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Paper 10
Entered: September 24, 2018

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WAGNER SPRAY TECH CORPORATION,
Petitioner,

v.

GRACO MINNESOTA INC.,
Patent Owner.

Case PGR2018-00049
Patent 9,675,982 B2

Before LINDA E. HORNER, MICHAEL L. WOODS, and SEAN P. O'HANLON, *Administrative Patent Judges.*

WOODS, *Administrative Patent Judge.*

DECISION
Denying Institution of Post-Grant Review
37 C.F.R. § 42.208

I. INTRODUCTION

Wagner Spray Tech Corporation ("Petitioner") filed a Petition (Paper 1, "Pet.") requesting post-grant review of all claims (claims 1–17) of U.S. Patent No. 9,675,982 B2 (Ex. 1001, "the '982 patent"). Pet. 7; Ex. 1001, 7:64–10:45. Graco Minnesota Inc. ("Patent Owner") filed a preliminary response (Paper 9, "Prelim. Resp.") to the Petition.

A post-grant review may not be instituted unless "the information presented in the petition filed under section 321, if such information is not rebutted, would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable." 35 U.S.C. § 324(a). For the reasons set forth below, the Petition fails to demonstrate that it is more likely than not that any of the challenged claims is unpatentable. Accordingly, we do not institute post-grant review of any claim of the '982 patent.

A. Related Proceedings

The parties represent that there are no related matters before the Board or in a Federal Court. Pet. 8; Paper 3, 1. The parties represent, however, that the parent application to the '982 patent (U.S. Application No. 15/022,044) is still pending before the Office. Pet. 8; Paper 3, 1.

B. The '982 Patent (Ex. 1001)

The '982 patent is entitled "Spray Tip and Method of Manufacture" and describes a spray tip for use in paint spraying, for example. Ex. 1001, [54], 1:19–25. In particular, the '982 patent states that its spray tip improves

the uniformity of a spray pattern by *increasing the turbulence* of the fluid (e.g., paint). *See id.* at 3:53–57. By increasing the turbulence, the '982 patent describes that undesirable "tails" or high concentration of fluid at the fringe of the spray pattern is reduced. *See id.* at 3:57–60. To illustrate an embodiment of the '982 patent, we reproduce Figure 2, below:

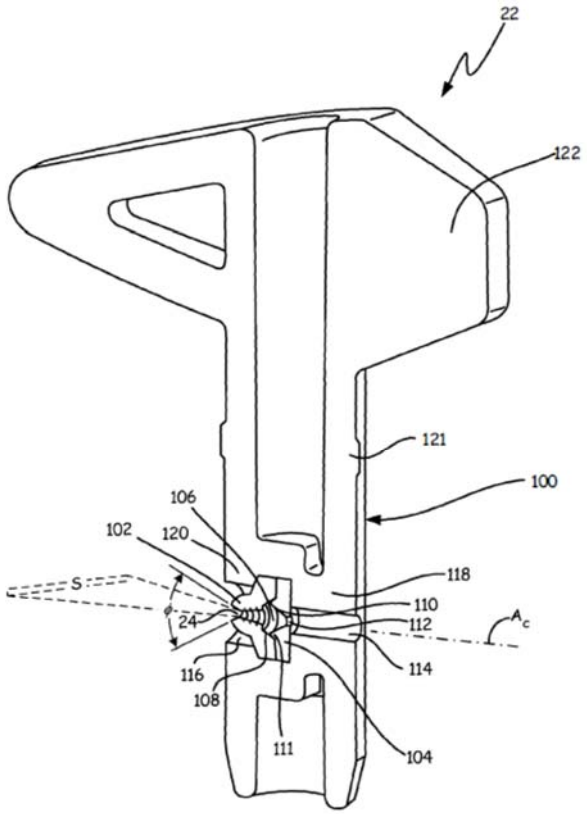

FIG. 2

According to the '982 patent, Figure 2 illustrates a cross-sectional perspective view of a spray tip. Ex. 1001, 2:4–5. Specifically, Figure 2 depicts spray tip 22 with tip body 100, tip piece 102, and pre-orifice piece 104. *Id.* at 3:15–17. Tip piece 102 and pre-orifice piece 104 include chamber surfaces 108 and 110 that define turbulating chamber 106. *Id.* at

3:17–19. To illustrate particular turbulating features that are at issue in this decision, we reproduce Figure 3A, below (*see id.* at 3:63–65):

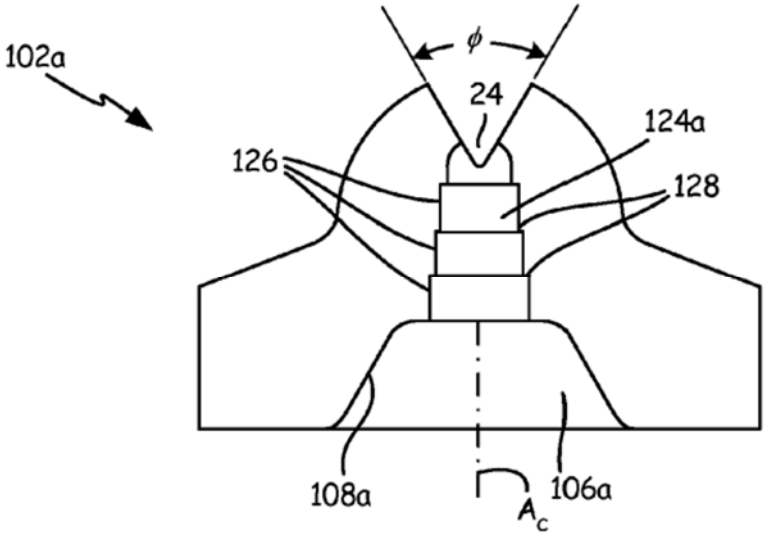

FIG. 3A

Figure 3A depicts a cross-sectional view of one of three alternative embodiments of the '982 patent's tip piece, denoted here as tip piece 102a. *Id.* at 4:20–22. As shown above, tip piece 102a depicts outlet passage 124a with a plurality of cylindrical sections, denoted as 126, with steps 128 converging from turbulating chamber 106a to outlet orifice 24. *Id.* at 4:30–33. Figure 3A also depicts turbulating chamber 106a as having a conical or frustoconical wall at chamber surface 108a. *Id.* at 4:33–35. Cylindrical sections 126 and steps 128 "*further turbulate fluid flow* from turbulating chamber" 106a to its outlet aperture, thereby reducing pressure loss across outlet orifice 24. *Id.* at 4:36–38 (emphasis added).

C. Illustrative Claim

Claims 1, 16, and 17 are independent, with claims 2–15 depending directly or indirectly from claim 1. Ex. 1001, 7:64–10:45. We reproduce

claim 1, below, with emphases added to limitations discussed in this Decision:

> 1. A spray tip for atomizing a fluid in a spray, the spray tip comprising:
>
> a tip body, the tip body having a cylindrical portion having an exterior circumference, the cylindrical portion having an aperture that extends through the cylindrical portion, the aperture having a pair of openings respectively located on opposite sides of the exterior circumference, wherein the fluid moves through the aperture in an upstream to downstream orientation;
>
> a pre-orifice piece located in the aperture of the tip body, the pre-orifice piece having an inlet passage and a chamber section, the inlet passage located upstream of the chamber section, the inlet passage is narrower than the chamber section; and
>
> a *tip piece* located in the aperture of the tip body downstream of the pre-orifice piece and *abutting the pre-orifice piece*, the tip piece having a stepped section and an outlet aperture, the outlet aperture downstream of the stepped section, the outlet aperture is narrower than the stepped section, the *stepped section comprising a plurality of cylindrical steps*, the plurality of cylindrical steps arranged sequentially converging from widest upstream and narrowing downstream toward the outlet aperture,
>
> wherein the pre-orifice and the tip piece together form a turbulating chamber that is located between the inlet passage and the outlet aperture and the fluid flows through each of the inlet passage, the chamber section, and the stepped section before being released through the outlet aperture as the spray, and
>
> wherein the tip piece and the pre-orifice piece fully define the turbulating chamber, *the chamber section of the pre-orifice piece has an upstream frustoconical surface* that widens in a downstream direction and that defines an upstream portion of the turbulating chamber, and the tip piece has a downstream frustoconical surface of the turbulating chamber that narrows in the downstream direction and that defines a downstream portion of the turbulating chamber.

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