

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LKQ CORPORATION and
KEYSTONE AUTOMOTIVE INDUSTRIES, INC.,
Petitioner,

v.

GM GLOBAL TECHNOLOGY OPERATIONS LLC,
Patent Owner.

PGR2020-00021
Patent D853,903 S

Before GRACE KARAFFA OBERMANN, SCOTT A. DANIELS, and
CHRISTOPHER G. PAULRAJ, *Administrative Patent Judges*.

DANIELS, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. *Background and Summary*

Petitioners, LKQ Corporation and Keystone Automotive Industries, Inc. (collectively “Petitioner”), filed a Petition requesting post-grant review of U.S. Patent No. D853,903 S (“the ’903 patent,” Ex. 1001). Paper 2 (“Pet.”). The Petition challenges the patentability of the sole design claim of the ’903 patent. Patent Owner, GM Global Technology Operation LLC (“Patent Owner”), filed a Preliminary Response to the Petition. Paper 7 (“Prelim. Resp.”).

A post-grant review may be instituted only if “the information presented in the petition . . . demonstrate[s] 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) (2018). Having considered the arguments and evidence presented by Petitioner and Patent Owner, we determine, for the reasons set forth below, that Petitioner has failed to demonstrate that it is more likely than not that the challenged claim is unpatentable based on the grounds presented. Therefore, we do not institute a post-grant review of that claim.

B. *Related Proceedings*

The parties identify various other *inter partes* and post grant review proceedings that Petitioner has filed challenging different patents owned by Patent Owner. The parties do not state that these other proceedings affect, or would be affected by, this proceeding involving the ’903 patent. Pet. 6; Paper 5, 2.

We point out that Petitioner raises the issue of double patenting with respect to U.S. Patent No. D852,099, the subject of a related request by Petitioner for Post-Grant Review in PGR2020-00020, in which the Board

denied trial review on August 10, 2020. We address the double patenting issue in this Decision.

C. The '903 Patent and Claim

The '903 patent is titled “Vehicle Grille Bezel,” and issued July 16, 2019, from U.S. Application No. 29/673,782, filed Dec. 18, 2018, which is a division of U.S. Application No. 29/597,780, filed Mar. 20, 2017.¹ Ex. 1001, codes (21), (22), (45), (54), (62). The claim recites “[t]he ornamental design for a vehicle grille bezel, as shown and described.” *Id.* at code (57). The drawings of the claim depict several views of the claimed grille bezel with certain portions of the design shown as unclaimed by broken lines. *See id.* (“In the drawings, the portions shown in broken lines form no part of the claimed design.”). The '903 design is depicted in five figures, which are reproduced below.²

¹ Because the earliest possible effective filing date for the '093 patent is after March 16, 2013 (the effective date for the first inventor to file provisions of the America Invents Act) and this petition was filed February 7, 2020, and within 9 months of its issue date, the '903 patent is eligible for post-grant review. *See* 35 U.S.C. § 321(c).

² We refer to the claimed design, i.e., the vehicle grille bezel shown in Figures 1–5, also as “the '903 design.”

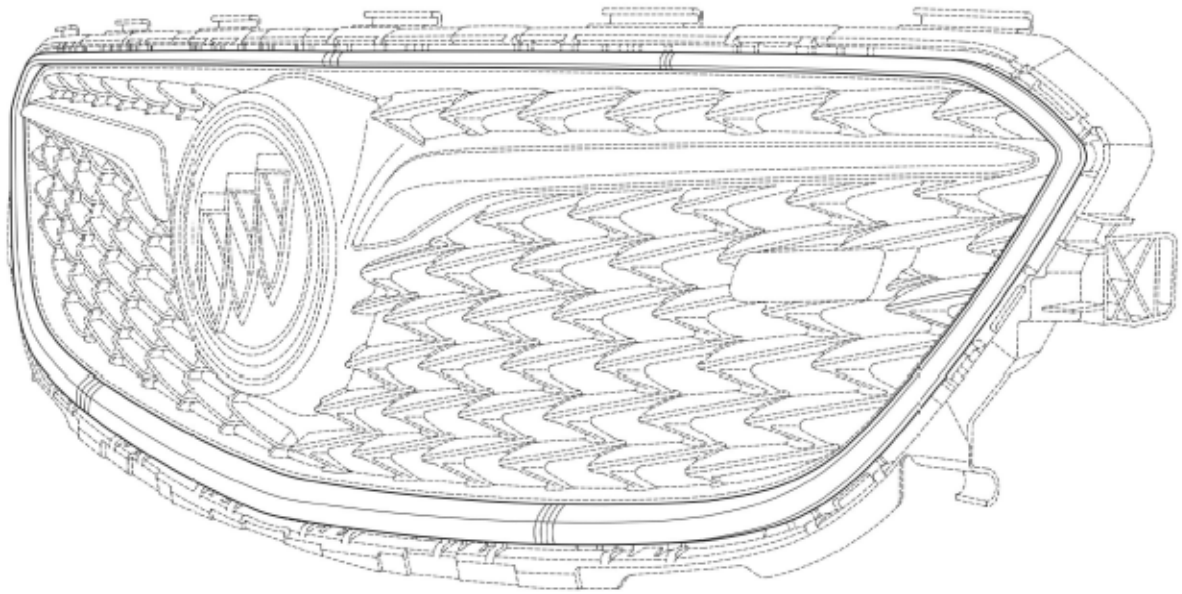


FIG. 1

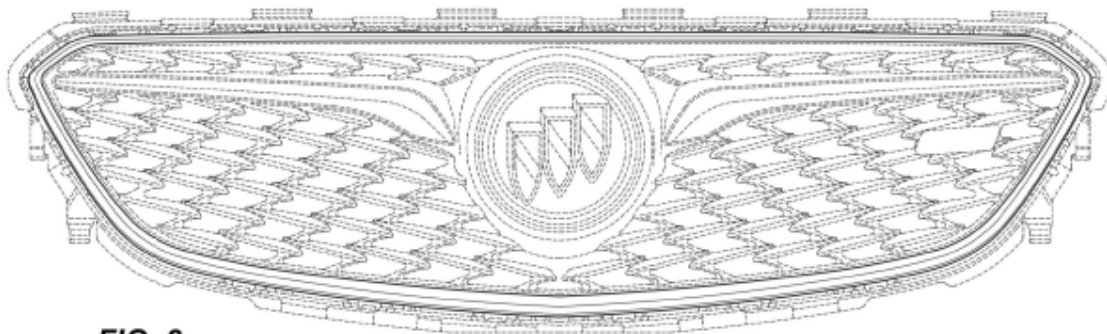


FIG. 2

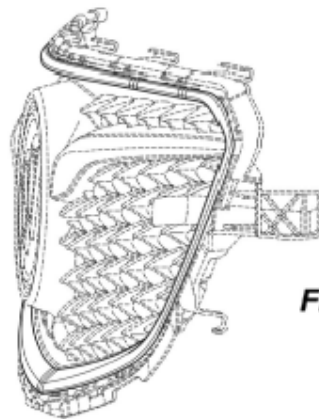
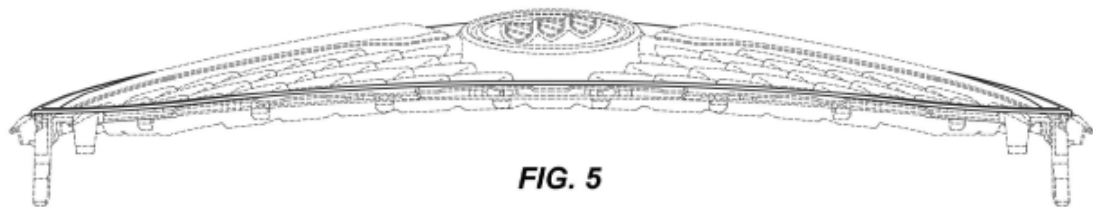
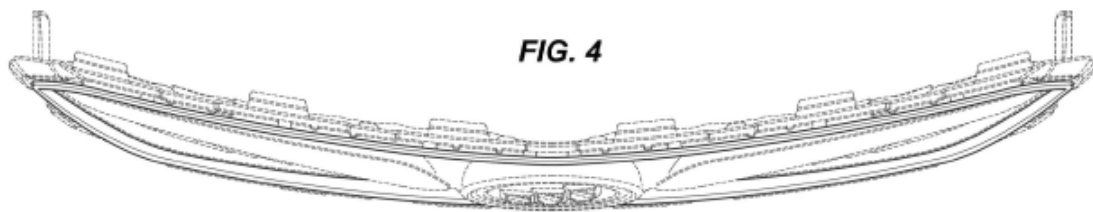


FIG. 3



Ex. 1001. Figures 1–5 above depict, respectively, the following views of the claimed vehicle grille bezel design: a perspective view, a front elevational view, a left side elevation view, a top plan view, and a bottom plan view. *Id.* at code (57).

The parties both describe certain features that contribute to the overall appearance of the '903 design. *See* Pet. 13–18; Prelim. Resp. 1–2; *see also* Ex. 1003 ¶¶ 34–35; Ex. 1004 ¶¶ 32–33. Petitioner contends that the claim can be described according to the drawings as shown by the solid lines as

A vehicle grille bezel comprising:

a substantially horizontal top portion terminating in a short, downward-pointing diagonal bezel segment at each end;
and

a substantially u-shaped bottom portion extending from one diagonal bezel segment to the other diagonal bezel segment;

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