

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

IGB AUTOMOTIVE LTD. and I.G. BAUERHIN GmbH,
Petitioner,

v.

GENTHERM GmbH,
Patent Owner.

Case IPR2014-00667
Patent 7,637,573 B2

Before JOSIAH C. COCKS, BENJAMIN D. M. WOOD, and
RICHARD E. RICE, *Administrative Patent Judges*.

COCKS, *Administrative Patent Judge*.

DECISION
Denying Request for Rehearing
37 C.F.R. § 42.71

I. INTRODUCTION

IGB Automotive Ltd. and I.G. Bauerrhin GmbH (collectively “IGB” or “Petitioner”) requests rehearing of our Final Written Decision (Paper 25) concluding that IGB had not shown by a preponderance of the evidence that claims 1–5 of U.S. Patent No. 7,637,573 B2 (“the ’573 patent”) were unpatentable over Larsson¹, Gendron,² and Pfahler,³ or that claim 6 would have been obvious over those references taken with Bell.⁴ Paper 26 (“Req. Reh’g”).

For the reasons set forth below, we decline to modify our Final Written Decision. Accordingly, IGB’s Request for Rehearing is *denied*.

II. ANALYSIS

“A party dissatisfied with a decision may file a single request for rehearing, without prior authorization from the Board.” 37 C.F.R. § 42.71(d). The party requesting rehearing has the burden of showing that the decision from which rehearing is sought should be modified, and “[t]he request must specifically identify all matters the party believes the Board misapprehended or overlooked.” *Id.* Here, IGB contends the following:

Petitioner respectfully requests the Board to reconsider whether in its Final Decision the Board misapprehended or overlooked Petitioner’s arguments and evidence regarding the claim construction of the term “attachment component” and the disclosure of U.S. Patent No. 6,003,950 to Larsson (Ex. 1004, hereinafter “Larsson”). Petitioner submits that the broadest reasonable interpretation of “attachment component” is “a

¹ US 6,003,950 to Larsson (Dec. 21, 1999) (Ex. 1004).

² US 6,511,125 B1 to Gendron (Jan. 28, 2003) (Ex. 1005).

³ US 6,626,488 B2 to Pfahler (Sept. 30, 2003) (Ex. 1007).

⁴ US 6,700,052 B2 to Bell (Mar. 2, 2004) (Ex. 1010).

frame member defining an opening.” Petitioner also submits that Larsson discloses an “attachment component,” either under Petitioner’s construction of the term or the Board’s construction of the term.

Reh’g Req. 1.

Thus, IGB contends that the panel’s construction of “attachment component” as set forth in the Final Written Decision is incorrect, and also contends that the panel should have determined that Larsson discloses an “attachment component.” We do not agree with either contention.

With respect to the construction of “attachment component,” IGB expresses disagreement with the panel’s determination that the ordinary meaning of “attachment component” conveys a component that operates to connect physically one structure to another. *See id.* at 4–6. To that end, IGB re-advocates that the broadest reasonable interpretation of “attachment component” is generally a “frame member defining an opening.” *Id.* The asserted basis for that position is that attachment component 72 of the ’573 patent is described as a frame with an opening that interconnects with blower housing 120 by virtue of flanges 124 associated with that blower housing. *Id.* at 4. According to IGB, because flanges 124 are part of the blower housing and provide a mechanism for connecting the blower housing to insert 10, the attachment component, itself, need not be capable of physically connecting to the blower housing. *Id.* at 4–5. Thus, IGB contends that an “attachment component” need only constitute a structure regarded as a frame with an opening. *Id.*

We were not persuaded that IGB’s construction of attachment component was correct. Final Written Decision 9. We also are not so persuaded now. Although it is clear that IGB disagrees with the panel, IGB

does not demonstrate that we misapprehended or overlooked any matter in reaching our conclusion with respect to the meaning of “attachment component.” In that respect, IGB does not explain adequately why the term “attachment component” reasonably can be viewed so broadly as to be “merely a ‘component’ of the connection of the blower housing to the insert . . . but does not include a structure that provides a physical connection.” *Id.* at 4–5. That assertion discounts, or effectively reads out, the term “attachment.” IGB does not articulate why simply a “frame with an opening” that need not accomplish an act of attachment or physical connection reasonably can be considered an “attachment component.” By analogy, a pencil and a knitting needle may both generally be cylindrical shaped devices that come to a point, but a knitting needle is not a pencil because a knitting needle is not viewed reasonably as a writing implement. In a similar vein, in the context of the ’573 patent, attachment component 72 is the component that accomplishes the securement, or physical connection, of blower housing 120 to insert 10, even if the housing’s flanges 124 also aid in that securement. We do not discern that any structure that is simply a frame with an opening is credibly viewed as an “attachment component.”

Turning to Larsson, we observe that its bellows 41, although perhaps generally recognizable as some type of frame with an opening, is not a structure that operates to attach, secure, or otherwise physically connect, suction device 26 to the vehicle seat. That bellows 41 may contact some portion of suction device 26, does not make bellows 41 a structure that provides for the physical connection of suction device 26 to the vehicle chair. Indeed, as we noted in our Final Written Decision, Larsson makes clear that suction device 26 is attached to the vehicle chair by structures that

are separate and distinct from bellows 41, and that the bellows is not understood as attaching the suction device, or its housing, to any structure. Final Written Decision 18 (citing Ex. 1004, 4:35–39, and Ex. 2001 ¶ 42). Rather, the express purpose of bellows 41 is unassociated with any act of connection or securement, and is, instead, to “prevent air from leaking to the suction device.” *Id.* at 20 (citing Ex. 1004, 5:59–63).

III. CONCLUSION

For the foregoing reasons, we have considered IGB’s Request for Rehearing, but are not persuaded that we misapprehended or overlooked any matter identified by IGB as a part of our Final Written Decision. Accordingly, we decline to modify our Final Written Decision.

IV. ORDER

It is

ORDERED that IGB’s Request for Rehearing is *denied*.

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