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Paper 7
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EMI PORTA OPCO, LLC,
Petitioner,

v.

WOODFOLD MANUFACTURING, INC.,
Patent Owner.

PGR2018-00096
Patent 9,879,471 B2

Before LAURA A. PETER, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office,
MICHAEL W. KIM and SUSAN L. C. MITCHELL, *Administrative Patent Judges.*

MITCHELL, *Administrative Patent Judge.*

DECISION
Denying Institution of Post-Grant Review
35 U.S.C. § 324

I. INTRODUCTION

A. Overview

EMI Porta OPCO, LLC, ("Petitioner") filed a Petition (Paper 1, "Pet.") requesting a post-grant review of claims 1–7 of U.S. Patent No. 9,879,471 B2 (Ex. 1001, "the '471 patent"). Pet. 1. Woodfold Manufacturing, Inc. ("Patent Owner") did not file a Preliminary Response.

We have authority, acting under the designation of the Director, to determine whether to institute a post-grant review. 35 U.S.C. § 324; 37 C.F.R. § 42.4(a). We may not authorize a post-grant review to 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). On April 24, 2018, the Supreme Court held that a decision to institute under 35 U.S.C. § 314(b) may not institute review on fewer than all claims challenged in the petition. *SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348, 1355–56 (2018). Also, in accordance with USPTO Guidance, "if the PTAB institutes a trial, the PTAB will institute on all challenges raised in the petition." *See Guidance on the Impact of SAS on AIA Trial Proceedings* (April 26, 2018) (available at https://www.uspto.gov/patents-application-process/patent-trial-and-appealboard/trials/guidance-impact-sas-aia-trial).

Applying that standard, and upon consideration of the information presented in the Petition, we determine Petitioner has not demonstrated it is more likely than not that any of the challenged claims is unpatentable. Accordingly, we deny institution of a post-grant review of the challenged claims of the '471 patent.

B. Related Matters

Petitioner asserts that the '471 patent is being asserted in *Woodfold Manufacturing, Inc. v. EMI Porta OPCO, LLC*, Case No. 1:18-cv-03984 (N.D. Ill.). Pet. 4; Paper 4, 1.

C. The '471 Patent

The '471 patent relates to an accordion type folding door system with a plurality of elongated panels hinged by a hinge assembly on their longitudinal side edges creating a zig zag arrangement. Ex. 1001, Abst., 2:31–34. The hinge assembly is described in the Specification of the '471 patent as follows.

> The hinge assembly is disposed between and interconnects a pair of adjacent panels, each of the pair of interconnected adjacent panels including a side edge having longitudinal groove and an extension flange, wherein the hinge assembly includes a hinge pin and a plurality of hinge knuckles disposed vertically end-to-end in alternating arrangement on the hinge pin, the hinge knuckle having a tubular central opening for accepting the hinge pin, an outwardly extending tongue for connecting to a corresponding longitudinal groove in an adjacent panel in a tongue and groove connection, and an outwardly flared wedge that extends beyond the extension flanges of the panels, whereby the wedge cooperates with the extension flanges to limit angular folding extension to a maximum desired angle.

Id. at Abst.

Figure 3, shown below, depicts such a described hinge assembly that hinges two elongated panels 10 and 10a. *Id*. at 1:39–41, 4:63–67. The hinge assembly includes top hinges (not shown in Fig. 3) that provide structural support for the folding door assembly, and a central hinge system that extends the full length of the elongated panels 10 and 10a, a partial cross

section of which is shown in Figure 3 below. *Id*. at 3:25–30. The central hinging system can also serve a barrier function to seal off the space between adjacent panels to prevent access to the area behind the door. *Id*. at 3:31–34.

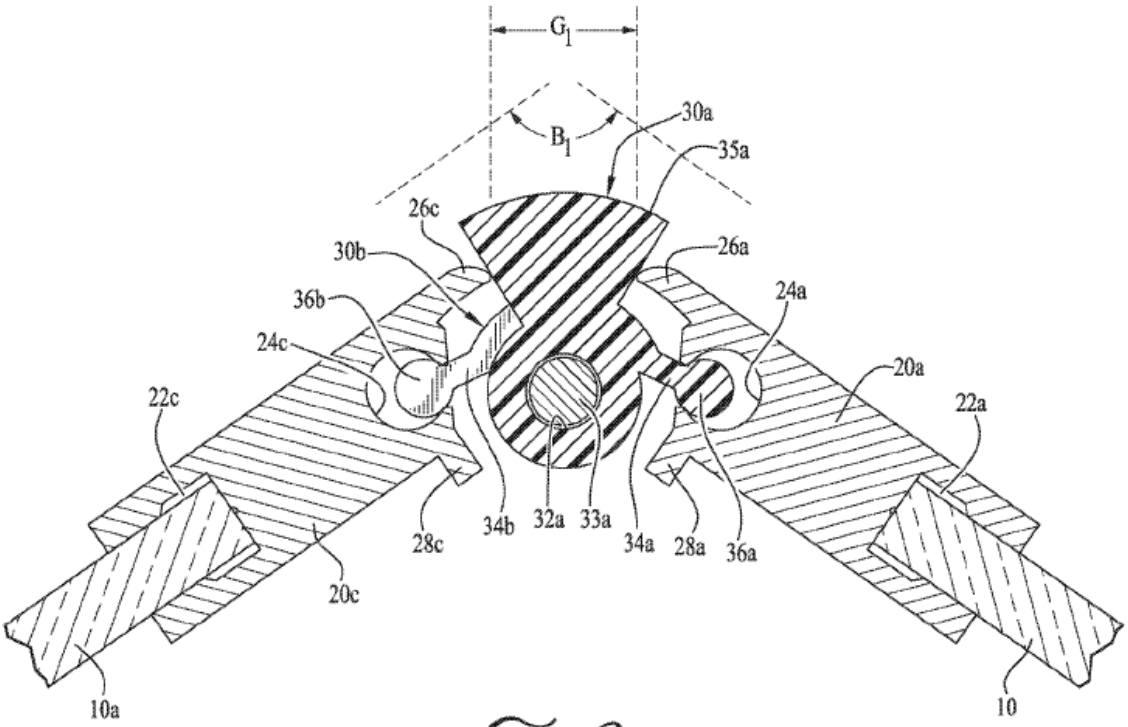

Fig. 3

Figure 3 depicted above shows elongated panels 10 and 10a each with longitudinal side framing members 20a and 20c, respectively. *Id*. at 2:63–3:3. Each longitudinal side framing member 20a and 20c along its outer margin has longitudinally extending grooves 22a and 22c, respectively. *Id*. at 3:8–10. The outer side margins of elongated panels 10 and 10a may be dimensioned to fit into longitudinally extending grooves 22a and 22c, respectively, and glued to secure the elongated panels into these grooves. *Id*. at 3:10–13.

Figure 3 also depicts each side framing member 20a and 20c having along its outer margin a longitudinally extending groove 24a and 24c, respectively. *Id*. at 3:14–16. Each side framing member 20a and 20c also has along its side a pair of longitudinally extending flanges 26a, 28a, and 26c, 28c, respectively. *Id*. at 3:16–22. "These flanges serve to shield the mechanism of the central hinge system by means of which two adjacent panels are coupled together in hinging relation." *Id*. at 3:22–24.

The central hinge system itself includes a plurality of hinge knuckles such as 30a and 30b depicted in Figure 3. *Id*. at 3:34–39.

> The hinge knuckle 30a is provided with a cylindrical central section 37a forming a central opening 32a and a longitudinally extending tongue 34a terminating in a bead 36a that nests within the longitudinally extending groove 24a. The hinge knuckle 30a also has an outwardly flared wedge section 35a that extends beyond the flanges 26a, 26c.
>
> The tongue 34a of the hinge knuckle 30a with the associated bead 36a cooperates with the longitudinally extending groove 24a on the framing member 20a and tongue 34b of the hinge knuckle 30b with an associated bead 36b cooperates with the longitudinal extending groove 34c, thereby collectively forming tongue and groove connections by means of which the hinge knuckles 30a, 30b, etc. are coupled to framing member 20a, 20c, in alternating positions/orientations. . . .
>
> Though any number of hinge knuckle units [may be used], two or more may serve the central hinge assembly function, multiple hinge knuckle units may provide advantages of strength and visibility blockage. . . .
>
> As previously mentioned, the hinge knuckle 30a may include an outwardly flared wedge section 35a that extends beyond the flanges 26a, 26c. The wedge section 35a cooperates with the flanges 26a, 26c (the flanges 26a, 26c contacting

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