

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INNOVATIVE INTELLIGENT PRODUCTS, LLC d/b/a GPS LOCKBOX,
Petitioner,

v.

NATIONAL PRODUCTS INC.,
Patent Owner.

IPR2021-00622
Patent 9,706,026 B2

Before JO-ANNE M. KOKOSKI, WESLEY B. DERRICK, and
SCOTT B. HOWARD, *Administrative Patent Judges*.

DERRICK, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

INTRODUCTION

Petitioner Innovative Intelligent Products LLC filed a Petition (Paper 2, “Pet.”) requesting *inter partes* review of claims 1, 4, 8, 9–11, 14, 15, 19, and 20 of U.S. Patent No. 9,706,026 B2 (Ex. 1001, “the ’026 patent”). Patent Owner National Products, Inc., filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). Patent Owner addresses: (1) the merits of the challenges set forth by Petitioner; and (2) why we should exercise our discretion and deny institution. *Id.*

We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314 (2018); 37 C.F.R. § 42.4(a) (2021). The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted “unless the Director determines . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” Section 314(a) does not require the Director to institute an *inter partes* review. *See Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1367 (Fed. Cir. 2016) (“[T]he PTO is permitted, but never compelled, to institute an IPR proceeding.”). We deny *inter partes* review, for example, where a petition fails to identify “with particularity” the challenges or evidence supporting them. *Id.* at 1363; 35 U.S.C. § 312(a)(3); *Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016) (“It is of the utmost importance that petitioners in IPR proceedings adhere to the requirement that the initial petition identify ‘with particularity’ the ‘evidence that supports the grounds for the challenge to each claim.’” (quoting 35 U.S.C. § 312(a)(3))).

For the reasons that follow, we deny institution of *inter partes* review.

BACKGROUND

A. Real Parties in Interest

Petitioner identifies itself as the real party in interest. Pet. 1. Patent Owner identifies itself as the real party in interest. Paper 5, 2.

B. Related Matters

The parties identify three district court cases as related matters: *National Products, Inc. v. Innovative Intelligent Products, LLC d/b/a GPS Lockbox*, No. 2:20-cv-00428-RAJ (W.D. Wash. March 20, 2020); *National Products, Inc. v. ProClip USA, Inc. et al.*, No. 3:20-cv-00439-wmc (W.D. Wisc. May 12, 2020); and *National Products, Inc. v. Gamber-Johnson*, No. 3:20-cv-01108-wmc (W.D. Wisc. Dec. 15, 2020). Pet. 1; Paper 5, 3–4.

C. The '026 Patent (Ex. 1001)

The '026 patent is titled “Docking Sleeve with Electrical Adapter,” and issued on July 11, 2017, from Application No. 14/936,517. Ex. 1001, codes (22), (45), (54). The '026 patent sets forth that it is a continuation-in-part application and identifies related applications, setting forth their relation to each other. *Id.* at code (63) (Related U.S. Application Data), 1:7–19.

The '026 patent generally relates to a “protective arrangement for an electronic device [that] includes a flexible cover having a panel and a skirt that form an interior cavity to receive [the] electronic device[] and an adapter . . . positioned in [the body of] the flexible cover,” where the “adapter” has “a male plug with connectors extending into the interior cavity of the flexible cover” and an adjacent “contactor” “facing outwardly from the flexible cover” that is “electrically coupled to . . . the connectors of the plug.” *Id.* at code (57). The “protective arrangement,” thus, allows the electronic device to be electrically connected to a docking cradle via the adapter positioned in the body of the flexible cover. *Id.* The '026 patent

identifies its invention as “relating to a cover for protecting a portable electronic device” and characterizes its “protective cover” as an improvement over those in the art, which it explains “are limited in their ability to provide efficient and reliable usage of such portable electronic devices.” *Id.* at 1:23–24 (Field of the Invention); 1:35–37 (Background of the Invention).

D. Illustrative Claims

Claims 1, 8, and 10 of the '026 patent are independent, illustrative of the claimed invention, and reproduced below.

1. A docking cradle, comprising:

- a base receiver configured to receive an electronic device disposed in a removable cover having a male connector with a plurality of contacts, the base receiver comprising a back support surface to support a back of the removable cover and electronic device and a docking support surface extending away from the back support surface; and
- a female connector disposed within the docking support surface of the base receiver and comprising a plurality of contacts configured to connect with one or more of the plurality of contacts of the male connector when the male connector is received in the base receiver, the female connector defining a rim to guide proper mating of the male connector of the removable cover to the female connector of the docking cradle, wherein the contacts of the female connector are biasing contacts that move when the removable cover and electronic device are received.

Ex. 1001, 32:14–32.

8. A docking cradle, comprising:

- a base receiver configured to receive an electronic device disposed in a removable cover having a male connector with a plurality of contracts, the base receiver comprising a back support surface to support a back of the removable

cover and electronic device and a docking support surface extending away from the back support surface; and

a female connector disposed within the docking support surface of the base receiver and comprising a plurality of contacts configured to connect with one or more of the plurality of contacts of the male connector when the male connector is received in the base receiver, the female connector defining a rim to guide proper mating of the male connector of the removable cover to the female connector of the docking cradle, wherein the female connector further comprises a magnetic coupling element resident in the connector, wherein the magnetic coupling element comprises one of a magnetic material or a magnetically attractive material.

Id. at 32:48–67.

10. A docking system, comprising:

a protective cover for an electronic device, the cover comprising a shell forming an interior cavity to receive the electronic device, a male plug comprising a plurality of connectors extending into the interior cavity of the shell in an arrangement for mating with a female socket of the device, and a contactor comprising a plurality of contacts adjacent to an exterior of the shell and electrically coupled to one or more of the connectors of the plug, wherein the cover is configured and arranged to extend over at least a portion of a back surface, a front surface, and each of four side surfaces of the electronic device to hold the electronic device within the cover; and

a docking cradle configured to receive the cover and comprising a base receiver to receive the cover and a docking connector disposed on the base receiver and comprising a plurality of contacts positioned to connect with one or more of the plurality of contacts of the contactor of the protective cover, the docking connector defining a rim to guide proper mating of the contactor to the docking connector.

Id. at 33:4–25.

E. References Relied Upon

Petitioner relies on the references listed below (Pet. 17–20):

Reference	Date	Exhibit No.
Carnevali, US 2005/0244126 A1 (“Carnevali 1”)	Aug. 27, 2015	1003
Carnevali et al., WO 2015/127376 A1 (“Carnevali 2”)	Aug. 27, 2015	1004
Carnevali et al., US 2015/0241931 A1 (“Carnevali 3”)	Aug. 27, 2015	1005
Braitberg et al., US 5,535,274 (“Braitberg”)	Jul. 9, 1996	1006
Kogan et al., US 7,480,138 B2 (“Kogan”)	Jan. 20, 2009	1007
Rudisill et al., US 2013/0273752 A1 (“Rudisill”)	Oct. 17, 2013	1008
Li, ¹ CN 202565335 U (“Li”)	Nov. 28, 2002	1009, 1022
Song, ² KR20-0265673 (“Song”)	Feb. 25, 2002	1010, 1023

Patent Owner does not contest the status of Braitberg, Kogan, Rudisill, Li, and Song as prior art patents or printed publications (*see* Prelim. Resp.), but does contest the prior art status of Carnevali 1, Carnevali 2, and Carnevali 3 (*id.* at 35–37). Because it is unnecessary to reach the issues relating to the contested prior art status in this Decision, we decline to do so, as discussed below.

¹ Petitioner relies on an English translation (Ex. 1009) of the original Chinese language document (Ex. 1022).

² Petitioner relies on an English translation (Ex. 1010) of the original Korean language document (Ex. 1023).

F. The Asserted Grounds of Unpatentability

Petitioner sets forth six (6) nominal grounds of unpatentability: Ground 1a (claims 1 and 4 as obvious over Braitberg in view of Carnevali 1, Carnevali 2, or Carnevali 3); Ground 1b (claim 1 as obvious over Kogan in view of Carnevali 1, Carnevali 2, or Carnevali 3); Ground 1c (claim 1 as obvious over either Braitberg or Kogan in view of Li or Rudisill); Ground 2a (claims 8–11, 14, 19, and 20 as obvious over Song in view of Li or Rudisill); Ground 2b (claim 15 obvious over Ground 2a in further view of Braitberg); and Ground 3a (claims 10, 11, 19, and 20 as anticipated by Rudisill). Pet. 17–18. Each of these grounds, except for Ground 3a, rely on references in the alternative such that there are, in fact, a total of fifteen (15) different grounds (or combinations of art), as indicated in the table below.

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
1, 4	103	Braitberg, Carnevali 1
1, 4	103	Braitberg, Carnevali 2
1, 4	103	Braitberg, Carnevali 3
1	103	Kogan, Carnevali 1
1	103	Kogan, Carnevali 2
1	103	Kogan, Carnevali 3
1	103	Braitberg, Li
1	103	Braitberg, Rudisill
1	103	Kogan, Li
1	103	Kogan, Rudisill
8–11, 14, 19, 20	103	Song, Li
8–11, 14, 19, 20	103	Song, Rudisill
15	103	Song, Li, Braitberg

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
15	103	Song, Rudisill, Braitberg
10, 11, 19, 20	102	Rudisill

Petitioner also relies on the testimony of Kimberly K. Cameron, Ph.D. (Ex. 1011, “the Cameron Decl’n”).

ANALYSIS

A. Level of Ordinary Skill in the Art

Petitioner contends that a person of ordinary skill in the art “would have had (1) a Bachelor’s Degree in mechanical engineering or a related discipline and at least two years of experience in the design or development of interlocking products” or “(2) five years or more of experience in the design or development of interlocking products,” where exemplary “interlocking products” include “docking cradles and adapters for portable electronic devices.” Pet. 16 (citing Ex. 1011 ¶¶ 21–23, 60–62).

Patent Owner neither contests Petitioner’s proposed definition nor proposes its own definition. *See* Prelim. Resp.

On this record, we find Petitioner’s definition of the level of ordinary skill reasonable and, therefore, adopt it for the purposes of this Decision, except that we delete the qualifiers “at least” and “or more” to eliminate vagueness as to the amount of practical experience. The qualifiers expand the range indefinitely without an upper bound, and thus preclude a meaningful indication of the level of ordinary skill in the art.

B. Claim Construction

In an *inter partes* review, we construe the challenged claims under the framework set forth in *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–19 (Fed. Cir. 2005) (en banc). *See* 37 C.F.R. § 42.100(b). Under this

framework, claim terms generally are given their ordinary and customary meaning as would be understood by one with ordinary skill in the art in the context of the specification (including other claims), the prosecution history, and even extrinsic evidence including expert and inventor testimony, dictionaries, and learned treatises, although extrinsic evidence is less significant than the intrinsic record. *Phillips*, 415 F.3d at 1312–19. Usually, the specification is dispositive, and it is the single best guide to the meaning of a disputed term. *Id.* at 1315.

Only those claim terms that are in controversy need to be construed, and only to the extent necessary to resolve the controversy. *Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017); *see also U.S. Surgical Corp. v. Ethicon, Inc.*, 103 F.3d 1554, 1568 (Fed. Cir. 1997) (holding claim construction is not necessary when it is not “directed to, or has been shown reasonably to affect, the determination of obviousness”).

Petitioner contends that, “[i]n this *inter partes* review, no claim terms require construction.” Pet. 17. Petitioner further contends, however, that “in some instances, Petitioner relies at least in part on [Patent Owner’s] own interpretations of its claims in [Patent Owner’s] own Infringement Contentions.” *Id.* (citing Ex. 1021).

Patent Owner does not offer any interpretation of claim terms (*see* Prelim. Resp.), although it does argue Petitioner erred in misstating the applicable standard of “broadest reasonable construction” (*id.* at 20, 21–22, 26–28; Pet. 16–17 (citing 37 C.F.R. § 42.100(b))).

On this record, and for purposes of this Decision, we decline to construe any claim terms beyond the limited extent we do so below in our

analysis, because it is not necessary to do so in reaching our decision on institution.

C. Principles of Law

Petitioner challenges claims under 35 U.S.C. §§ 102 and 103. A claim is anticipated under § 102 “only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. Inc., v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir. 1987). “Inherency . . . may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1268 (Fed. Cir. 1991).

A claim is unpatentable under 35 U.S.C. § 103 if “the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations, including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of skill in the art; and (4) if in evidence, objective evidence of nonobviousness, i.e., secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic*, 815 F.3d at 1363 (citing 35 U.S.C. § 312(a)(3) as “requiring *inter partes* review petitions to identify ‘with particularity . . . the evidence that supports the grounds for the challenge to each claim’”). This

burden never shifts to Patent Owner. *See Dynamic Drinkware, LLC v. Nat'l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015) (citing *Tech. Licensing Corp. v. Videotek, Inc.*, 545 F.3d 1316, 1326–27 (Fed. Cir. 2008)) (discussing the burden of proof in *inter partes* review). Furthermore, Petitioner cannot satisfy its burden of proving obviousness by employing “mere conclusory statements.” *In re Magnum Oil Tools Int'l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016).

D. Asserted Obviousness Over Braitberg in View of Carnevali 1, Carnevali 2, or Carnevali 3

1. Braitberg (Ex. 1006)

Braitberg is titled “Universal Connection for Cellular Telephone Interface” and directed to “cellular telephone interfacing systems,” and particularly “to an apparatus providing a communications interface between a cellular telephone, selected from a variety of such telephones, to a common base unit.” Ex. 1006, code (54), 1:14–19. Figure 14 is reproduced below.

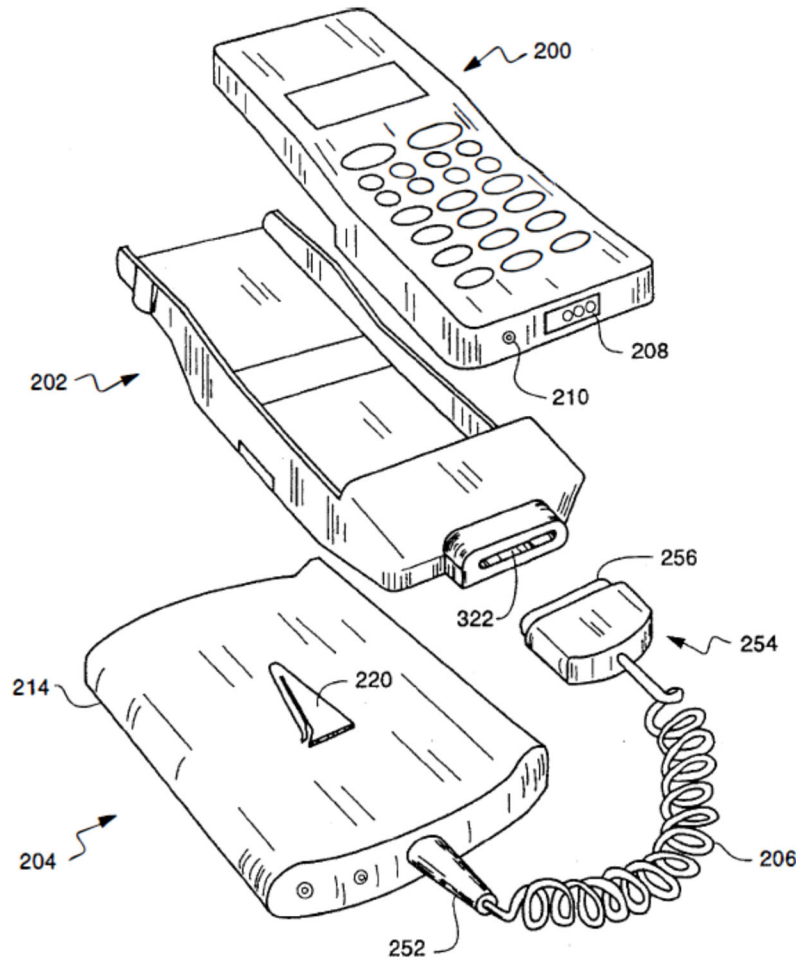


FIG. 14

Figure 14 depicts an exploded perspective view of Braitberg's universal connection system and illustrates a cellular telephone 200, a pocket adapter 202 for receiving a particular model of cellular telephone, a common base unit 204, and a cable 206 for providing a physical and electrical connection between common base unit 204 and pocket adapter 202. *Id.* at 3:63–64, 10:20–25, Fig. 14. Braitberg also discloses that cellular telephone 200 includes a connector 208 for establishing a physical and electrical connection with an external base unit and that common base unit 204

includes a retaining clip 220 for securing pocket adapter 202 to housing 214 of base unit 204. *Id.* at 10:41–43 (discussing exploded assembly view of the base unit, Fig. 14), Fig. 13. Braitberg also discloses that “each pocket adapter device [is] adapted to establish a physical and electrical interconnection between a particular model of cellular telephone and a common base unit.” *Id.* at 6:30–33.

2. *Carnevali 1–3 (Exs. 1003–1005)*

Carnevali 1–3 are related to the ’026 patent; Carnevali 1 (Application No. 14/222,320) and Carnevali 2 (PCT/US2015/017131) are earlier-filed applications to which the ’026 patent claims the benefit of priority (Ex. 1001, 1:7–19; Ex. 1003, code (21); Ex. 1004, code (21)), and Carnevali 3 (Application No. 14/667,564) is a continuation of Carnevali 2 (Ex. 1005, code (63)), but not part of the priority benefit chain of the ’026 patent (Ex. 1001, 1:7–19, code (63)). Specifically, in relevant part, the ’026 patent issued from a continuation-in-part of application No. 14/829,378, which is a continuation-in-part of application No. 14/754,492, which is a continuation in part of PCT/US2015/017131 (Carnevali 2), which is a continuation-in-part of application No. 14/222,320 (Carnevali 1) (Ex. 1001, 1:7–19).

Each of Carnevali 1–3 relates to “[a] docking sleeve having an elastomeric protective cover, . . . adapted for partially enveloping a portable electronic device . . . [that has] a port for a docking connector” where “[a]n adapter is provided for electrically connecting to the female input/output socket of the particular electronic device, including a male plug having a plurality of electrical connectors extended internally of the sheath and . . . a plurality of contacts . . . exposed externally of the sheath.” Ex. 1003, code (57); Ex. 1004, code (57); Ex. 1005, code (57).

3. *Petitioner's Contentions and Analysis*

Petitioner contends that claims 1 and 4 are obvious over Braitberg (Ex. 1006) in view of Carnevali 1 (Ex. 1003), Carnevali 2 (Ex. 1004), or Carnevali 3 (Ex. 1005). Pet. 21–28. Petitioner reproduces claim 1, adding citations to these references, as follows:

1. A docking cradle (Ex. 1006 Figs. 14-23), comprising:
 - a base receiver (Ex. 1006 Fig. 22 ref. 400) configured to receive an electronic device (Ex. 1006 ref. 200) disposed in a removable cover (Ex. 1006 ref. 202) having a male connector (Ex. 1006 ref. 322) with a plurality of contacts (Ex. 1006 Fig. 17 ref. 325, Fig. 9 ref. 91–108), the base receiver (Ex. 1006 ref. 400) comprising a back support surface (Ex. 1006 ref. 410) to support a back of the removable cover and electronic device and a docking support surface (Ex. 1006 ref. 400 horizontal surface) extending away from the back support surface; and
 - a female connector (Ex. 1006 Fig. 22 ref. 402) disposed within the docking support surface of the base receiver and comprising a plurality of contacts (Ex. 1006 Figs. 9,13 ref. 91-108) configured to connect with one or more of the plurality of contacts of the male connector (Ex. 1006 ref. 322) when the male connector is received in the base receiver, the female connector defining a rim (Ex. 1006 Fig. 22 walls surrounding 402) to guide proper mating of the male connector of the removable cover to the female connector of the docking cradle, wherein the contacts of the female connector are biasing contacts (Ex. 1003 ¶[0009] lines 1–3; or Ex. 1004 3:11–12; or Ex. 1005 ¶[0010] lines 1–3) that move when the removable cover and electronic device are received.

Pet. 22–23 (citing Ex. 1001, 32:14–32 (claim 1); Ex. 1011 ¶¶ 66–79 [sic, ¶¶ 70–83]). Petitioner relies on Braitberg, in effect, for all elements except for the “contacts of the female connector [being] biasing contacts.” *Id.* at 25–26.

Petitioner's reliance on Braitberg is not typical, in that for a number of elements, Petitioner relies on what the Examiner asserted Braitberg disclosed in rejecting claims during examination, which, according to Petitioner, Patent Owner accepted "and chose to amend claims rather than to argue against the Examiner's assertions." *Id.* at 23–24 (citing Ex. 1002, 189–194). Based on this, Petitioner argues that Patent Owner "is now estopped from asserting otherwise since a patentee is estopped 'when a clear, unambiguous rejection gave rise to a choice of appealing or accepting the rejection, and the applicant accepted the rejection and expressly or impliedly conceded its correctness.'" *Id.* (quoting *Centocor Ortho Biotech v. Abbott Labs*, 662 F. Supp. 2d 584, 591 (E.D. Tex. 2009), quoting *Litton Sys., Inc. v. Whirlpool Corp.*, 728 F.2d 1423, 1438 (Fed. Cir. 1984)).

Petitioner's reliance on *Centocor* is not well founded, as it pertains to the *prima facie* case of acquiescence estopping the patentee where the Examiner has "issued a clear, unambiguous, and final § 112 rejection" for "new matter" and the patentee has "conceded the correctness of the rejection by filing a CIP application in response." *Centocor*, 662 F. Supp. 2d at 591; *see also Litton*, 728 F.2d at 1438 (holding that patentee filing a continuing application as a continuation-in-part implied that it did add new matter and patentee was estopped from contrary arguments). Petitioner offers no explanation or reasoning why we should treat prior art rejections overcome by claim amendment in the same manner, let alone legal authority supporting that position. *See Pet.*

Petitioner's failure to identify any authority for a more expansive doctrine of acquiescence that extends to prior art rejections, as it seeks to apply here, is unsurprising. A "patentee is not required to fight tooth and nail every possible adverse thought an examiner commits to paper, nor to

advance redundant arguments for patentability.” *TorPharm, Inc. v. Ranbaxy Pharms., Inc.*, 336 F.3d 1322, 1330 (Fed. Cir. 2003). Our reviewing court further explains *TorPharm* as holding “that the applicant’s ‘acquiescence’ in the obviousness rejection by amending its claims did *not* preclude the patentee from contesting obviousness in litigation.” *Salazar v. Procter & Gamble Co.*, 414 F.3d 1342, 1346 (Fed. Cir. 2005) (citing *TorPharm*, 336 F.3d at 1331). Specifically, “[i]n *TorPharm*, the applicant added limitations to claims to overcome an obviousness rejection” and, “[l]ater during litigation, the defendant . . . showed that the added limitation was also in the prior art” and then argued that “the patentee could not challenge its obviousness contentions.” *Id.* That appears on all fours with the circumstances that Petitioner contends, contrary to *TorPharm*, estops Patent Owner here. Further, while “an examiner’s reasoning and findings are highly relevant to the validity inquiry[,] . . . they are not beyond challenge and they do not in every case automatically preclude the existence of a dispute of material fact.” *TorPharm*, 336 F.3d at 1329.

In any event, Petitioner does not direct us to anything here that constitutes an admission by the applicant as to the scope of a claim or the teaching of the prior art. *See* Pet. 23–26. As discussed above, contrary to Petitioner’s assertions, an applicant’s decision during examination to amend claims rather than argue against the Examiner’s assertions is not itself an admission.

Accordingly, we turn to, and consider the grounds set forth on their merits, noting that it is Petitioner’s burden to show with particularity why the challenged claims are unpatentable. *See Harmonic*, 815 F.3d at 1363; *Dynamic Drinkware*, 800 F.3d at 1378. After considering the record before us, we determine that Petitioner fails to sufficiently establish that the

combined teachings of the asserted art teach a “removable cover” that the “base receiver” is “configured to receive” as required by claim 1.

Claim 1 recites “a base receiver configured to receive an electronic device disposed in a removable cover having a male connector with a plurality of contacts.” Ex. 1001, 32:15–17. To meet this, Petitioner contends:

Braitberg discloses that the docking cradle 400 includes a base receiver (Ex. 1006 ref. 400) configured to receive an electronic device (Ex. 1006 ref. 200) disposed in a removeable [sic] cover (Ex. 1006 ref. 202) having a male connector (Ex. 1006 ref. 322) with a plurality of contacts (Ex. 1006 Fig. 17 ref. 325, Fig. 9 ref. 91-108).

Pet. 24; *see also* Ex. 1011 ¶ 76 (Dr. Cameron’s related testimony). As to the “removable cover,” neither Petitioner nor Dr. Cameron provide any explanation how Braitberg’s “pocket adapter 202” is a “removable cover” within the meaning of the ’026 patent.

The ’026 patent describes the “removable cover” as a protective cover for protecting a portable electronic device. *See, e.g.*, Ex. 1001 at code (57), 1:23–24, 130–32, 1:41–42, 1:45–46, 2:1–2. In contrast, Braitberg’s “pocket adapter 202” is intended for use in “establish[ing] a physical and electrical interconnection between a particular model of cellular telephone and a common base unit.” Ex. 1006, 6:30–33. Petitioner directs us to nothing in Braitberg suggesting pocket adapter 202 protects an electronic device, let alone is a “removable cover” within any reasonable interpretation of the phrase in accordance with the ’026 patent. Petitioner also does not provide any reason why or how a person having ordinary skill in the art would have modified Braitberg’s pocket adapter 202 to be the “removable cover” recited in claim 1. *See* Pet.

Accordingly, Petitioner fails to meet its burden for instituting *inter partes* review based on Braitberg in view of Carnevali 1, Carnevali 2, or Carnevali 3.

E. Asserted Obviousness Over Kogan in View of Carnevali 1, Carnevalie 2, or Carnevali 3

1. *Kogan (Ex. 1007)*

Kogan is titled “Reconfigurable Mobile Device Docking Cradle” and directed to a docking station for a portable electronic device that includes a base and cradle shell(s) that are sized and shaped to receive portable electronic device(s). Ex. 1007, code (54), 1:15–31. Figure 1 is reproduced below.

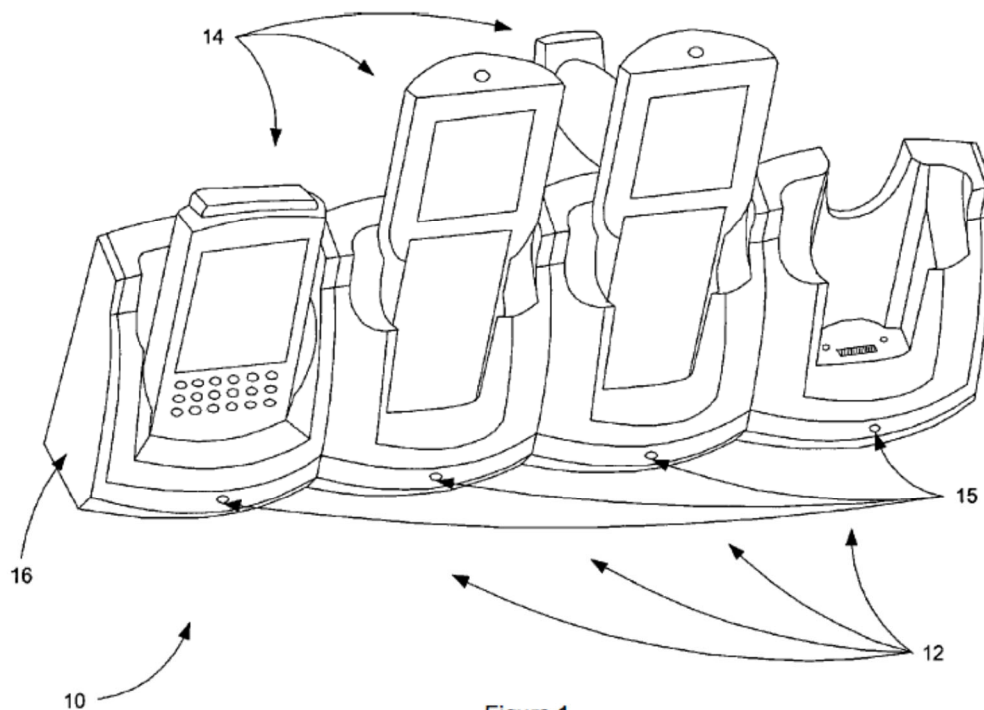


Figure 1

Figure 1 depicts a docking station 10 with a base 16 and plurality of docking cradles 12 for receiving mobile devices 14. *Id.* at 1:60–2:8, Fig. 1. Kogan discloses that “the docking station 10 can be configured with docking

cradles 12 adapted . . . to receive different mobile devices 14.” *Id.* at 1:64–67. Kogan discloses that “the docking station 10 includes a modular docking cradle system that allows the docking cradles 12 to be reconfigured to receive a new type of mobile device 14 while a base 16 of the docking station 10 remains unchanged.” *Id.* at 2:4–8. Figure 2, illustrating this, is reproduced below.

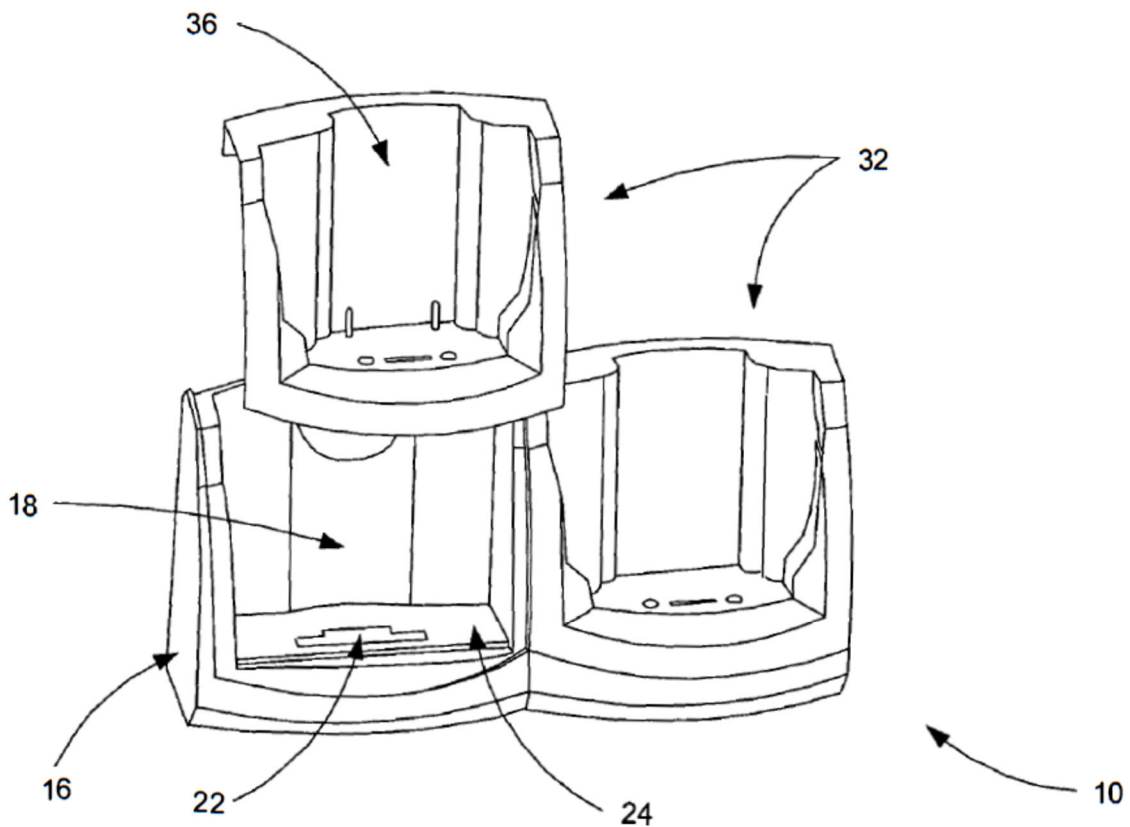


Figure 2

Figure 2 depicts the docking station 10 with a first device cradle removed, illustrating cradle receiving slot 18 having a connector opening 22 formed in lower surface 24 of the cradle receiving slot 18 and cradle shells 32 having an outer side 36 configured to receive a corresponding mobile device 14.

Id. at 2:4–14, Fig. 2.

2. Petitioner's Contentions and Analysis

Petitioner contends that claim 1 is obvious over Kogan (Ex. 1007) in view of Carnevali 1 (Ex. 1003), Carnevali 2 (Ex. 1004), or Carnevali 3 (Ex. 1005). Pet. 28–34. Petitioner reproduces claim 1, adding citations to these references, as follows:

1. A docking cradle (Ex. 1007 Figs. 1-6), comprising:
 - a base receiver (Ex. 1007 Fig. 1 ref. 10,16) configured to receive an electronic device (Ex. 1007 ref. 14) disposed in a removable cover (Ex. 1007 Fig. 3 ref. 36,32) having a male connector (Ex. 1007 ref. 44,46,50) with a plurality of contacts (Ex. 1007 ref. 42), the base receiver (Ex. 1007 ref. 10) comprising a back support surface (Ex. 1007 ref. 16, upright portion) to support a back of the removable cover and electronic device and a docking support surface (Ex. 1007 ref. 16, horizontal portion) extending away from the back support surface; and
 - a female connector (Ex. 1007 Fig. 6 ref. 22) disposed within the docking support surface of the base receiver and comprising a plurality of contacts (Ex. 1007 Fig. 6 ref. 22) configured to connect with one or more of the plurality of contacts of the male connector (Ex. 1007 ref. 44) when the male connector is received in the base receiver, the female connector defining a rim (Ex. 1007 Fig. 6 ref. 22, walls surrounding opening to contacts) to guide proper mating of the male connector of the removable cover to the female connector of the docking cradle, wherein the contacts of the female connector are biasing contacts (Ex. 1003 ¶[0009] lines 1–3; or Ex. 1004 3:11–12; or Ex. 1005 ¶[0010] lines 1–3) that move when the removable cover and electronic device are received.

Pet. 30–31 (citing Ex. 1001, 32:14–32 (claim 1); Ex. 1011 ¶¶ 81–94 [sic, ¶¶ 85–98]). Petitioner relies on Kogan, in effect, for all elements except for the “contacts of the female connector [being] biasing contacts.” Pet. 33–34.

Petitioner relies on Kogan in the same manner as Braitberg, that is, Petitioner contends that Patent Owner “acquiesced to the [Examiner’s] assertion of . . . [certain] claim element[s]” and is thus “estopped from asserting otherwise now.” *Id.* at 31–32 (citing *Centocor*, 662 F.Supp.2d at 591). As discussed above, Petitioner’s reliance on *Centocor* is not well founded, and we turn to the grounds set forth on their merits. Doing so, here again, we determine that Petitioner fails to establish a sufficient basis for the “removable cover” that the “base receiver” is “configured to receive.”

To meet the recited “base receiver configured to receive an electronic device disposed in a removable cover having a male connector with a plurality of contacts,” Petitioner contends:

Kogan discloses that the docking cradle 10 includes a base receiver (Ex. 1007 ref. 16) configured to receive an electronic device (Ex. 1007 ref. 14) disposed in a removeable [sic] cover (Ex. 1007 ref. 32) having a male connector (Ex. 1007 ref. 44,46,50) with a plurality of contacts (Ex. 1007 Fig. 3 ref. 42).

Pet. 32; *see also* Ex. 1011 ¶¶ 89–91 (Dr. Cameron’s related testimony). As to the “removable cover,” neither Petitioner nor Dr. Cameron provide any further explanation how Kogan’s “cradle shell 32” is a “removable cover” within the meaning of the ’026 patent.

In contrast to the ’026 patent’s protective removable cover, discussed above, Kogan’s “cradle shell 36” that Petitioner relies on for this element is intended for “establish[ing] a physical and electrical interconnection between a particular model of cellular telephone and a common base unit.” Ex. 1006, 6:30–33. Petitioner directs us to nothing in Kogan suggesting a “removable cover” within any reasonable interpretation of the phrase in

accordance with the '026 patent, and provides no reasoning for modifying the “cradle shell” Kogan discloses. *See* Pet.

Accordingly, Petitioner fails to meet its burden for instituting *inter partes* review based on Kogan in view of Carnevali 1, Carnevali 2, or Carnevali 3.

F. Asserted Obviousness Over Braitberg or Kogan in View of Either Li or Rudisill

Petitioner contends that claim 1 is obvious over Braitberg (Ex. 1006) or Kogan (Ex. 1007) in view of either Li (Ex. 1009) or Rudisill (Ex. 1008). Pet. 35–39.

Petitioner relies on Braitberg and Kogan as in the grounds discussed above, and states that, “[f]or the sake of brevity, Petitioner incorporates by reference the discussions of Braitberg (Ex. 1006) and Kogan (Ex. 1007) above.” *Id.* at 37–38.

For the reasons discussed above, Petitioner fails to establish that either Braitberg or Kogan teaches a “removable cover,” and thus for a base receiver configured to receive an electronic device configured in such, as recited in claim 1.

Accordingly, Petitioner fails to meet its burden for instituting *inter partes* review based on Braitberg or Kogan in view of either Li or Rudisill.

G. Asserted Obviousness Over Song in View of Li or Rudisill

1. Song (Ex. 1010)

Song is titled “Cellular Phone Auto-Coupling Magnetic Data Connector Jack of Handsfree [sic]” and directed to a coupling jack for rapid and convenient coupling of a cellular phone to a data connector of a handsfree apparatus that uses magnetic coupling rather than a conventional plug connection. Ex. 1010, code (54), 1–2. Song describes how

conventional connector jacks are inconvenient and result in significant wear when frequent coupling and uncoupling is required. *Id.* at 2–3. Figure 7, illustrating operation of an existing, i.e., conventional, handsfree apparatus and cellular telephone, is reproduced below.

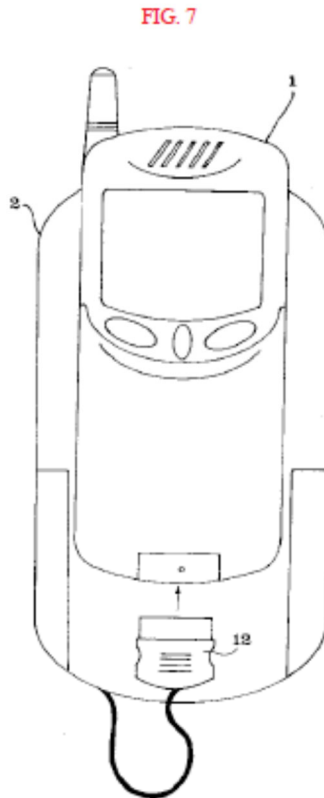


Figure 7 depicts operation of “an existing cellular phone [1] . . . using a method in which a handsfree-connecting data connector jack 14 [sic, 12] is directly connected to a data connector hole 3 of the cellular phone 1.” *Id.* at 2, Fig. 7. Figure 1, illustrating a disassembled view of Song’s handsfree apparatus and cellular telephone, is reproduced below.

FIG. 1

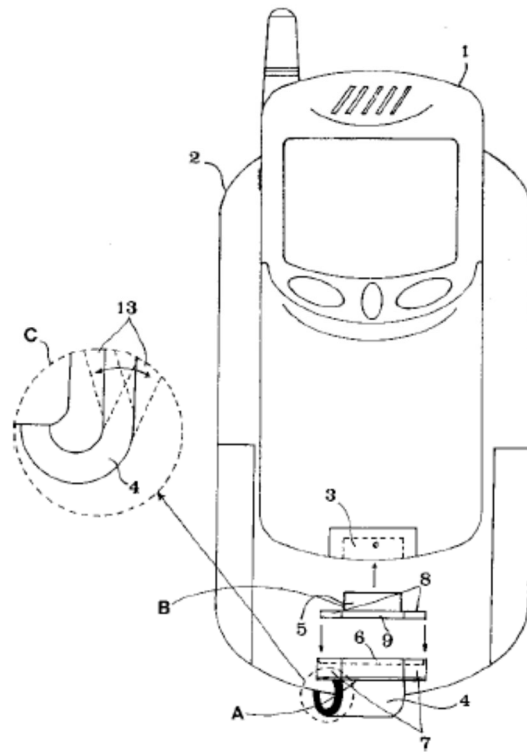


Figure 1 depicts a disassembled view of: (i) cellular telephone 1 having data connector hole 3 (a female connector); (ii) handsfree 2 (apparatus to hold the cellular telephone for hands free operation); and (iii) a coupling jack that includes data connector jack part A and intermediate coupling part B.

Ex. 1010, 1–2, Fig. 1. As depicted in Figure 1, intermediate coupling part B includes coupling jack 5 (a male connector) that is inserted into data connector hole 3 of cellular phone 1 and metal members 8. *Id.*, see also Fig. 2 (depicting intermediate coupling part B inserted into cellular phone 1). As depicted in Figure 1 data connector jack A includes “magnetic” [sic, magnet] 7 and guide 6 that provides for “accurate and constant coupling of [] metal members 8 . . . and [] magnet[s] 7.” *Id.* at 3. Figure 4, illustrating data connector jack A and intermediate coupling part B in greater detail, is reproduced below.

FIG. 4

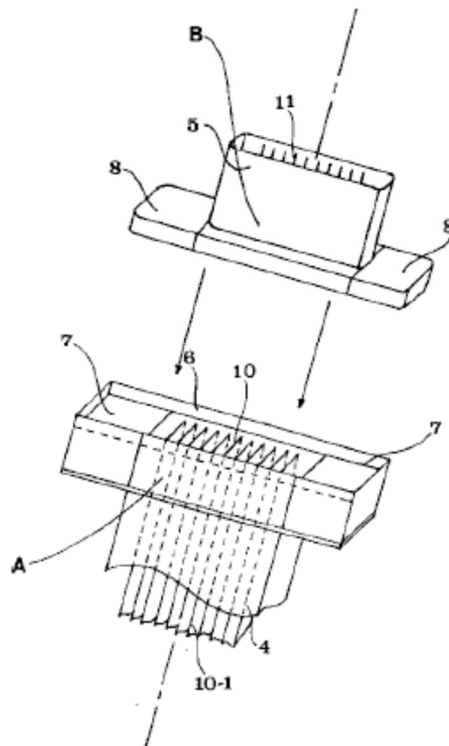


Figure 4 depicts “data connector jack A . . . [having] magnet[s] 7, to which guide 6 is attached, and multiple data terminals 10” and “intermediate coupling jack B . . . [having] metal member[s] 8 and . . . data terminals 11 [] formed inside, and [] coupling jack 5.” *Id.* at 2, Fig. 4. Song discloses that its intermediate coupling jack B is constantly coupled to the cellular phone in the same manner as the conventional connector is coupled, that is, intermediate coupling jack B is, and remains, inserted into connector hole 3. *See id.* at 3:1–2. Song also discloses that cellular telephone 1 with intermediate coupling jack B inserted can be rapidly and conveniently coupled to the “handsfree [apparatus] 2” with multiple data coupling terminals 10 accurately coupled to multiple coupling terminals 11. *Id.* at 2–3.

2. *Li (Ex. 1009)*

Li is titled “A Contact-based Mobile Phone Transmission Device” and directed to a transmission device, for transferring data and power, that includes a dock unit and a mobile phone case. Ex. 1009, code (57), ¶¶ 1, 24, Fig. 1. Figure 4 is reproduced below.

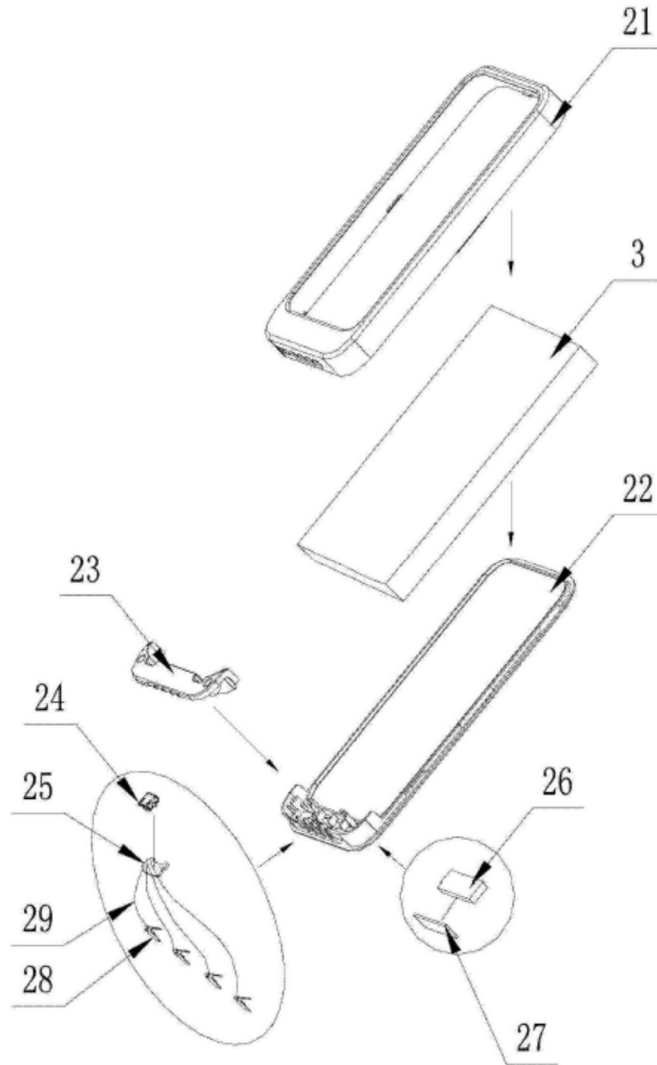


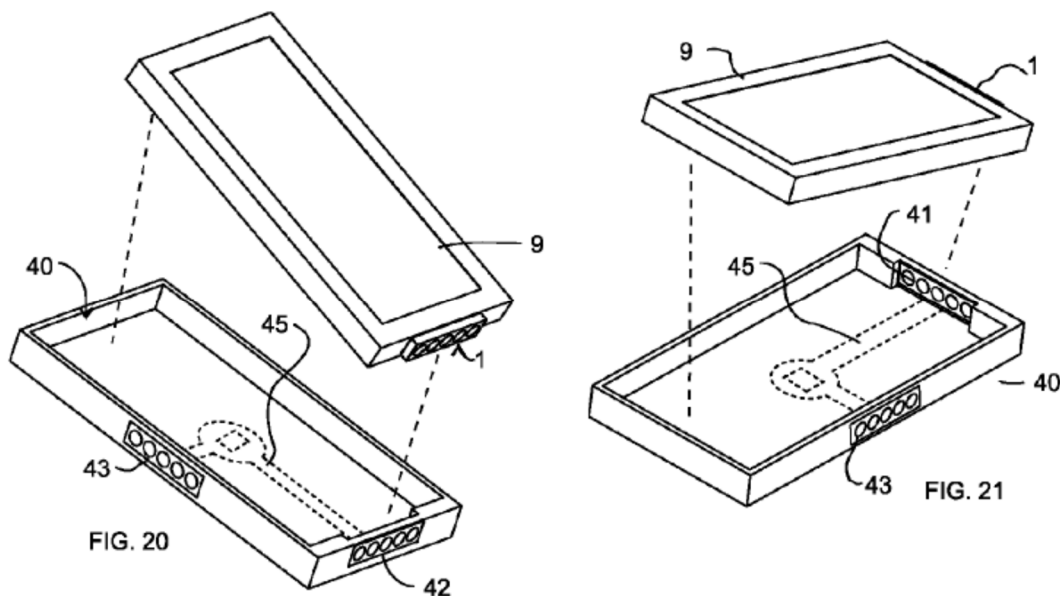
Fig. 4

Figure 4 depicts an exploded-view structural drawing of Li’s mobile phone case for mobile phone 3, including outer case 21, case dock 22, and middle shell 23. *Id.* ¶ 27, Fig. 4. The mobile phone case further includes a mobile

phone USB interface and a circuit connector set; the mobile phone USB interface includes USB female port 24, PCB female connector 25, USB male connector 26, and PCB male header 27; and the circuit connector includes four metal hardware pieces 28 and four case wire leads 29. *Id.* Li discloses that, when docked, the included metal hardware pieces 28 of the mobile phone case form a contact-based electrical connection with spring loaded pins 15, included in the dock unit. *Id.* ¶¶ 24–25, 27, Figs. 3, 4.

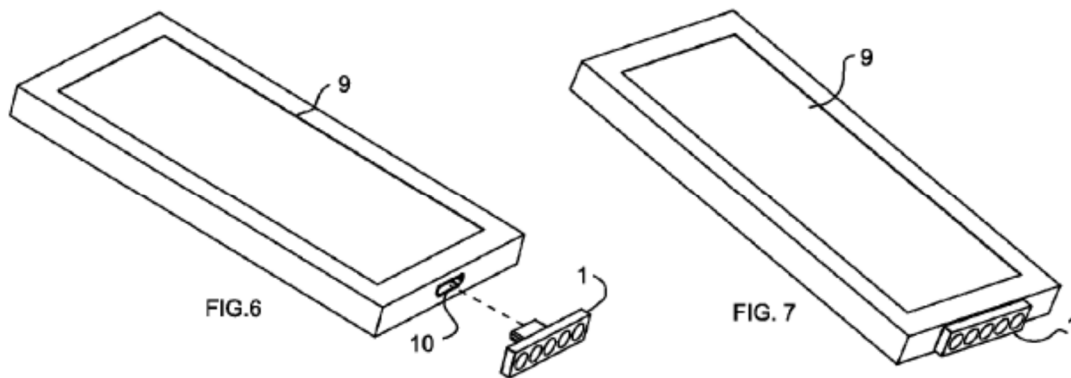
3. *Rudisill (Ex. 1008)*

Rudisill is titled “Interposer Connectors with Magnetic Components” and directed to “interposer electrical connector[s]” that “includ[e] magnetic components used to facilitate interconnection of peripheral devices to standard input/output, or ‘I/O’, connectors (such as USB connectors) of devices such as mobile communications products.” Ex. 1008, codes (54), (57). Figures 20 and 21 are reproduced below.



Figures 20 and 21 depict device 9, interposer connector 1, and case 40. *Id.* ¶¶ 71–72, 118, Figs. 20–21. Case 40 includes case interior interposer mating connector 41, bottom exterior accessory connector 42, side exterior

accessory connector 43, and flexible printed circuits 45 that connect the case interface connectors. *Id.* Figures 6 and 7 are reproduced below.



Figures 6 and 7 depict interposer connector 1 designed to interface with conventional I/O connector 10 of an electronic device 9. *Id.* ¶¶ 57–58, 104, Figs. 6–7.

4. *Petitioner's Contentions and Analysis*

Petitioner contends that claims 8–11, 14, 15, 19, and 20 obvious over Song (Ex. 1010) in view of Li (Ex. 1009) or Rudisill (Ex. 1008). Pet. 39–61. Petitioner reproduces claim 8 and claim 11, the independent claims challenged under this ground, adding citations to these references. We begin our analysis addressing the grounds as applied to claim 8. Petitioner sets forth claim 8, with added citations, as follows:

8. A docking cradle (Ex. 1010 Figs. 1–6), comprising:
 - a base receiver (Ex. 1010 Fig. 1 ref 2, lower portion and refs 4,A) configured to receive an electronic device (Ex. 1010 ref 1) disposed in a removable cover (Ex. 1010 Figs. 2,4 ref 21,22 [sic]) having a male connector (Ex. 1010 Figs. 1–2 ref B, portion external to electronic device) with a plurality of contacts (Ex. 1010 Fig. 4 ref 11,11-1), the base receiver comprising a back support surface (Ex. 1010 Fig. 1 ref 2, back portion) to support a back of the removable cover and electronic device and a docking support surface

(Ex. 1010 Fig. 1 refs A,4) extending away from the back support surface; and

a female connector (Ex. 1010 Figs. 1–2 upper portion of ref A surrounded by ref 6) disposed within the docking support surface of the base receiver and comprising a plurality of contacts (Ex. 1010 Fig. 4 ref 10) configured to connect with one or more of the plurality of contacts (Ex. 1010 Fig. 4 ref 11,11-1) of the male connector when the male connector is received in the base receiver, the female connector defining a rim (Ex. 1010 Fig. 4 ref 6) to guide proper mating of the male connector of the removable cover to the female connector of the docking cradle, wherein the female connector further comprises a magnetic coupling element (Ex. 1010 Fig 4 ref 7) resident in the connector, wherein the magnetic coupling element comprises one of a magnetic material or a magnetically attractive material (Ex. 1010 Fig. 4 ref 7 “magnet”).

Id. at 42–43 (citing Ex. 1001, 32:48–67 (claim 8); Ex. 1011 ¶¶ 102–114 [sic, ¶¶ 107–119]). Petitioner further details its contentions as to the teachings of the references (*id.* at 43–47), including that Li and Rudisill disclose an electronic device disposed in a cover and engaged with a docking cradle (*id.* at 44) and that Rudisill discloses using magnets in its electrical contacts (*id.* at 47), and Petitioner’s contentions as to the motivation to combine (*id.* at 47–48).

Patent Owner argues that Petitioner fails to establish a sufficient basis for the recited “electronic device disposed in a removable cover having a male connector” that the “base receiver” is “configured to receive.” Prelim. Resp. 45–46, 48.

On the current record, we determine that Petitioner does not sufficiently establish that Song discloses a “removable cover” for the electronic device as recited in claim 8. Petitioner cites Figures 2 and 4, reference numbers 21 and 22 (Pet. 42), but neither are present in the figures

(see Ex. 1010, Figs. 2, 4), or described elsewhere in Song (*see id.*). In turning to Li and Rudisill, Petitioner states, “[t]o the extent Song does not *expressly* disclose a cover on the electronic device” (emphasis added), which implies Song may implicitly disclose such a cover, but Petitioner provides no support for Song implicitly disclosing a cover either. Pet. 44.

Petitioner’s reliance on Li and Rudisill for remedying the absence of a removable cover in Song’s disclosure similarly falls short. Petitioner relies on “Li disclos[ing] an electronic device 3 disposed in a cover 21, 22 and engaged with docking cradle 1.” *Id.* (citing Ex. 1009, Figs. 1, 2, 4). Petitioner relies on “Rudisill [] disclos[ing] an electronic device 9 disposed in a cover 40 and engaged with docking cradle 16.” *Id.* (citing Ex. 1008, Figs. 31, 49). Petitioner contends that “[t]he base receiver of Song could readily receive an electronic device disposed within such a cover, as exemplified by the docking cradles of both Li and Rudisill” and that a person of ordinary skill in the art “would be motivated to adapt the base receiver of Song to receive an electronic device disposed with a cover as disclosed by Li and Rudisill.” *Id.* Petitioner further contends that a person of ordinary skill in the art “would have been motivated to combine docking cradles as disclosed by Song with protective covers for electronic devices as disclosed by Li or Rudisill to provide additional protection for the electronic device as they are held within the docking cradles, such as during movement in vehicles or other mobile applications.” *Id.* at 48 (citing Ex. 1011 ¶¶ 107–112, 114). Although not discussed in the Petition, the testimony of Dr. Cameron cited by Petitioner states that a person of ordinary skill in the art “was well aware of the benefits of using a cover to protect an electronic device,” and that they “would have understood[] the easiest way to have [Song’s coupling jack B] constantly coupled to the cellular phone 1 would

be to attach it to the cover at the location of the data port hole [3].” Ex. 1011 ¶ 111 (citing Ex. 1010, 3:1–2).

Petitioner has, in relying on Li and Rudisill, identified references that disclose an electronic device disposed in what is, in each case, a protective cover. Petitioner fails to sufficiently explain, however, why one of ordinary skill in the art would have modified Song’s teaching to arrive at an “electronic device disposed in a removable cover having a male connector” that the “base receiver” is “configured to receive.” The failure is two-fold, first, as to providing a basis for including any type of removable cover, and, second, as to providing a removable cover having a male connector.

Petitioner fails to sufficiently explain why the skilled artisan would have sought to use a protective cover of any type with Song’s cellular phone. Dr. Cameron testifies that a person of ordinary skill in the art “was well aware of the benefits of using a cover to protect an electronic device,” but there is no explanation why Song’s cellular phone would benefit. Ex. 1011 ¶ 111. Similarly, Petitioner relies on the benefit of “additional protection for the electronic device as they are held within the docking cradles, such as during movement in vehicles or other mobile applications,” but fails to explain why an electronic device requires additional protection when it is held within its docking cradle beyond that afforded by the docking cradle itself. *See* Pet. 48 (citing Ex. 1011 ¶¶ 107–112, 114).

Petitioner fails, especially, to sufficiently explain why the skilled artisan would have arrived at a removable cover having a male connector. The Petition itself is silent as to providing this specific arrangement of elements, referring only to Li and Rudisill disclosing electronic devices disposed in a cover and engaged with a docking cradle (*id.* at 44), and that it would have been obvious to provide protective covers for electronic devices

as disclosed by Li or Rudisill (*id.* at 48). The testimony of Dr. Cameron cited, but not discussed, states that a person of ordinary skill in the art “would have understood[] the easiest way to have [Song’s coupling jack B] constantly coupled to the cellular phone 1 would be to attach it to the cover at the location of the data port hole [3].” Ex. 1011 ¶ 111 (citing Ex. 1010, 3:1–2); Pet. 48. But this testimony falls short because it is not sufficiently supported by corroborative evidence and thus we give it little weight. *See Velandier v. Garner*, 348 F.3d 1359, 1371 (Fed. Cir. 2003) (“It is within the discretion of the trier of fact to give each item of evidence such weight as it feels appropriate.”); *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 294 (Fed. Cir. 1985) (“Lack of factual support for expert opinion going to factual determinations, however, may render the testimony of little probative value in a validity determination.”). While it is correct that Song teaches its coupling jack B is to remain inserted in data connector hole 3 of cellular phone 1, the weight of its teaching is also that this is simply achieved by coupling the intermediate coupling jack to the cellular phone by plugging coupling jack 5 into data connector hole 3. *See, e.g.*, Ex. 1010, 2 (“the coupling jack 5 formed at the intermediate coupling jack B which is constantly coupled to the data connector hole 3 has the same coupling structure as that of an existing data connector jack.”). There is, accordingly, no reasonable basis on this record for Dr. Cameron’s statement that the “easiest way to have [coupling jack] B constantly coupled” is to “attach it to the cover at the location of the data port hole.” Ex. 1011 ¶ 111. Finding the cited testimony for including the male connector as part of the removable cover grounded on this unfounded conclusion, we determine the testimony fails to bear the weight required.

Petitioner's general contentions that it would have been obvious to provide a protective cover based on the teachings of Li and Rudisill also fall short. Pet. 44, 48. There is insufficient explanation provided for how a protective cover would have been included in such a combination or how the combination would have been arranged. *Id.* In particular, it is apparent that there are any number of different ways that a protective cover could be provided while allowing, or maintaining access, for connection between an electronic device and a docking station.

In sum, Petitioner relies on a combination of teachings from Song in view of either Li or Rudisill that require modification from what is set forth to reach the claimed subject matter, but fails to explain sufficiently why a person of ordinary skill in the art would have undertaken the modifications necessary to reach the claimed subject matter. *See Belden v. Berk-Tek LLC*, 805 F.3d 1064, 1073 (Fed. Cir. 2015) (“[O]bviousness concerns whether a skilled artisan not only *could have made* but *would have been motivated to make* the combinations or modifications of prior art to arrive at the claimed invention.”). Further, “[c]are must be taken to avoid hindsight reconstruction by using ‘the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit.’” *Grain Processing Corp. v. American Maize-Prods. Co.*, 840 F.2d 902, 907 (Fed. Cir. 1988) (quoting *Orthopedic Equip. Co. v. United States*, 702 F.2d 1005, 1012 (Fed. Cir. 1983)). Given the absence of a clear alternative explanation for the proposed modifications, we discern here an exercise of impermissible hindsight reconstruction.

Petitioner sets forth claim 10 with added citations in the same manner as claim 8. *See* Pet. 50–51. Claim 10 recites, in relevant part for this

discussion, “a protective cover for an electronic device, the cover comprising a shell forming an interior cavity to receive the electronic device[] [and] a male plug comprising a plurality of connectors extending into the interior cavity of the shell.” Ex. 1001, 33:5–9. For the “protective cover,” Petitioner again relies on Li and Rudisill, as it did for the “removable cover” of claim 8, and on Song for disclosing the male plug, as it did for the “male connector” of claim 8. *Compare* Pet. 50–52, *with id.* at 42–44. Petitioner does not cite to Dr. Cameron’s testimony for support of its contentions as to these limitations, in effect, relying on that offered for the corresponding elements recited in claim 8, discussed above. *Id.* at 50–56.

The protective cover recited in claim 10 requires both a shell forming an interior cavity for the electronic device and a male plug extending into that same cavity. Ex. 1001, 33:5–9. As with Petitioner’s challenge to claim 8, and for the same reasons, Petitioner fails to establish a sufficient basis for a shell that includes a male plug for connecting with the electronic device.

Accordingly, Petitioner fails to meet its burden for instituting *inter partes* review based on Song in view of Li or Rudisill.

H. Asserted Obviousness Over Song in View of Li or Rudisill, and Further View of Braitberg

1. Petitioner’s Contentions and Analysis

Petitioner contends that claim 15 is obvious over Song (Ex. 1010) in view of Li (Ex. 1009) or Rudisill (Ex. 1008), and further view of Braitberg (Ex. 1006). Pet. 61–62. Claim 15 ultimately depends from claim 10, and further requires that “the rim of the docking connector is recessed with respect to the docking support surface.” Ex. 1001, 34:9–11.

Petitioner contends that Braitberg discloses a “rim [being] recessed with respect to the docking support surface” without any explanation beyond that such was asserted by the Examiner, Patent Owner did not contest the Examiner’s assertion, and Patent Owner is now estopped from asserting otherwise. Pet. 61 (citing *Centocor*, 662 F. Supp. 2d at 591). Petitioner further contends that a person of ordinary skill in the art “would have been motivated to combine Braitberg with Song, Li, and Rudisill in the manner suggested herein for the reasons set forth above.” *Id.* at 61–62.

On this record, Petitioner fails to establish any basis for the ground. As discussed above, there is no basis for Petitioner’s reliance on the Examiner’s assertions as to the teaching of the art being sufficient to meet its burden in this proceeding. Further, nothing set forth remedies the deficiency in Petitioner’s challenge to claim 10, from which claim 15 ultimately depends. Still further, Petitioner’s general statement as to the motivation “to combine Braitberg with Song, Li, and Rudisill in the manner suggested herein” is wholly deficient to set forth a basis for how the subject matter would have been obvious.

Accordingly, Petitioner fails to meet its burden for instituting *inter partes* review based on Song in view of Li or Rudisill, and further view of Braitberg.

I. Asserted Anticipation by Rudisill

Petitioner contends that claims 10, 11, 19, and 20 are anticipated by Rudisill (Ex. 1008). Pet. 62–69. Petitioner reproduces claim 10, adding citations to Rudisill, as follows:

10. A docking system (Ex. 1008 Figs. 31-33,49), comprising:
a protective cover (Ex. 1008 Figs. 31-33 ref 40) for an
electronic device (Ex. 1008 ref 9), the cover comprising a

shell forming an interior cavity to receive the electronic device, a male plug (Ex. 1008 Figs.1,24 ref 2) comprising a plurality of connectors (Ex. 1008 ref 3) extending into the interior cavity of the shell in an arrangement for mating with a female socket of the device, and a contactor (Ex. 1008 Figs. 24,31 ref 42) comprising a plurality of contacts (Ex. 1008 ref 61) adjacent to an exterior of the shell and electrically coupled to one or more of the connectors of the plug, wherein the cover (Ex. 1008 ref 40) is configured and arranged to extend over at least a portion of a back surface, a front surface, and each of four side surfaces of the electronic device to hold the electronic device within the cover; and

a docking cradle (Ex. 1008 ref 11) configured to receive the cover and comprising a base receiver (Ex. 1008 Fig. 31 ref 11) to receive the cover and a docking connector (Ex. 1008 ref 16) disposed on the base receiver and comprising a plurality of contacts (Ex. 1008 ref 16) positioned to connect with one or more of the plurality of contacts (Ex. 1008 ref 42) of the contactor of the protective cover, the docking connector defining a rim (Ex. 1008 Fig. 49 ref 104) to guide proper mating of the contactor to the docking connector.

Id. at 62–63 (citing Ex. 1001, 32:48–67 (claim 10)). Petitioner further details its contentions as to the limitation that “the cover is configured and arranged to extend over at least a portion of a back surface, a front surface, and each of four sides of the electronic device to hold the electronic device within the cover,” and in particular as to the cover extending over at least a portion of a front surface, as follows:

Rudisill discloses a cover 40 that fittingly engages the device 9. (Ex. 1008 Figs. 20,24,31). The case 40 extends over the back surface and each of the four side surfaces of the device 9, and it is inherent that the device 9 would need to be retained in the case 40 by having the case 40 extend over a portion of the front surface, so that the device 9 does not fall out of the case

40 when, for example, the case 40 is engaged in an upright position on the docking station 11 as shown in Figure 32.

Id. at 65.

Patent Owner highlights that Petitioner does not cite expert testimony to support its argument and argues that Rudisill’s figures “do not show a cover that extends over the front surface of the electronic device” and that it is not necessary for the front cover to extend over the front surface of the electronic device for it to be secured in the case. Prelim. Resp. 52–53.

On this record, Petitioner both fails to establish that any cover in Rudisill extends over any portion of the front surface of its electronic device and that it is necessary for the cover to do so for any purpose. Thus, Petitioner fails to establish a basis for Rudisill disclosing, either expressly or inherently, a cover that extends over at least a portion of the front surface. *Continental Can*, 948 F.2d at 1268 (“Inherency . . . may not be established by probabilities or possibilities.”).

Accordingly, Petitioner fails to meet its burden for instituting *inter partes* review based on Rudisill.

CONCLUSION

Based on the arguments and evidence of record, we determine that Petitioner has not established a reasonable likelihood of prevailing on any of its assertions that claims 1, 4, 8, 9–11, 14, 15, 19, and 20 of the ’026 patent

are unpatentable. Because of this, we need not reach the other issues raised by the parties.

ORDER

It is:

ORDERED that, pursuant to 35 U.S.C. § 314(a), the Petition is *denied* and no trial is instituted.

IPR2021-00622
Patent 9,706,026 B2

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