

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TRIPLE PLUS LTD.,

Petitioner

v.

MORDECHAI BEN OLD,

Patent Owner

U.S. Patent No. 9,671,031

Case No.: PGR2018-00038

PETITIONER'S REPLY

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LIST OF EXHIBITS

EX. 1001	U.S. Patent No. 9,671,031
EX. 1002	Patent File Wrapper for U.S. Patent No. 9,671,031
EX. 1003	Declaration of Michael C. Johnson PhD, PE
EX. 1004	Curriculum Vita of Michael C. Johnson
EX. 1005	Photographs of Triple+ nleak NWL 3/4" Automatic Electronic Valve
EX. 1006	NWL Assembly Exploded Drawing
EX. 1007	NWL Assembly Guide
EX. 1008	NWL Bill of Materials
EX. 1009	NWL Miscellaneous Parts Drawings
EX. 1010	YouTube, מערכת למניעת מים - אנגלית, https://www.youtube.com/watch?v=IsP9qu5dXCk , March 14, 2014 (last visited Jan 21, 2018) (original in Hebrew with English overdub)
EX. 1011	YouTube, מערכת אזעקה לבית ולעסק לפתיחת וסגירת ברז מים וגז, https://www.youtube.com/watch?v=jMLSKIZ1G4o , April 18, 2014 (last visited Jan 21, 2018) (original in Hebrew)
EX. 1012	Leak Lock - Water leak prevention system YouTube, https://www.youtube.com/watch?v=--ULMOo78sI , October 8, 2014 (last visited Jan 21, 2018)
EX. 1013	Pilot Installation emails and list, August 2014
EX. 1014	Distribution Agreement, September 8, 2014
EX. 1015	Sales Order from Go Leakless to Triple Plus for 4000 Units of NWL-34-0 valves, September 8, 2014
EX. 1016	Invoice Summaries, Shipment Confirmations and Delivery Notes, September–October 2014
EX. 1017	Insurance Company Disclosures, August 2014
EX. 1018	Declaration of Triple Plus
EX. 1019	U.S. Patent No. 6,945,274
EX. 1020	Declaration of Kyle B. Fleming, Esq.

I. INTRODUCTION

Patent Owner’s failure to file a Response or to appear for cross-examination cannot derail these proceedings, and his lack of cooperation or participation cannot save his patent. The sole claim of the ’031 patent is indisputably obvious in view of Petitioner’s wireless, electrical shutoff valve for a main water line, the Triple+ nleak NWL™ Integrated Shutoff Unit, NWL-34-0 (3/4 inch valve) (“Triple+ NWL”).

First, the Triple+ NWL is prior art to the ’031 patent under AIA 35 U.S.C § 102(a)(1). The evidence clearly shows that the Triple+ NWL valve product was “in public use, on sale, or otherwise available to the public” more than one year before the effective filing date in November 2014. Specifically, the Triple+ NWL was: 1) publicly used and disclosed at least as early as March 2014, 2) on sale and in public use at least as early as August 2014, and 3) sold as early as September 2014. These public uses, sales and other public disclosures are fully supported in the Petition by the testimony of Petitioner’s Chairman, Michael Attali, and corroborating evidence. *See, e.g.*, Exs. 1010-1018.

Second, as the Board recognized in its Decision¹ to institute, Triple+ NWL renders obvious the sole claim of the ’031 patent. Indeed, it is clear that Patent Owner based the ’031 patent on the Triple+ NWL—copying not only the

¹ Institution of Post-Grant Review, Paper 8 (“Decision”).

numerous physical components and arrangements from Triple+ NWL for his patent, but even using the Triple+ NWL product drawings as figures in the patent. The sole difference between the patent and product—substituting one well-known quarter-turn, rotary valve (butterfly) for another (ball)—is the epitome of a simple, obvious design choice to one of skill in the art. This is supported by the testimony of Petitioner’s expert, Dr. Johnson, and corroborated with an exemplary prior art patent reference in which ball and butterfly valves are interchangeable for use in water line valves. *See, e.g.*, Exs. 1003 and 1019.

II. PATENT OWNER HAS REFUSED TO PARTICIPATE IN THESE PROCEEDINGS SINCE APPROXIMATELY SEPTMEBER 2018

Patent Owner appeared in these proceedings and filed a Preliminary Response, in the form of a declaration.² The Preliminary Response did not dispute that the ’031 patent was based on the Triple+ NWL, that substitution of a butterfly and ball valve was obvious to one of skill in the art at the time, or that claim 1 was obvious in view of the Triple+ NWL. Instead, the Preliminary Response raised assorted arguments as to why the various prior displays, usages, and sales of the Triple+ NWL were not “public” under § 102(a).

However, shortly after institution Patent Owner ceased all communications and has refused to participate in these proceedings—he did not submit a Response,

² Paper 7.

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