

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MATTHEWS INTERNATIONAL CORP.,
Petitioner,

v.

VANDOR CORP.,
Patent Owner.

Case IPR2016-00112
Patent 8,104,151 B2

Before PHILLIP J. KAUFFMAN, SCOTT A. DANIELS, and
BARRY L. GROSSMAN, *Administrative Patent Judges*.

KAUFFMAN, *Administrative Patent Judge*.

DECISION
Denying Patent Owner's Request for Rehearing
37 C.F.R. § 42.71

Vandor Corp. (“Patent Owner”) requests rehearing of our Final Written Decision (Paper 41, “Decision,” or “Dec.”) in this case. Paper 43 (“Reh’g Req.”). Specifically, Patent Owner contends that our Decision contains an ambiguity in that, according to Patent Owner, the term “deceased” means a “dead person” while the Decision states that claims 1 and 14 are not limited to a container for the remains of a deceased human. Reh’g Req. 1.

Patent Owner acknowledges that limiting a deceased to a dead person or human was not previously argued. *See* Reh’g Req. 1, n.1. We cannot have misapprehended or overlooked a contention that was not made. *See* 37 C.F.R. § 42.71(d). Consequently, Patent Owner’s request could be denied on that basis. However, Petitioner appealed our Decision to the Court of Appeals for the Federal Circuit, and claim construction was among the issues that will be addressed. *See* Paper 42. In light of this, we take this opportunity to address Patent Owner’s contention.

In the Decision, we addressed Patent Owner’s assertion that a casket body as claimed is limited to containing a deceased human based upon Patent Owner’s contentions that differ from the reasons asserted in the Rehearing Request. *See* Dec. 24–27. We do not modify our Decision regarding that analysis; rather, we supplement that analysis to address Patent Owner’s new contention.

In the Rehearing Request, Patent Owner now asserts the contention that a deceased is a “dead person” or “dead human” and for that reason claims 1 and 14 are limited to a container for a deceased human. Reh’g. Req. 1–5. We acknowledge that one ordinary meaning of “deceased” is a dead person or human. Indeed, our interpretation at institution of trial was

that the ordinary meaning of “casket” is “coffin,” which in turn means a “box in which a dead person is buried,” and this ordinary meaning was consistent with the Specification. See Paper 12, 9–12. Notably, we stated that this meaning was consistent with the Specification and we did not interpret a “casket body” as claimed was limited to containing only humans. *Id.*

Although an ordinary meaning of “casket” is a container for a deceased human, another ordinary meaning that has long been recognized is a container for a deceased pet. See, e.g. U.S. Patent No. 3,997,948 A, *Modular Pet Burial Casket* (54), issued Dec. 21, 1976 (Ex. 3003); U.S. Patent D253,975, *Casket for Animal or Infant*, issued Jan 15, 1980 (Ex. 3004); U.S. Patent D292,839, *Pet Casket* (54), issued Nov. 17, 1987 (Ex. 3005); see also *Bilstad v. Wakalopulos*, 386 F.3d 1116, 1122 (Fed. Cir. 2004) (holding that under a broadest reasonable construction claim terms should be construed to cover all meanings that are consistent with the specification). The Specification is consistent with this meaning.

Consequently, contrary to Patent Owner’s assertion, a “casket” as claimed is not limited to a container for deceased humans, and may, for example, be a container for a deceased pet. This determination is consistent with our interpretation in the Decision. See Dec. 27 (disagreeing with Patent Owner’s contention that claims 1 and 14 require the casket body to contain the body of a deceased human). We emphasize that the term “casket body” carries patentable weight in that the container must be capable of containing the remains of a deceased (e.g., human or pet) and Petitioner has not demonstrated such capability. See Dec. 18–27, 30–39.

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ORDER

Patent Owner's Request for Rehearing is *denied*.

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