,
	and Steven R. Robinson; In the United States District Court for the



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