

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ONE WORLD TECHNOLOGIES, INC.,
d/b/a TECHTRONIC INDUSTRIES POWER EQUIPMENT,
Petitioner,

v.

THE CHAMBERLAIN GROUP, INC.,
Patent Owner.

Case IPR2017-00432
Patent 7,339,336 B2

Before JONI Y. CHANG, JUSTIN T. ARBES, and JOHN F. HORVATH,
Administrative Patent Judges.

HORVATH, *Administrative Patent Judge.*

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

I. INTRODUCTION

A. Background

One World Technologies, Inc. d/b/a Techtronic Industries Power Equipment (“Petitioner”) filed a Petition (Paper 1, “Pet.”) to institute an *inter partes* review of claims 1, 7, 11–13, and 15 (“the challenged claims”) of U.S. Patent No. 7,339,336 B2 (Ex. 1001, “the ’336 patent”). The Chamberlain Group, Inc., (“Patent Owner”) filed a Corrected Preliminary Response (Paper 7, “Prelim. Resp.”).¹

Upon consideration of the Petition and Corrected Preliminary Response, we are not persuaded, under 35 U.S.C. § 314(a), that Petitioner has demonstrated a reasonable likelihood that it would prevail in showing the unpatentability of the challenged claims of the ’336 patent. Accordingly, we do not institute an *inter partes* review of these claims.

B. Related Matters

Petitioner identifies the following as matters that could affect, or be affected by, a decision in this proceeding: *The Chamberlain Group, Inc. v. Techtronic Industries Co. Ltd. et al.*, Case No. 16-cv-06094 (N.D. Ill.); and *In the Matter of Certain Access Control Systems and Components Thereof*, ITC Investigation No. 337-TA-1016. Pet. 3. Patent Owner identifies the same matters. Paper 3, 2.

¹ Patent Owner notified the Board that it filed a Corrected Preliminary Response to correct typographical errors in its original Preliminary Response (Paper 6) filed on the same day, and requested that the original version be expunged. Petitioner stated that it did not oppose Patent Owner’s request. On April 7, 2017, we granted Patent Owner’s request via email and expunged the originally filed version.

C. Evidence Relied Upon²

Reference		Date	Exhibit
Mullet	US 6,326,751 B1	Dec. 4, 2001	Ex. 1004
Murray	US 5,278,480	Jan. 11, 1994	Ex. 1005

D. The Asserted Grounds of Unpatentability

References	Basis	Claims Challenged
Mullet	§ 102(b)	1, 12, 13, and 15
Mullet	§ 103(a)	1
Mullet and Murray	§ 103(a)	7 and 11

II. ANALYSIS

A. The '336 Patent

The '336 patent discloses a movable barrier operator (MBO) with automatic force setting, which allows the MBO to regularly update one or more thresholds that are used to determine when the MBO exerts excess force. Ex. 1001, 1:15–16, 3:12–17. This can occur, for example, when the movable barrier encounters an obstacle. *Id.* at 3:12–17. The MBO can determine it is using excess force when a measured parameter, such as the current applied to the motor that drives the movable barrier, exceeds a threshold current. *Id.* at 1:20–25, 1:27–30, 3:21–24. When the MBO determines it is using excess force, it undertakes one or more predetermined actions, which can include stopping or reversing the movement of the movable barrier, setting an alarm, or logging the excess force incident. *Id.* at 1:25–27, 6:1–5.

² Petitioner also relies on the Declaration of Stuart Lipoff. Ex. 1003.

The thresholds the MBO uses to determine when excess force is applied are typically obtained during a learning mode of operation. *Id.* at 1:60–65. During the learning mode, the MBO “monitor[s] force conditions during movement of the barrier and use[s] such information to automatically establish an excess-force threshold to be used during subsequent normal operations.” *Id.* However, the ’336 patent explains that the excess force thresholds obtained during the learning mode can become outdated due to changes in MBO operating conditions, such as changes in the MBO’s physical condition (aging) or changes in the MBO’s environment (e.g., temperature). *Id.* at 1:65–67, 3:27–32. Therefore, the MBO continually updates its excess force thresholds during the normal mode of operation. *Id.* at 3:12–16, 3:28–33. This is shown, for example, in Figure 2 of the ’336 patent, which is reproduced below:

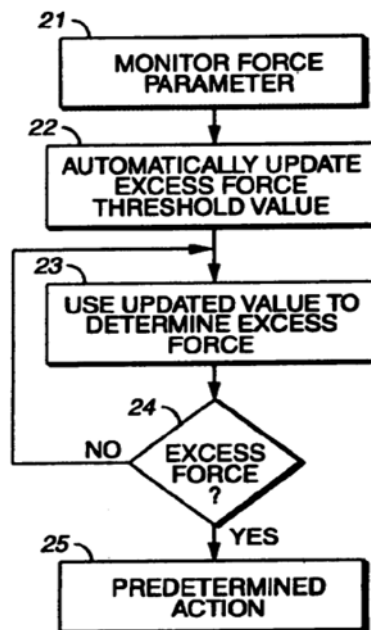


FIG. 2

Figure 2 is a flow diagram depicting the normal mode of operation of the MBO. During the normal mode, the MBO measures a force parameter, such as the current supplied to the motor to drive the movable barrier. *Id.* at 3:21–28, 5:27–32, Fig. 2. The measured parameter is used to automatically update the excess force thresholds. *Id.* at 3:28–33, 5:48–53, Fig. 2. The MBO then determines whether excess force was used to drive the movable barrier by comparing the measured parameter to the updated excess force threshold. *Id.* at 5:65–67. If excess force was used, the MBO takes a predetermined action, such as stopping or reversing the direction of motion of the movable barrier. *Id.* at 1:25–27, 6:1–5, Fig. 2. The foregoing actions can be performed during the normal mode of operation regardless of whether the MBO has a learning mode of operation, and regardless of whether the MBO sets the initial excess force thresholds during the learning mode of operation. *Id.* at 3:12–20, 5:48–53.

Claims 1, 7, 12, and 15 of the '336 patent are independent. Claim 12, reproduced below, is illustrative.

12. A method for use with a movable barrier operator having both a user-initiable dedicated learning mode of operation and a normal mode of operation, comprising:

during the normal mode of operation:

monitoring at least one parameter that corresponds to force as applied to a movable barrier to selectively cause the movable barrier to move between at least a first position and a second position;

automatically changing an excess force threshold value in response to the monitored at least one parameter to provide an updated excess force threshold value;

using the updated excess force threshold value and the monitored at least one parameter to determine when excess force is being applied to the movable barrier via the movable barrier operator;

taking a predetermined action when excess force is being applied to the movable barrier via the movable barrier operator.

Ex. 1001, 17:52–8:3.

Claims 1, 7, and 15 are similar in scope to claim 12. Claim 1 differs from claim 12 by not requiring the steps of claim 12 to be performed during the normal mode of operation, and by purportedly limiting (via the preamble) the steps of claim 12 to being performed by an MBO having no learning mode. *Compare* Ex. 1001, 16:22–39 *with id.* at 17:52–8:3. Claim 7 differs from claim 12 by requiring the steps of claim 12 to be performed during the normal mode of operation regardless of whether initiation has occurred during the learning mode of operation. *Compare* Ex. 1001, 17:1–19 *with id.* at 17:52–8:3. Claim 15 differs from claim 12 by not requiring the steps of claim 12 to be performed during the normal mode of operation, and by replacing the single-step process of automatically changing the excess force threshold in response to the monitored parameter recited in claim 12 with the two-step process of automatically changing a characteristic force value in response to the monitored parameter as a function of a difference between the characteristic force value and the monitored parameter, and using the updated characteristic force value to determine an excess force threshold value. *Compare* Ex. 1001, 18:22–37 *with id.* at 17:52–8:3.

B. Claim Construction

The Board interprets the claims of an unexpired patent using the broadest reasonable interpretation in light of the specification of the patent. *See* 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2142–46 (2016). Consistent with the rule of broadest reasonable interpretation, claim terms are generally given their ordinary and customary

meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *See In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Only those terms which are in controversy need to be construed and only to the extent necessary to resolve the controversy. *See Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999).

Petitioner requests and provides proposed constructions for the claim terms “characteristic force value,” “excess force threshold value,” and “automatically changing a characteristic force value” Pet. 16–19. Patent Owner does not dispute Petitioner’s proposed constructions for “characteristic force value” and “excess force threshold value,” but argues there is no need to expressly construe “automatically changing a characteristic force value” Prelim. Resp. 5. Patent Owner requests we construe claim 1 so that the preamble limits the steps to being performed on an MBO having no learning mode. *Id.* at 5–9.

For the reasons discussed below, we find Petitioner has failed to demonstrate a reasonable likelihood that any of the challenged claims of the ’336 patent are anticipated by Mullet or unpatentable as obvious over Mullet alone or in combination with Murray, regardless of how we construe any of the claim terms proposed by Petitioner or Patent Owner. Accordingly, we decline to expressly construe the proposed claim terms. *See U.S. Surgical Corp. v. Ethicon, Inc.*, 103 F.3d 1554, 1568 (Fed. Cir. 1997) (“Although claim construction may occasionally be necessary in obviousness determinations . . . none of these rejected [constructions] was directed to, or has been shown reasonably to affect, the determination of obviousness.”).

C. Alleged Anticipation of Claims 1, 12, 13, and 15 by Mullet

Petitioner argues claims 1, 12, 13, and 15 of the '336 patent are anticipated under 35 U.S.C. § 102(b) by Mullet. Pet. 20–34. We are not persuaded by Petitioner's arguments for the reasons discussed below.

1. Overview of Mullet (Ex. 1004)

Mullet discloses a garage door opener (GDO) that includes an entrapment system for “measuring the motion, speed, and position of a garage door as it travels between open and closed positions.” Ex. 1004, 1:9–20. The entrapment system determines whether the garage door “encounters an obstacle during opening and closing,” and takes a predetermined action when it does. *Id.* at 6:35–40. In particular, the entrapment system “stop[s] and reverse[s] or just stop[s] travel of the door if predetermined thresholds in door speed and applied force are not met.” *Id.* at 6:40–42. The entrapment system stores the predetermined thresholds in a door profile that is obtained “during an initial door open and close cycle,” and that is subsequently “updated after each cycle.” *Id.* at 6:42–46, 9:65–67. The door profile contains “door position and force applied to the door **12** for a plurality of points during the operation cycle,” where the force applied is calculated from the torque of the motor driving the door, which is in turn calculated from the measured speed of the motor. *Id.* at 9:67–10:8. The force applied or threshold force stored in the door profile is updated during normal operations to allow the entrapment system to “compensate[] for changes in ambient temperature and wear of the mechanical components of[] the garage door.” *Id.* at 1:10–16, 11:20–39.

During each cycle of operation (e.g., opening and closing of the garage door), the entrapment system “reads and processes the speed, the temperature and the position [of the door] in the same manner as it did

during the profile acquisition [learning] mode.” Ex. 1004, 11:2–4. The system then compares the newly acquired profile data point (position/measured force) with the stored profile data point (position/threshold force), and, depending on whether the measured force exceeds the threshold force by more than 15 pounds, either (1) takes corrective action (e.g., stopping or reversing the motion of the door), or (2) replaces the data point stored in the door profile (position/force threshold) with the newly acquired data point (position/measured force). *Id.* at 11:5–20, 12:53–13:5.

2. Comparison of Claims 1, 12, 13, and 15 to Mullet

Claim 12 requires monitoring at least one parameter corresponding to a force applied to cause a movable barrier to move. Ex. 1001, 17:57–60. Petitioner argues Mullet meets this limitation by disclosing a garage door operator (GDO) that monitors the speed of a motor used to open and close a garage door, where the speed of the motor is proportional to the force applied to the door. Pet. 21–23; Ex. 1004, 10:66–11:4, 12:60–61.

Claim 12 further requires automatically changing an excess force threshold in response to the monitored at least one parameter to provide an updated excess force threshold. Ex. 1001, 17:61–63. Petitioner argues Mullet meets this limitation by disclosing replacing the force threshold stored in the door profile when the measured force (derived from the measured speed) does not differ from the stored threshold force by more than 15 pounds. Pet. 23–24; Ex. 1004, 6:42–46, 11:16–20.

Claim 12 further requires using the updated excess force threshold and the monitored at least one parameter to determine when excess force is being applied. Ex. 1001, 17:64–67. Petitioner argues Mullet discloses continually replacing the threshold force stored in the door profile as discussed above, and taking corrective action (e.g., stopping the door) when the measured

force differs from the stored threshold force by more than 15 pounds. Pet. 24–26; Ex. 1004, 6:42–46, 11:16–20, 12:53–13:5. Petitioner, relying on the testimony of Mr. Lipoff, therefore argues that Mullet discloses “comparing a continuously monitored speed parameter against an excess force threshold to determine if excess force is being applied.” Pet.at 26 (citing Ex. 1003 ¶ 68). In particular, Petitioner argues:

[A person having ordinary skill in the art] would understand that Mullet discloses “using the updated excess force threshold value [Mullet’s newly acquired torque value] and the monitored at least one parameter [the measured speed/torque/force] to determine when excess force is being applied to the movable barrier via the movable barrier operator.”

Id. (quoting Ex. 1003 ¶ 69) (emphasis omitted).

We are not persuaded by Petitioner’s arguments that Mullet discloses “using the updated excess force threshold value and the monitored at least one parameter to determine when excess force is being applied,” as required by claim 12. Ex. 1001, 17:64–67. Claim 12 requires determining when excess force is being applied using both the *updated* excess force threshold value and *the monitored* at least one parameter. Moreover, claim 12 requires obtaining the *updated* excess force threshold value by “changing an excess force threshold value in response to *the monitored* at least one parameter.” *Id.* at 17:61–63. Thus, claim 12 requires using *the monitored* at least one parameter to both (1) *update* the excess force threshold, and (2) determine when excess force is being applied in conjunction with the *updated* excess force threshold.

Petitioner fails to demonstrate that Mullet discloses using the GDO’s *measured* force (i.e., *the monitored* at least one parameter) in conjunction with the *updated* threshold force to determine when excess force is being

applied. Rather, Mullet discloses using the GDO's *measured* force in conjunction with the *previously stored* threshold force to determine when excess force is being applied. See Ex. 1004, 11:2–20. That is, in any given cycle, Mullet compares the GDO's *measured* force to the *previously stored* threshold force, and, depending on whether the two forces differ by more than 15 pounds, either (1) *updates* the previously stored threshold force based on the *measured* force, or (2) determines excess force is being applied by comparing the *measured* force to the *previously stored* threshold force. *Id.*

To the extent Petitioner contends that Mullet meets the determining excess force limitation by disclosing comparing the GDO's measured force in the current cycle to a threshold force that was updated and stored in a previous cycle, claim 12 requires using *the monitored* at least one parameter to both (1) *update* the excess force threshold, and (2) determine when excess force is applied in conjunction with the *updated* excess force threshold. Although Mullet's *currently measured* force can be compared to a threshold force that was updated and stored in a previous cycle, the threshold force would have been updated based on a *previously measured* force rather than on the *currently measured* force. Thus, the *currently measured* force would not have been used to *update* the excess force threshold value as also required by claim 12. See Ex. 1001, 17:61–63 (requiring “changing an excess force threshold value in response to *the monitored* at least one parameter to provide an *updated* excess force threshold value” (emphases added)).

Claim 13 depends from claim 12. Ex. 1001, 18:4–14. Petitioner, therefore, incorporates its analysis of claim 12 into its analysis of claim 13,

and argues the limitations of claim 13 that are required due to its dependence from claim 12 are disclosed by Mullet because Mullet anticipates claim 12. *See* Pet. 29. For the reasons discussed above, Petitioner has failed to demonstrate a reasonable likelihood of prevailing on its assertion that Mullet anticipates claim 12. Accordingly, Petitioner has failed to demonstrate a reasonable likelihood of prevailing on its assertion that Mullet anticipates claim 13 for the same reasons.

Claim 1, like claim 12, requires monitoring at least one parameter corresponding to a force applied to cause a movable barrier to move, automatically changing an excess force threshold value in response to the monitored at least one parameter to provide an updated excess force threshold value, and using the updated excess force threshold value and the monitored at least one parameter to determine when excess force is being applied. Ex. 1001, 16:22–38. Petitioner argues “[e]very process step recited in claim 1 after the preamble also appears verbatim in claim 12.” Pet. 28. Therefore, Petitioner incorporates its analysis for claim 12 into its analysis for claim 1, and argues that because “Mullet anticipates every limitation of claim 12 . . . Mullet also anticipates every limitation of claim 1.” *Id.* For the reasons discussed above, Petitioner has failed to demonstrate a reasonable likelihood of prevailing on its assertion that Mullet anticipates claim 12. Accordingly, Petitioner has failed to demonstrate a reasonable likelihood of prevailing on its assertion that Mullet anticipates claim 1 for the same reasons.

Claim 15, like claim 12, requires monitoring at least one parameter corresponding to a force applied to cause a movable barrier to move. Ex. 1001, 18:24–26. Claim 15 differs from claim 12 by replacing the single-

step process of automatically changing the excess force threshold value in response to the monitored at least one parameter to provide an updated excess force threshold value recited in claim 12, with the two-step process of automatically changing a characteristic force value in response to the monitored at least one parameter, and using the *updated* characteristic force value to determine a *corresponding* excess force threshold value. *Compare id.* at 18:22–37 with *id.* at 17:52–8:3. Thus, although claims 12 and 15 are worded differently, the excess force threshold value recited in claim 15 is also *updated* based on the *monitored* at least one parameter as it is in claim 12.³ Claim 15 further requires determining when force in excess of the excess force threshold value is being applied. *Id.* at 18:34–35. Thus, like claim 12, claim 15 also requires determining when the *measured* force exceeds an excess force threshold value that has been *updated* based on the measured force.

Petitioner argues the “monitoring at least one parameter” limitation of claim 15 is identical to claim 12, and is therefore disclosed by Mullet for the same reasons as claim 12. Pet. 33. Petitioner argues the “automatically changing a characteristic force value in response to the monitored at least one parameter” and “using an updated characteristic force value to determine a corresponding excess force threshold value” limitations of claim 15 are identical to the limitations of claim 13, and are therefore met by

³ See Ex. 1001, 18:4–14 (claim 13 requires the claim 12 limitation of automatically changing an excess force threshold value in response to the monitored at least one parameter to provide an updated excess force threshold value to *include* automatically changing a characteristic force value in response to the monitored at least one parameter *and* using the updated characteristic force value to provide the updated excess force threshold value).

Mullet for the same reasons as claim 13. *Id.* at 33–34. Petitioner further argues the “determining when force in excess of the excess force threshold value is being applied” limitation of claim 15 is met by Mullet disclosing continuously monitoring the door speed (which is proportional to the applied force), and detecting when “the door **12** is applying any force greater than the upper force limit (high speed value) plus 15 pounds.” *Id.* at 34 (emphasis omitted) (quoting Ex. 1004, 12:53–13:5).

We are not persuaded by Petitioner’s arguments that Mullet discloses “determining when force in excess of the excess force threshold value is being applied,” as required by claim 15. Ex. 1001, 18:34–35. As discussed above, claim 15 requires determining the excess force threshold value from a characteristic force value that has been *updated* in response to the monitored at least one parameter. *See* 18:27–33. The excess force threshold value is therefore also *updated* in response to the monitored at least one parameter. Claim 15 further requires determining when the force (i.e., the *measured* force) exceeds this excess force threshold value, which has been *updated* in response to the measured force. *Id.* at 18:34–35. Petitioner has failed to demonstrate that Mullet discloses determining when the door’s *measured* force exceeds the door’s *updated* threshold force.

Mullet discloses:

The speed of the door **12** during normal opening and closing cycles is continuously monitored by the processor **66**. Readings from the potentiometer **56** are compared with the high and low speed values stored in the nonvolatile memory **74**. . . . Since the speed of the motor **48** is directly proportional to the force applied to the door **12**, the processor calculates the speed which is equivalent to 15 pounds of force. If the new speed readings are above the pre-programmed thresholds, but lower than 15 pounds of force, then the new readings replace the old

readings in the nonvolatile memory **74**. However, if the processor **66** detects that the door **12** is applying any force greater than the upper force limit (high speed value) plus 15 pounds, then the door stops if moving up or reverses if moving down. If the processor detects the door applying force less than the lower force limit (low speed value) minus 15 pounds, then the door stops if moving up or reverses if moving down.

Ex. 1004, 12:53–13:5. Thus, Mullet discloses measuring the speed/force of the door, comparing the *measured force* to previously stored *force thresholds* (threshold forces stored in memory **74**), and based on the comparison, either (1) replacing the threshold forces stored in memory **74**, or (2) taking a corrective action (e.g., stopping or reversing the door's motion). Mullet fails to disclose comparing the *measured force* to an excess force threshold value that has been *updated* based on the *measured force* as required by claim 15.

Moreover, for reasons similar to those discussed above with respect to claim 12, to the extent Petitioner contends that Mullet meets the determining excess force limitation by disclosing comparing the GDO's measured force in the current cycle to a threshold force that was updated based on a measured force in a previous cycle, Mullet's *currently measured* force would not have been used to automatically change a characteristic force value to provide an *updated* characteristic force value, where the *updated* characteristic force value is used to *determine the excess force threshold value* as also required by claim 15. See Ex. 1004, 18:27–33.

On this record, and for the reasons discussed above, Petitioner has failed to demonstrate a reasonable likelihood of prevailing on its assertion that Mullet discloses each of the limitations required by claims 1, 12, 13, and 15.

D. Alleged Obviousness of Claim 1 over Mullet

In arguing that claim 1 is anticipated by Mullet, Petitioner argues the preamble of claim 1 is not a limitation, and does not require the steps of claim 1 to be performed by an MBO having no user-initiable dedicated learning mode. Pet. 29. Petitioner alternatively argues that, should the preamble of claim 1 be a limitation that requires the steps of claim 1 to be performed by an MBO having no user-initiable dedicated learning mode, claim 1 would have been obvious over Mullet. *Id.* at 35. In particular, relying on the declaration of Mr. Lipoff, Petitioner argues that a person of ordinary skill in the art would have understood that because Mullet’s “dynamic adjustments to the force thresholds set in the profile data may be made during the normal mode of operation . . . an initialization sequence to set the profile data in a ‘user-initiable dedicated learning mode’ is not necessary.” *Id.* at 36; Ex. 1003 ¶ 88. For all other limitations recited in claim 1, Petitioner relies upon the same arguments presented above with regard to the alleged anticipation of claims 1 and 12. Pet. 35.

We are not persuaded that Petitioner has demonstrated a reasonable likelihood of prevailing on its assertion that claim 1 would have been obvious over Mullet. For the reasons discussed in § II.C.2, *supra*, Petitioner has failed to demonstrate that Mullet discloses “using the *updated* excess force threshold value and *the monitored* at least one parameter to determine when excess force is being applied to the movable barrier,” as required by claim 1. Petitioner’s analysis of claim 1 as obvious over Mullet does not proffer any additional argument or evidence that would remedy this deficiency in Petitioner’s analysis of claim 1 as anticipated by Mullet. See Pet. 35–36.

E. Alleged Obviousness of Claims 7 and 11 over Mullet and Murray

Claim 7 differs from claim 12 by requiring the steps performed during the normal mode of operation in claim 12 to be performed during the normal mode regardless of whether initiation has occurred during the learning mode of operation. *Compare* Ex. 1001, 17:1–19 *with id.* at 17:52–8:3. The remaining limitations of claims 7 and 12, however, including “using the *updated* excess force threshold value and the *monitored* at least one parameter to determine when excess force is being applied,” are either identically or nearly identically recited. *Compare id.* at 17:13–16 *with id.* at 17:64–67; *see also* Pet. 36–37. In arguing that the combination of Mullet and Murray meets these identically or nearly identically recited limitations, Petitioner incorporates its analysis of claim 12 into its analysis of claim 7, and argues that “Mullet discloses that all of the elements of claim 12 are performed during a normal mode of operation.” Pet. 38.

We are not persuaded that Petitioner has demonstrated a reasonable likelihood of prevailing on its assertion that claim 7 would have been obvious over Mullet and Murray. As discussed above with respect to claim 12, Petitioner has failed to demonstrate that Mullet teaches “using the *updated* excess force threshold value and the *monitored* at least one parameter to determine when excess force is being applied,” which is identically recited in claims 7 and 12. Moreover, Petitioner does not argue that Murray teaches this limitation. Instead, Petitioner argues “if Mullet alone did not render obvious executing the method steps of claim 7 . . . when a user-initiable learning mode has not been previously entered, then this would have been obvious to a [person of ordinary skill in the art] in further

view of Murray.” Pet. 38–39. Relying on the declaration of Mr. Lipoff, Petitioner further argues:

a [person of ordinary skill in the art] would recognize that Murray’s teachings regarding force adjustment without having to enter an initialization mode is compatible with and could be readily incorporated with Mullet’s teachings regarding dynamically adjusting force profile data during normal operation because Murray’s system is able to dynamically adjust force thresholds to account for variations in force requirements even without prior actuation of a user-initiable learning mode.

Id. at 44; Ex. 1003 ¶ 100.

Petitioner’s arguments neither address nor remedy the deficiency noted above with respect to Petitioner’s analysis of claim 12. Thus, for the reasons discussed in § II.C.2, *supra*, Petitioner has failed to demonstrate that the combination of Mullet and Murray teaches or suggests “using the *updated* excess force threshold value and *the monitored* at least one parameter to determine when excess force is being applied to the movable barrier,” as required by claim 7.

Claim 11 depends from claim 7. Ex. 1001, 17:41–51. Petitioner, therefore, incorporates its analysis of claim 7 into its analysis of claim 11, and argues the limitations of claim 11 that are required due to its dependence from claim 7 are taught or suggested by the combination of Mullet and Murray for the same reasons argued for claim 7. *See* Pet. 44.⁴ For the reasons discussed above, Petitioner has failed to demonstrate a reasonable

⁴ Petitioner actually argues “[c]laim 11 depends from claim 7 (which is anticipated for the reasons provided in Section VIII.C.1, and incorporated here).” Pet. 44. However, in Section VIII.C.1 of the Petition, Petitioner does not argue that claim 7 is anticipated. Rather, Petitioner argues that claim 7 would have been obvious over Mullet and Murray. *Id.* at 36–44.

likelihood of prevailing on its assertion that claim 7 would have been obvious over Mullet and Murray. Accordingly, Petitioner has failed to demonstrate a reasonable likelihood of prevailing on its assertion that claim 11 would have been obvious over Mullet and Murray for the same reasons.

III. CONCLUSION

Upon reviewing the Petition and Patent Owner's Corrected Preliminary Response, and for the reasons discussed above, Petitioner has failed to establish a reasonable likelihood that it would prevail in showing the unpatentability of claims 1, 7, 11–13, and 15 of the '336 patent.

IV. ORDER

It is ORDERED that, pursuant to 35 U.S.C. § 314, the Petition is *denied* and no *inter partes* review is instituted on any grounds.

IPR2017-00432
Patent 7,339,336 B2

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