

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TRIPLEPLUSLTD.,
Petitioner,

v.

MORDECHAI BEN OLD,
Patent Owner.

Case PGR2018-00038
Patent 9,671,031 B2

Before BART A. GERSTENBLITH, GEORGE R. HOSKINS, and
FRANCES L. IPPOLITO, *Administrative Patent Judges*.

GERSTENBLITH, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 328(a); 37 C.F.R. § 42.73(a)

I. INTRODUCTION

A. *Background*

Triple Plus Ltd. (“Petitioner”) filed a Corrected Petition (Paper 3, “Petition” or “Pet.”) requesting institution of post-grant review of claim 1 of U.S. Patent No. 9,671,031 B2 (Ex. 1001, “the ’031 patent”). Mordechai Ben Old (“Patent Owner”) filed a Preliminary Response in the form of a Declaration by Mr. Ben Old, dated June 3, 2018. (Paper 7). We instituted a post-grant review of claim 1 on the sole ground asserted in the Petition—obviousness over the Triple+ nleak NWL™ Integrated Shutoff Unit, NWL-IVSL-34-0 (3/4 inch valve) product (the “Triple+ NWL”). Paper 8, 3, 28 (“Dec. on Inst.”).

After institution of trial, Patent Owner did not file a Response. Petitioner, however, filed a Reply. Paper 11 (“Pet. Reply”). Neither Patent Owner nor Petitioner requested oral argument. *See* Paper 12 (Petitioner’s notice indicating that it does not seek oral argument). Therefore, we did not hold oral argument in this case. *See* Paper 14 (cancelling oral argument).

Petitioner filed a Motion to Exclude Paper 7 Pursuant to 37 C.F.R. [§] 42.64(c). Paper 13 (“Motion”). Petitioner’s Motion seeks to exclude Patent Owner’s Preliminary Response. *Id.* at 1. Patent Owner did not file a response to Petitioner’s Motion.

We have jurisdiction under 35 U.S.C. § 6. Petitioner bears the burden of proving unpatentability of the challenged claim, and the burden of persuasion never shifts to Patent Owner. *Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015). To prevail, Petitioner must prove unpatentability by a preponderance of the evidence. *See* 35 U.S.C. § 326(e); 37 C.F.R. § 42.1(d). This Final Written Decision is issued

pursuant to 35 U.S.C. § 328(a) and 37 C.F.R. § 42.73. For the reasons that follow, we determine that Petitioner has shown by a preponderance of the evidence that claim 1 of the '031 patent is unpatentable. *See* 35 U.S.C. § 326(e).

B. Related Proceedings

The parties represent that there are no pending matters between Petitioner and Patent Owner, and no pending matters that would affect or be affected by our institution of post-grant review. Pet. 3; Paper 6, 2.

C. Real Parties in Interest

Petitioner identifies itself, “Triple Plus Ltd.,” as the real party in interest. Pet. 3. Patent Owner identifies himself, “Mordechai Ben Old,” as the sole real party in interest. Paper 6, 2.

D. The Reference

The sole reference relied on by Petitioner is the Triple+ NWL product. *See* Pet. 4, 12.

E. The Instituted Ground of Unpatentability

The sole ground raised in the Petition, and upon which we instituted this post-grant review, is whether the Triple+ NWL would have rendered the subject matter of claim 1 of the '031 patent obvious to one of ordinary skill in the art at the time of the invention. Pet. 4; Dec. on Inst. 28. The Petition is supported by a Declaration by Dr. Michael C. Johnson, dated February 27, 2018 (Ex. 1003), and a Declaration by Mr. Michael Attali, dated February 27, 2018 (Ex. 1018, “the Attali Declaration”).

F. The '031 Patent

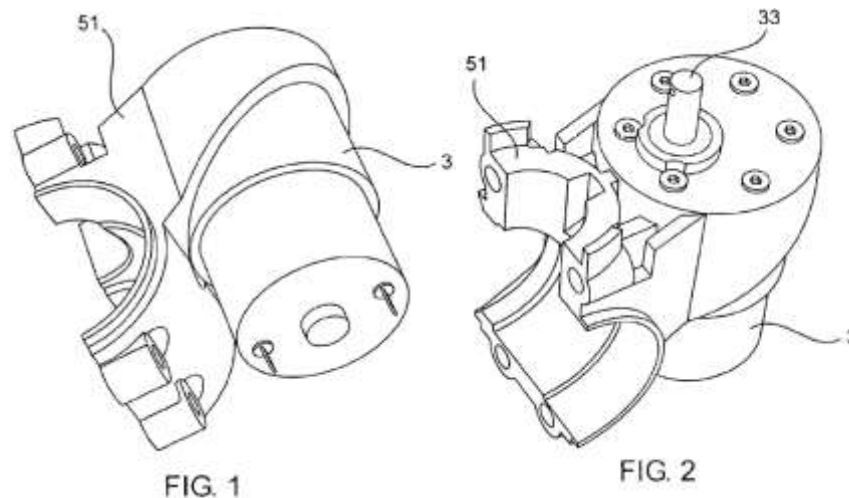
The '031 patent is directed to “a wireless electric valve for the automatic closing and opening of a main fluid pipe in response to a wireless command received from an external source such as an alarm system.”

Ex. 1001, 1:12–15. The '031 patent explains:

The valve (1) comprises a casing (2), an electric motor (3), an internal power source (31), an inner pipe (4) with an inlet (41), an outlet (42) and a butterfly (43), an inner clamp (5), a rotation shaft (44), a primary cogwheel (32) that is attached to the electric motor by means of a motor axle (33), a secondary cogwheel (45) that is attached to the rotation shaft, and an electronic control mechanism (6). The valve may also be equipped with a manual handle (7) that enables manual opening and closing of the valve (1).

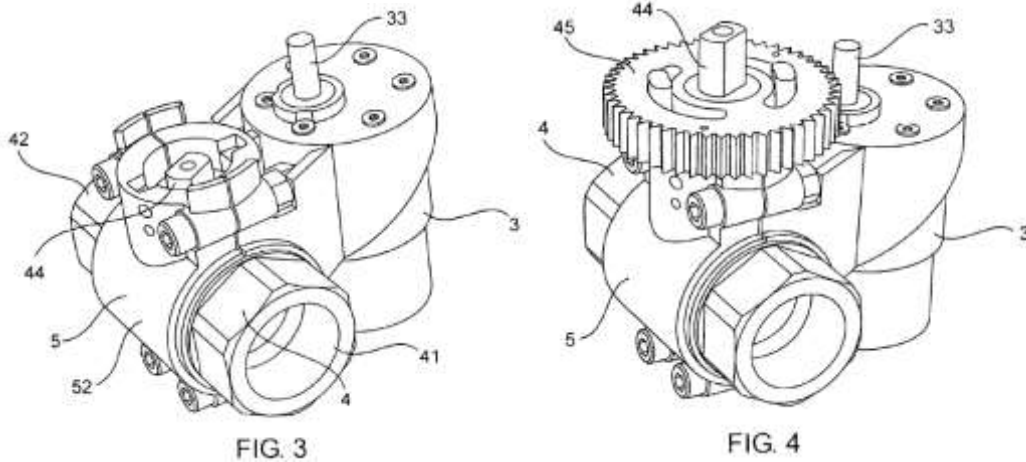
Id. at 2:32–41.

Figures 1 and 2 of the '031 patent are reproduced below:



Figures 1 and 2 illustrate “the motor (3) whereby it is attached to the inner clamp (5).” *Id.* at 1:52–53; *see id.* at 2:42–43.

Figures 3 and 4 of the '031 patent are reproduced below:



Figures 3 and 4 “depict the electric motor (3) whereby it is attached to the inner clamp (5), into which the inner pipe (4) is inserted.” *Id.* at 1:54–56.

Figure 5 of the '031 patent is reproduced below:

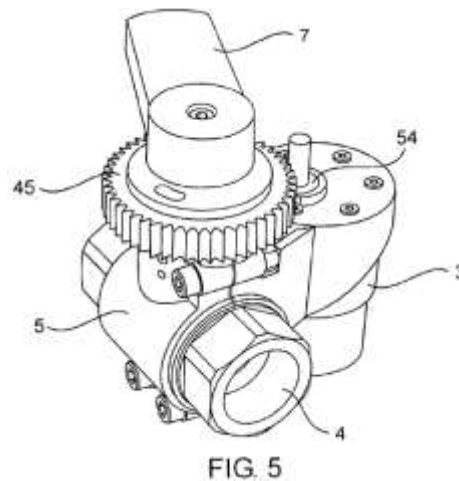


Figure 5 “depicts the electric motor (3), the inner clamp (5), the inner pipe (4), the motor axle (33), the rotation shaft (44), the secondary cogwheel (45), and the manual handle (7).” *Id.* at 1:57–59; *see id.* at 2:57–59.

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