

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

G&H DIVERSIFIED MANUFACTURING, LP,
Petitioner,

v.

DYNAENERGETICS EUROPE GMBH,
Patent Owner.

PGR2021-00078
Patent 10,844,697 B2

Before ERIC C. JESCHKE, RICHARD H. MARSCHALL, and,
JASON W. MELVIN, *Administrative Patent Judges*.

JESCHKE, *Administrative Patent Judge*.

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

I. BACKGROUND

Petitioner, G&H Diversified Manufacturing, LP, filed a Petition to institute a post-grant review of claims 1–21 (the “challenged claims”) of U.S. Patent No. 10,844,697 B2 (Ex. 1001, “the ’697 patent”). Paper 1 (“Pet.”). Patent Owner, DynaEnergetics Europe GmbH, filed a Preliminary Response. Paper 7 (“Prelim. Resp.”). With our authorization (Ex. 3001), Petitioner filed a Preliminary Reply (Paper 8, “Prelim. Reply”) and Patent Owner filed a Preliminary Sur-reply (Paper 9, “Prelim. Sur-reply”).

We have authority to determine whether to institute a post-grant review. *See* 35 U.S.C. § 324 (2018); 37 C.F.R. § 42.4(a) (2020) (“The Board institutes the trial on behalf of the Director.”). Section 324(a) of Title 35 of the United States Code provides that a post-grant review may not be instituted “unless . . . the information presented in the petition . . . , 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.” Upon consideration of the evidence and arguments in the briefing (including supporting testimonial evidence), for the reasons below, we determine that the information presented shows that it is more likely than not that Petitioner would prevail with respect to at least one of the challenged claims. We thus institute a post-grant review on all challenged claims on all asserted grounds. *See SAS Inst. Inc. v. Iancu*, 138 S. Ct. 1348, 1354, 1359–60 (2018); PTAB Rules of Practice for Instituting on All Challenged Patent Claims and All Grounds and Eliminating the Presumption at Institution Favoring Petitioner as to Testimonial Evidence (“PTAB Rules”), 85 Fed. Reg. 79,120, 79,120 (Dec. 9, 2020) (to be codified at 37 C.F.R. pt. 42) (“[T]he Board will either institute review on all of the

challenged claims and grounds of unpatentability presented in the petition or deny the petition.”).

A. Related Proceedings

The parties identify several proceedings involving the '697 patent:

- *DynaEnergetics Europe GmbH v. Yellow Jacket Oil Tools, LLC*, No. 6:20-cv-01110 (W.D. Tex.), filed Dec. 4, 2020 (“the W.D. Tex. Litigation”)¹;
- *G&H Diversified Mfg., LP v. DynaEnergetics Europe GmbH*, No. 3:20-cv-00376 (S.D. Tex.), filed Dec. 14, 2020 (“the S.D. Tex. Litigation”)²;
- *NexTier Completion Sols. Inc. v. DynaEnergetics Europe GmbH*, No. 4:21-cv-01328 (S.D. Tex.), filed Apr. 21, 2021;
- *DynaEnergetics Europe GmbH v. Oil States Int’l, Inc.*, No. 6:21-cv-00372 (W.D. Tex.), filed Apr. 16, 2021;
- *DynaEnergetics Europe GmbH v. PerfX Wireline Servs., LLC*, No. 6:21-cv-00371 (W.D. Tex.), filed Apr. 16, 2021;
- *DynaEnergetics Europe GmbH v. Horizontal Wireline Servs., LLC*, No. 6:21-cv-00349 (W.D. Tex.), filed Apr. 8, 2021;
- *DynaEnergetics Europe GmbH v. Bear Mfg., LLC*, No. 3:21-cv-00185 (N.D. Tex.), filed Jan. 28, 2021;
- *DynaEnergetics Europe GmbH v. Oso Perforating, LLC*, No. 3:21-cv-00188 (N.D. Tex.), filed Jan. 28, 2021;

¹ Petitioner listed this litigation, but under the case number “3:20-cv-00376.” Pet. 101. This appears to be a typographical error.

² Both the W.D. Tex. Litigation and the S.D. Tex. Litigation involve Petitioner and Patent Owner.

- *DynaEnergetics Europe GmbH v. SWM Int'l, LLC*, No. 3:21-cv-00192 (N.D. Tex.), filed Jan. 28, 2021;
- *DynaEnergetics Europe GmbH v. Nexus Perforating LLC*, No. 4:21-cv-00280 (S.D. Tex.), filed Jan 28, 2021;
- *DynaEnergetics Europe GmbH v. Vigor USA, LLC*, No. 4:21-cv-00283 (S.D. Tex.), filed Jan. 28, 2021 (stipulation of dismissal filed July 27, 2021);
- *DynaEnergetics Europe GmbH v. Rock Completion Tools*, No. 6:21-cv-00084 (W.D. Tex.), filed Jan. 28, 2021;
- *DynaEnergetics Europe GmbH v. GR Energy Servs. Operating GP LLC*, No. 6:21-cv-00085 (W.D. Tex.), filed Jan. 28, 2021;
- *DynaEnergetics Europe GmbH v. NexTier Completion Sols. Inc.*, No. 6:20-cv-01201 (W.D. Tex.), filed Dec. 30, 2020 (amended complaint filed Apr. 30, 2021);
- *PerfX Wireline Servs., LLC v. DynaEnergetics Europe GmbH*, No. 1:20-cv-03665 (D. Colo.), filed Dec. 15, 2020³; and
- *SWM Int'l, LLC and NexTier Completion Solns. LLC v. DynaEnergetics Europe GmbH*, PGR2021-00097 (PTAB).

Pet. 99–101; Paper 6 (Patent Owner’s Supplemental Mandatory Notices) at 2–3. Petitioner also lists several applications “in the ’697 Patent family.” See Pet. 101.

³ Petitioner listed this litigation, but under the case number “6:20-cv-01201.” Pet. 101. This appears to be a typographical error.

B. The '697 Patent

The '697 patent relates to perforation gun components for use in well bore perforating in the oil and natural gas industries. Ex. 1001, code (57), 1:24–36. According to the '697 patent, “[a] typical perforation gun system consists of an outer gun carrier arranged in the interior of which there are perforators—usually hollow or projectile charges—that shoot radially outwards through the gun carrier after detonation.” *Id.* at 1:37–40.

Figure 32 is reproduced below:

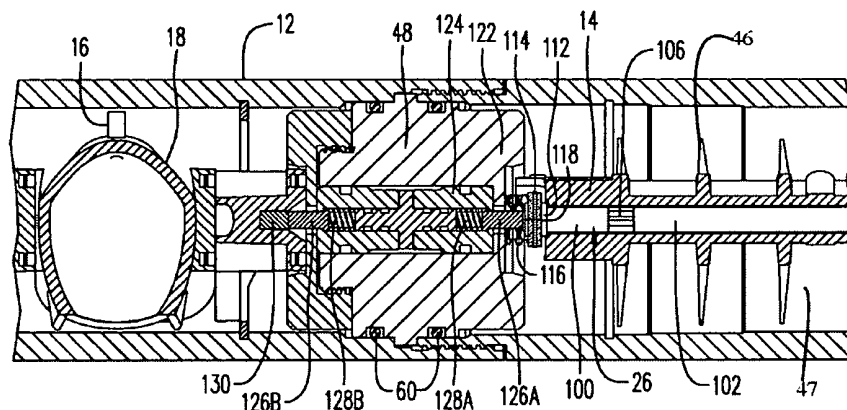


FIG. 32

Figure 32 is a “detailed side view of a tandem seal adapter and detonator.” Ex. 1001, 4:57–58. The embodiment shown in Figure 32 includes, among other components: outer perforation gun carrier 12; shaped charge 18; detonator assembly 26; tandem seal adapter 48; sealing means 60; pressure bulkhead 124; and contact pins 126A and 126B linked to coil springs 128A, 128B. *Id.* at 5:42–46, 7:60–63, 8:31–36. Describing Figure 32 (and Figure 35B below), the '697 patent discloses that the “dual spring pin connector assembly including the bulkhead 124 and coil springs

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