PATENT OWNERS' PRELIMINARY RESPONSE



Proceeding No. PGR2018-00049 Attorney Docket No: 46553-0002PS1

TABLE OF CONTENTS

I.		INTRODUCTION1
II.		BACKGROUND OF THE '982 PATENT3
	A.	Background of the Invention
	В.	Background of the Prosecution History5
III.		GROUNDS 1 AND 2 SHOULD BE DENIED INSTITUTION UNDER 35 USC § 325(D), AND GROUND 3 SHOULD BE DENIED INSTITUTION UNDER THE BOARD'S DISCRETION
	A.	"the similarities and material differences between the asserted art and the prior art involved during examination"
	В.	"the cumulative nature of the asserted art and the prior art evaluated during examination"
	C.	"the extent to which the asserted art was evaluated during examination, including whether the prior art was the basis for rejection"
	D.	"the extent of the overlap between the arguments made during examination and the manner in which Petitioner relies on the prior art or Patent Owner distinguishes the prior art"
	Ε.	"whether Petitioner has pointed out sufficiently how the Examiner erred in its evaluation of the asserted prior art"
	F.	"the extent to which additional evidence and facts presented in the Petition warrant reconsideration of the prior art or arguments"
	G.	The Board should also exercise its discretion to deny institution of the remaining grounds
IV.		MATERIAL SHORTCOMINGS OF CITED EXHIBITS17
	A.	Petitioner Failed to Show That the "UMN" Exhibits Are Prior Art17
	1	Ex. 1010 is attorney argument, not prior art



2. The Petition fails to show the content of Exhibits 1018-1019 was in public	c
use or otherwise available to the public	20
B. The Ben-Tzvi Declaration Has Little or No Relevance	22
1. The Petition Makes Nearly All Arguments Without Citing the Ben-Tzvi	
Declaration	22
2. The Ben-Tzvi Declaration Contradicts the Petition	24
V. CLAIM CONSTRUCTION	25
A. Turbulating Chamber2	27
B. Pre-Orifice Piece	28
VI. GROUND 1: CLAIMS 1-17 ARE NOT OBVIOUS OVER CAREY, TORNTORE, CALDER OR JOHNSON	29
A. Petitioner Fails to Show That the Proposed Combination Includes a "Turbulating Chamber"	29
B. Petitioner Fails To Show That Torntore Discloses "Cylindrical Steps" (Claim 1) or "Three Cylindrical Passages" (Claims 2, 16, 17)	32
C. Petitioner Fails To Show That Johnson Discloses a "Pre-Orifice Piece"	34
D. Petitioner Fails To Show That Johnson Discloses "the Tip Piece and the Pro-Orifice Piece Fully Define the Turbulating Chamber"	
E. The Petition Fails To Show A Motivation to Combine The References In A Manner That Arrives At The Claimed Invention	
Showing That References Are From the Same Field or Are Able to Be Combined Does Not Show Motivation to Combine	39
2. Petitioner Fails To Show That Adding Steps Provides a More Consistent Spraying Output While Increasing Speed	41
3. Petitioner Fails To Show That Adding Conical Shapes to a Turbulating Chamber Allowed For Easier Machining or That a Smoother Transition to Turbulence Was Deemed Desirable	o 42.



4. Petitioner Identifies No Motivation To Combine a Frustoconical Surface From Calder With a Stepped Section From Torntore Specifically As Claimed	
5. Petitioner Fails To Show That Removing an Interstitial Seal and Abuttir Pre-orifice Piece to a Tip Piece Was Deemed Desirable	_
VII. GROUND 2: CLAIMS 1-17 ARE NOT OBVIOUS OVER LISKA, TORNTORE OR JOHNSON	49
A. Petitioner Fails to Show That the Proposed Combination Includes a "Turbulating Chamber"	49
B. Petitioner Fails To Show That Torntore Discloses "Cylindrical Steps" (Claim 1) or "Three Cylindrical Passages" (Claims 2, 16, 17)	50
C. Petitioner Fails To Show That Johnson Discloses a "Pre-Orifice Piece"	51
D. Petitioner Fails To Show That Johnson Discloses "the Tip Piece and the Forifice Piece Fully Define the Turbulating Chamber"	
E. Petitioner Fails To Shown Motivation to Combine The References As Claimed	51
Showing That References Are From the Same Field or Are Able to Be Combined Does Not Show Motivation to Combine	52
2. Petitioner Fails To Show That Adding Steps To Liska Would Not Hinde Any Function	
3. Petitioner Fails To Show That Removing "This Component" In Liska W Well Known	
VIII. GROUND 3: CLAIMS 1-5, 9-12 AND 16-17 ARE NOT OBVIOUS OVI JOHNSON OR UMN	
A. Petitioner Fails to Show That the Proposed Combination Includes a "Turbulating Chamber"	55
B. Petitioner Fails To Show That UMN Discloses "Cylindrical Steps" (Claim 1) or "Three Cylindrical Passages" (Claims 2, 16, 17)	n 57



Proceeding No. PGR2018-00049 Attorney Docket No: 46553-0002PS1

C. P	Petitioner Fails To Show That Johnson Discloses a "Pre-Orifice Piece"59
	Petitioner Fails To Show That Johnson Discloses "the Tip Piece and the Pre- Drifice Piece Fully Define the Turbulating Chamber"59
	Petitioner Fails To Shown Motivation to Combine The References As Claimed
1.	Showing That References Are From the Same Field or Are Able to Be Combined Does Not Show Motivation to Combine60
2.	Petitioner Fails To Show Motivation to Form the UMN Spray Tip As Two Pieces
3.	Petitioner Fails to Show Motivation to Split the UMN Spray Tip At the Precise Location To Meet the Claim Limitations
	GROUND 4: CLAIMS 6-8 AND 14-15 ARE NOT OBVIOUS OVER OHNSON, UMN OR LEISI66
	GROUND 5: CLAIM 13 IS NOT OBVIOUS OVER JOHNSON, UMN OR TEEJET67
VI C	CONCLUCION 67



DOCKET A L A R M

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.

