

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DUNCAN PARKING TECHNOLOGIES, INC.,
Petitioner,

v.

IPS GROUP INC.,
Patent Owner.

Case IPR2016-00069
Patent 8,595,054

Before JOSIAH C. COCKS, MICHAEL W. KIM, and RICHARD E. RICE,
Administrative Patent Judges.

KIM, *Administrative Patent Judge.*

DECISION
Decision Denying *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

A. *Background*

Duncan Parking Technologies, Inc. (“Petitioner”) filed a Petition to institute an *inter partes* review of claims 1–16 of U.S. Patent No. 8,595,054 (Ex. 1001, “the ’054 patent”). Paper 1 (“Pet.”). IPS Group Inc. (“Patent Owner”) filed a Preliminary Response (Paper 6; “Prelim. Resp.”).

We have jurisdiction under 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted unless the information presented in the Petition shows “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” Upon consideration of the Petition and Preliminary Response, we are unpersuaded that Petitioner has met its burden of showing a reasonable likelihood it would prevail in proving that claims 1–16 are unpatentable.

B. *Related Proceedings*

Petitioner and Patent Owner identify the following district court proceedings concerning the ’054 patent: *IPS Group, Inc. v. Duncan Solutions, Inc.*, 3-15-cv-01526 BTM MDD (S.D. Cal.). Pet. 1; Paper 4, 2. Petitioner identifies further the following related patent applications that claim priority to the application that issued as the ’054 patent: 12/355,754; 14/297,525. Pet. 2. Petitioner identifies additionally the following *inter partes* review also directed to the ’054 patent: IPR2016-00070. Pet. 1.

C. *The ’054 Patent*

The ’054 patent discloses that it is directed to upgrading single-bay parking meters. Ex. 1001, 1:4–5. Figure 7 (below) depicts parking meter device 10, as well as housing 34 and cover 36. Ex. 1001, 4:13–14, 3:61–4:5.

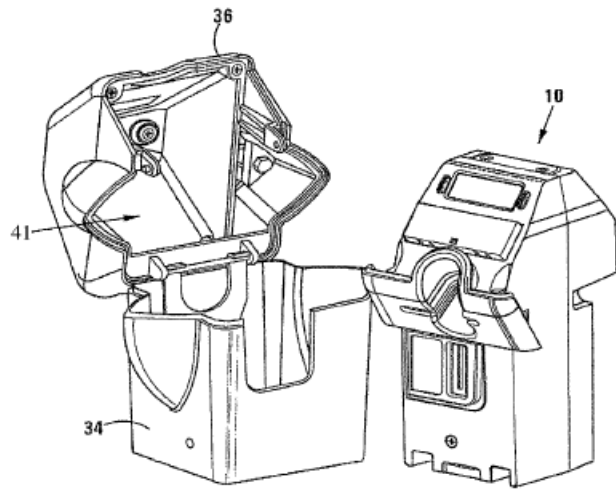


FIG 7

As shown in Figure 7 above, parking meter device 10 is configured to reside in housing 34 and be covered by cover 36. Ex. 1001, 4:13–14, 3:61–4:5.

Figures 1 and 2 (below) illustrate parking meter device 10 including lower portion 12 and upper portion 14. Ex. 1001, 3:28–33.

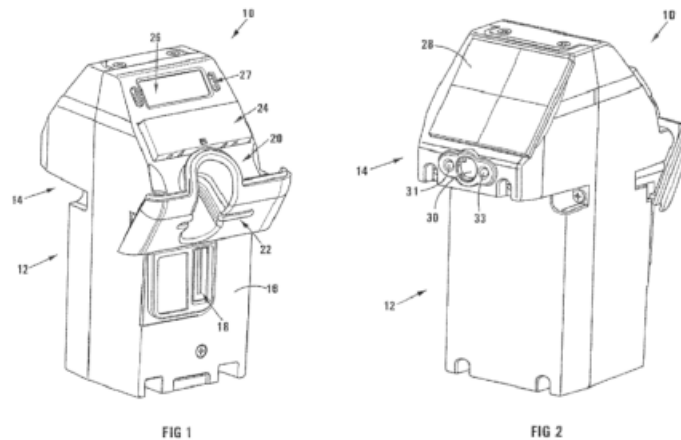


FIG 1

FIG 2

As shown in the figures above, lower portion 12 “has the same shape and dimensions as the housing base of conventional known single bay parking meter devices.” Ex. 1001, 3:33–35. Lower portion 12 includes a coin accepting and validating assembly 16 with coin slot 18. Ex. 1001, 3:44–45. Upper portion 14 includes card reading device 20 with access opening 22

into which a credit or debit card may be inserted and read by reading device 20. Ex. 1001, 3:46–49. Upper portion 14 also includes keypad sensor 24 and display 26. Ex. 1001, 3:49–50.

D. Illustrative Claim

Petitioner challenges claims 1–16 of the '054 patent. Independent claim 1 is the sole independent claim, and is reproduced below:

1. A parking meter device that is receivable within a housing base of a single space parking meter, the parking meter device including:

a timer;

a payment facilitating arrangement operable in cooperation with a non-cash payment medium for effecting payment of a monetary amount for a parking period;

a display configured to visually provide a balance remaining of the parking period;

a power management facility that supplies power to the timer, payment facilitating arrangement, and display;

a wireless communications subsystem configured to receive information relating to the non-cash payment medium in respect of the payment facilitating arrangement;

a keypad sensor that receives input comprising manipulation by the user;

a coin slot into which coins are inserted for delivery to the coin sensor and then to a coin receptacle; and

a lower portion and an upper portion;

wherein the keypad sensor operates the parking meter and determines parking time amount for purchase in accordance with the received input from the user;

wherein the display provides the amount of time purchased in response to the received input from the user;

wherein the upper portion of the parking meter device includes a solar panel that charges the power management facility;

wherein the lower portion of the parking meter device is configured to have a shape and dimensions such that the lower portion is receivable within the housing base of the single space parking meter; and

wherein the upper portion of the parking meter device is covered by a cover that is configured to accommodate the upper portion and that is engageable with the housing base of the single space parking meter such that the payment facilitating arrangement is accessible by the user for user manipulation effecting the payment of the monetary amount for the parking period when the lower portion of the parking meter device is received within the housing base and the upper portion is covered by the cover.

E. Asserted Grounds of Unpatentability

Petitioner challenges claims 1–16 on the following grounds.

Reference(s)	Basis	Challenged Claims
Jacobs ¹ in view of Williams ²	§ 103(a)	1–16
Ward ³ in view of Williams	§ 103(a)	1–8, 10, and 11

¹ U.S. Patent No. 6,195,015 B1, issued February 27, 2001 (Ex. 1006).

² U.S. Patent No. 6,081,205, issued June 27, 2000 (Ex. 1008).

³ U.S. Patent No. 5,617,942, issued April 8, 1997 (Ex. 1007).

II. ANALYSIS

A. Claims 1–16 as Unpatentable over Jacobs in view of Williams

Petitioner asserts that a combination of Jacob and Williams renders obvious claims 1–16. Pet. 16–34 (citing Exs. 1003, 1006, 1008). Patent Owner disagrees. Prelim. Resp. 9–22 (citing Exs. 1001, 1003, 1006, 1008). In particular, Patent Owner asserts that Petitioner has not shown sufficiently that a combination of Jacobs and Williams discloses or suggests “a lower portion and an upper portion,” as recited in independent claim 1. Prelim. Resp. 12–14. We agree.

Petitioner asserts that PCB subassembly 250 and coin processor 252 of Jacobs correspond to the recited “lower portion,” and that LCD support plates 254A/B of Jacobs correspond to the recited “upper portion.” Pet. 22. The portions of Jacobs cited in the corresponding portions of the claim charts are consistent with the above mappings of Jacobs to the recited “a lower portion and an upper portion.” Pet. 27–30, sections [1h], [1k], [1l], [1m]. Moreover, the citations to Williams in the aforementioned sections are unrelated to the recited “a lower portion and an upper portion.” Figure 6 of Jacobs is set forth below:

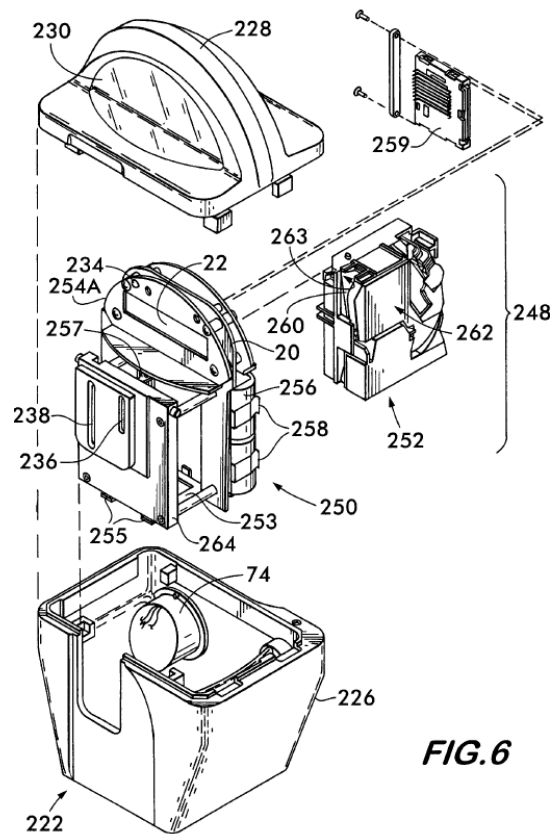


FIG. 6

Figure 6 is an exploded isometric view of an electronic parking meter. Figure 6 discloses modular assembly 248 with cover portion 228 removed. Ex. 1006, 5:43–45. Modular assembly includes PCB subassembly 250 and coin handling subassembly 252, of which coin handling assembly 252 is releasably secured within PCB subassembly 250. Ex. 1006, 5:45–48. PCB subassembly 250 comprises LCD support plates 254A, 254B. Ex. 1006, 5:48–50.

Patent Owner asserts that Petitioner’s mapping of PCB subassembly 250 and coin processor 252 of Jacobs to the recited “lower portion,” and LCD support plates 254A/B of Jacobs to the recited “upper portion,” is inadequate because Petitioner’s logic is erroneous. Specifically, Patent Owner asserts: (1) that LCD support plates 254A/B are disclosed as being a part of PCB subassembly 250; (2) that Petitioner is asserting that the “lower

portion” (PCB subassembly 250) includes the “upper portion” (LCD support plates 254A/B); and (3) that Petitioner has not provided analysis, claim construction, or evidence that explains adequately how an “upper portion” can be a subset of a “lower portion.” We agree with all of Patent Owner’s positions.⁴ For example, Petitioner has not provided any claim construction of “lower” and “upper,” which perhaps could have clarified Petitioner’s proffered mapping. Indeed, Petitioner has not provided any claim construction of any claim terms at all. In another example, Petitioner has not provided any analysis of any of PCB subassembly 250 and LCD support plates 254A/B, other than to quote directly the portions of Jacobs that reference these items, and to note that Petitioner intended for them to correspond, respectively, to the recited “upper portion” and “lower portion.” Pet. 22, 27–30. Without any such analysis, Petitioner is essentially asking the Board to speculate as to how Petitioner intended to reconcile the aforementioned inconsistency. We decline to do so.

Petitioner must identify, “in writing and with *particularity*, each claim challenged, the grounds on which the challenge to each claim is based, and the evidence that supports the grounds for the challenge to each claim.” 35 U.S.C. § 312(a)(3) (emphasis added); *see also* 37 C.F.R. §§ 42.22(a), 42.104(b)(4)–(5). For the reasons set forth above, we are unpersuaded that Petitioner has shown with sufficient particularity that a combination of Jacobs and Williams discloses or suggests “a lower portion and an upper

⁴ We have considered also the relevant portions of the Declaration of Mr. Magness that could plausibly be directed to this issue. Ex. 1003, ¶¶ 30, 31, 39, 64–71, 100–107. We determine that they do not add materially to Petitioner’s analysis of the claim limitation at issue.

portion.” And without that particularity, we are unpersuaded that Petitioner has shown a reasonable likelihood that it would succeed in showing that independent claim 1 is unpatentable over a combination of Jacobs and Williams. Furthermore, as claim 1 is the only independent claim, for the same reasons, we are unpersuaded that Petitioner has shown a reasonable likelihood that it would succeed in showing that claims 2–16, each of which depend ultimately from independent claim 1, are unpatentable over a combination of Jacobs and Williams.

B. Claims 1–8, 10, and 11 as Unpatentable over Ward in view of Williams

Petitioner asserts that a combination of Ward and Williams renders obvious claims 1–8, 10, and 11. Pet. 34–50 (citing Exs. 1003, 1007, 1008). Patent Owner disagrees. Prelim. Resp. 23–30 (citing Exs. 1001, 1003, 1007, 1008). In particular, Patent Owner asserts that Petitioner has not shown sufficiently that a combination of Ward and Williams discloses or suggests “a lower portion and an upper portion,” as recited in independent claim 1. Prelim. Resp. 24–25. We agree.

Petitioner asserts that main circuit board 65 of Ward corresponds to the recited “lower portion,” and that front digital indicator 100 of Ward corresponds to the recited “upper portion.” Pet. 41. The portions of Ward cited in the corresponding portions of the claim charts are consistent with the above mappings of Ward to the recited “a lower portion and an upper portion.” Pet. 46, 48–49, sections [1h], [1k], [1l], [1m]. Moreover, the citations to Williams in the aforementioned sections are unrelated to the recited “a lower portion and an upper portion.” Figure 7 of Ward is set forth below:

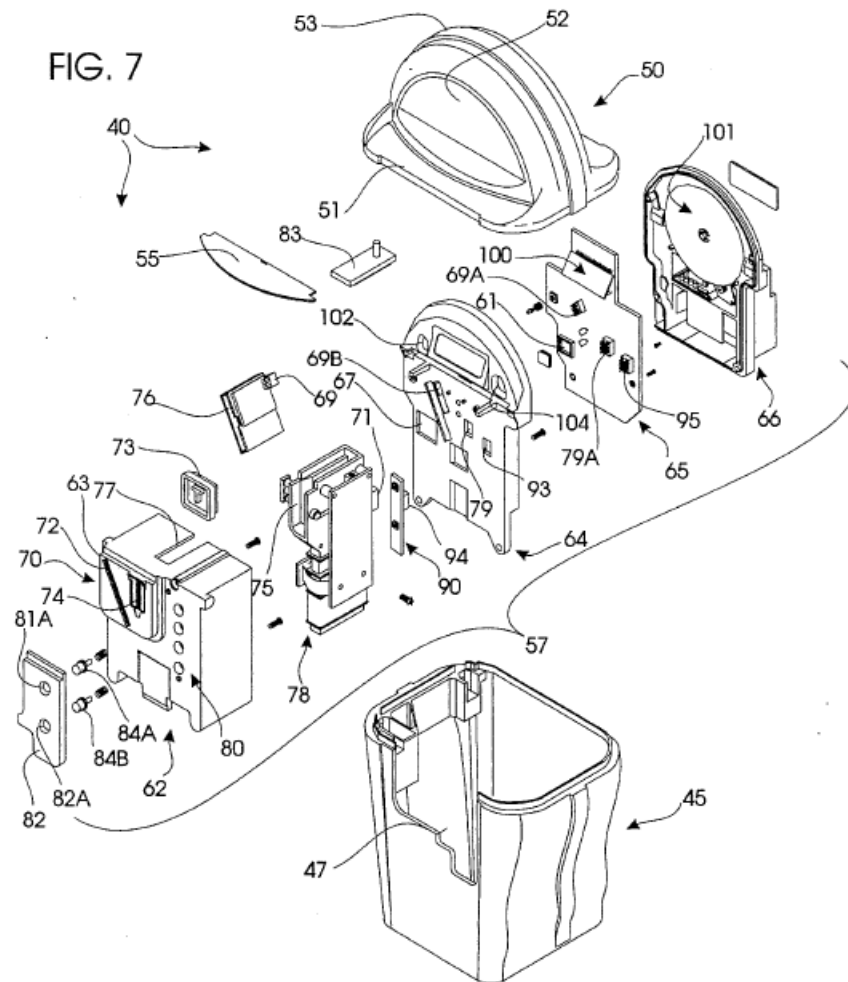


Figure 7 is an exploded isometric view of a parking meter.

CPU PROM socket 61 is disposed on main circuit board 65. Ex. 1007, 7:10–12. Connector 69A is on main circuit board. Ex. 1007, 7:31–33.

Connection plug 79A projects from main circuit board 65. Ex. 1007, 7:56–59. LCD display 91 is disclosed as on main circuit board 65 in the specification, however, we are unable to locate reference number 91 in the figures. Ex. 1007, 7:59–60.

Patent Owner asserts that Petitioner’s mapping of main circuit board 65 of Ward to the recited “lower portion,” and front digital indicator 100 of Ward to the recited “upper portion,” is inadequate because Petitioner’s logic

is erroneous. Specifically, Patent Owner asserts: (1) that front digital indicator 100 are disclosed as being on main circuit board 65; (2) that Petitioner is asserting the “upper portion” (front digital indicator 100) is on the “upper portion” (main circuit board 65); (3) and that Petitioner has not provided analysis, claim construction, or evidence that explains adequately how an “upper portion” can be on a “lower portion.” We agree with each of Patent Owner’s assertions.⁵ For example, and as noted above, Petitioner has not provided any claim construction of “lower” and “upper.”

In another example, Petitioner has not provided any analysis of any of main circuit board 65 and front digital indicator 100, other than to quote directly the portions of Ward that references these items, and to note that Petitioner intended for them to correspond, respectively, to the recited “lower portion” and “upper portion.” Pet. 41, 46, 48–49. Without any such analysis, Petitioner is essentially asking the Board to speculate as to how Petitioner intended to reconcile the aforementioned inconsistency. We decline to do so.

For the reasons set forth above, we are unpersuaded that Petitioner has shown with sufficient particularity that a combination of Ward and Williams discloses or suggests “a lower portion and an upper portion.” And without that particularity, we are unpersuaded that Petitioner has shown a reasonable likelihood that it would succeed in showing that independent claim 1 is unpatentable over a combination of Ward and Williams. Furthermore, as

⁵ We have considered also the relevant portions of the Declaration of Mr. Magness that could plausibly be directed to this issue. Ex. 1003, ¶¶ 30, 31, 39, 69–82, 108–115. We determine that they do not add materially to Petitioner’s analysis of the claim limitation at issue.

claim 1 is the only independent claim, for the same reasons, we are unpersuaded that Petitioner has shown a reasonable likelihood that it would succeed in showing that claims 2–8, 10, and 11, each of which depend ultimately from independent claim 1, are unpatentable over a combination of Ward and Williams.

C. Conclusion

For the foregoing reasons, we are unpersuaded that Petitioner has met its burden of showing a reasonable likelihood that claims 1–16 are unpatentable.

III. ORDER

It is ORDERED that the Petition is *denied*, and no trial is instituted.

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