

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SHARKNINJA OPERATING LLC,
SHARKNINJA MANAGEMENT LLC, and
SHARKNINJA SALES COMPANY,
Petitioner,

v.

BISSELL INC.,
Patent Owner.

IPR2022-01177
Patent 11,096,542 B2

Before WILLIAM V. SAINDON, BENJAMIN D. M. WOOD, and
CARL M. DEFRANCO, *Administrative Patent Judges*.

DEFRANCO, *Administrative Patent Judge*.

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

BISSELL Inc. (“Bissell”) is the owner of U.S. Patent No. 11,096,542 B2 (Ex. 1001, “the ’542 patent”). SharkNinja Operating LLC, SharkNinja Management LLC, and SharkNinja Sales Company (collectively, “SharkNinja”) filed a Petition requesting *inter partes* review of claims 1–20 of the ’542 patent. Paper 1 (“Pet.”). Bissell filed a Preliminary Response. Paper 8 (“Prelim. Resp.”). Because we determine that SharkNinja has demonstrated a reasonable likelihood that at least claim 1 of the ’542 patent is unpatentable, we institute an *inter partes* review of all claims as challenged in the Petition. See 35 U.S.C. § 314(a).

I. BACKGROUND

A. Related Matters

SharkNinja has also filed petitions challenging two related Bissell patents, namely, U.S. Patents 10,925,455 B2 (IPR2022-01175) and 11,096,541 B2 (IPR2022-01176). See Pet. vii; Paper 6, 2. Those patents have substantial overlap in claimed subject matter with the ’542 patent being challenged here.

B. The ’542 Patent

The ’542 patent is directed to a surface cleaning apparatus that includes a suction nozzle in fluid communication with a suction source. See Ex. 1001, 1:46–51.

C. The Challenged Claims

Claim 1, reproduced below, is the sole independent claim of the claims challenged in the Petition.

1. A surface cleaning apparatus, comprising:
 - a housing including an upright handle assembly and a base operably coupled to the upright handle assembly;
 - an agitator selectively provided with the base;

a suction source;
a suction nozzle in fluid communication with the suction source;
a fluid delivery system including a fluid supply chamber adapted to hold a supply of liquid, a fluid dispenser provided on the base, a fluid delivery pathway between the fluid supply chamber and the fluid dispenser; and
a dual wiper configuration provided with the base and comprising a first wiper adapted to contact the agitator and a second wiper at least selectively adapted to contact a surface to be cleaned.

Ex. 1001, 16:6–20 (emphasis added).

D. The Asserted Challenges

Claims Challenged	35 U.S.C. §	Basis
1–20	102	Beskow ¹
1–20	103	Beskow
1–20	103	Beskow, Li ²

In further support of these challenges, SharkNinja submits the declaration of Richard Figliola, Ph.D. *See* Ex. 1003. Bissell responds with the declaration of Craig R. Forest, Ph.D. *See* Ex. 2001.

II. ANALYSIS

A. Level of Ordinary Skill in the Art

SharkNinja submits that one skilled in the art “would have had a Bachelor’s degree in Mechanical Engineering (or an equivalent discipline) or equivalent work experience, and at least one year’s worth of experience in research, design and/or development related to vacuum cleaners (or other comparable industrial design).” Pet. 14. Bissell responds that “a more

¹ US 7,979,952 B2, iss. July 19, 2011 (Ex. 1004, “Beskow”).

² US 10,136,781 B2, iss. Nov. 27, 2018 (Ex. 1005, “Li”).

appropriate level of skill would include at least 1-2 years of pro[f]essional work experience” and “need not be as industry-specific as Petitioner asserts,” but nonetheless acknowledges that “the disputes in this proceeding do not turn on the differences between Petitioner’s and Patent Owner’s proposals” and its arguments “apply with equal force irrespective of which level of skill is applied.” Prelim. Resp. 2. Accordingly, at this stage, we apply the level of skill in the art as articulated by SharkNinja, which appears consistent with that reflected in the prior art of record.

B. Claim Construction

SharkNinja and Bissell agree that no claim term requires an explicit construction at this time. Pet. 4–5; Prelim. Resp. 6. We note, however, that Bissell’s rebuttal of SharkNinja’s reading of one of the claim terms on the prior art appears to be predicated on that claim term having a particular meaning. See Prelim. Resp. 12 (“The claimed ‘suction nozzle’ is a *cavity defined by a suction nozzle assembly*.”). But, because Bissell neither argues for an explicit claim construction nor otherwise explains why we should adopt a construction of the disputed claim term to get the result they advocate, we will address Bissell’s implicit claim construction in the context of our analysis below, to the extent necessary. *Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019) (“The Board is required to construe ‘only those terms . . . that are in controversy, and only to the extent necessary to resolve the controversy.’”) (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)).

C. SharkNinja’s Challenge of Independent Claim 1 Based on Beskow

Claim 1 recites various features of a surface cleaning apparatus, but most relevant to the dispute at this stage is the limitation requiring “a suction

nozzle in fluid communication with the suction source.” To meet this disputed limitation, SharkNinja points to Beskow’s disclosure of “a base (cleaning head 102) having suction nozzles (debris inlet 724 and/or fluid inlet 726) in fluid communication with the suction source (vacuum source 108).” Pet. 24. SharkNinja explains that “[b]ecause there is a direct airflow connection between the vacuum source and the debris and fluid inlets, the nozzle defined by debris inlet 724 and/or fluid inlet 726 is in fluid communication with the suction source.” *Id.* SharkNinja’s declarant likewise explains that “debris inlet 724 and fluid inlet 726 comprise air passages through the cleaning head 102 that lead from the area adjacent the agitator 110 to a cleaning head outlet 1408,” which, in turn, “is connected by a hose (not shown) to the vacuum source 108.” Ex. 1003 ¶ 77 (citing Ex. 1004, 18:63–19:1). According to SharkNinja’s declarant, “[one skilled in the art] reading Beskow, including Figure 7A and the accompanying description, would have understood that the debris inlet 724 and the fluid inlet 726 form nozzles.” *Id.*

As mentioned above, Bissell asserts that the claimed “suction nozzle” is “a *cavity defined by a suction nozzle assembly*,” pointing to annotated Figures 10 and 11 of the ’542 patent as support. Prelim. Resp. 12–14. With that premise in mind, Bissell argues that “Beskow does not disclose a suction nozzle ‘assembly’ because it does not teach any ‘assembly’ of parts related to suction.” *Id.* at 15. Instead, according to Bissell, “three of the four components shown in Figure 7A of Beskow have no relation to suction,” identifying cleaning head 102, agitator 110, and fluid distributor 722 as the unrelated components. *Id.* “That leaves only one component: Beskow’s removable inlet tray 730,” Bissell explains, “[b]ut a single

standalone part cannot be considered an ‘assembly’ . . . an assembly would be understood by [one skilled in the art] as a plurality of parts . . . according to that term’s ordinary meaning.” *Id.* at 16 (citing Exs. 2001, 2002, 2004).

At the outset, we disagree with Bissell’s attempt to define the claimed “suction nozzle” as an assembly of parts, not only because it ignores the plain language of the claim, but it is also inconsistent with the Specification of the ’542 patent. Had Bissell intended for the claimed “suction nozzle” to be defined as an “assembly,” it would have done so expressly. Indeed, Bissell clearly knew how to define a claim element in terms of being an assembly, given that it uses that same term to define another claim element, namely, “the upright handle assembly.” Ex. 1001, 16:7–8. Similarly, in claim 1 of a related patent, US 11,096,541 B2, Bissell expressly uses the term “suction nozzle assembly.” In fact, claim 1 of the related ’541 patent has substantial overlap with claim 1 of the ’542 patent being challenged here.³ The only meaningful difference we discern between those independent claims is that the former recites “a suction nozzle assembly,” whereas the latter recites simply “a suction nozzle,” which further shows that had Bissell intended for the claimed “suction nozzle” to define an assembly of parts, it would have done so expressly, just as it did in the related ’541 patent.

Moreover, the Specification of the ’542 patent makes clear that, rather than being used interchangeably as Bissell seems to suggest, the terms “suction nozzle” and “suction nozzle assembly” have independent meanings

³ Indeed, the applications for the related ’541 and ’542 patents were not only filed on the same day, but they follow from the same lineage and issued as consecutively-numbered patents on the same day.

that would have been fully noted at the time claim 1 was drafted. For example, the Specification states: “Suction nozzle assembly 580 can be configured to include *at least one inlet nozzle* for recovering fluid and debris from the surface to be cleaned *and at least one outlet* for delivering fluid to the surface to be cleaned.” Ex. 1001, 8:11–14. And the Specification further explains that “[s]uction nozzle assembly 580 can include a nozzle housing 551 and a nozzle cover 552.” *Id.* at 15–16; *see also id.* at Fig. 8 (depicting the multiple parts of suction nozzle assembly 580). Likewise, the Specification expressly describes the claimed “suction nozzle” as simply one part of an overall assembly, but not the sole part—

The suction nozzle assembly 580 includes a suction nozzle 594 defined within the brush chamber 565 that is in fluid communication with the foot conduit 564 and configured to extract liquid and debris from the brushroll 546 and the surface to be cleaned. *The suction nozzle 594 defines a dirty air inlet* of the working air path or recovery pathway through the vacuum cleaner. Suction nozzle 594 is further fluidly connected through the foot conduit 564 and the flexible hose conduit 518, to dirty tank assembly 400 (see FIG. 16B).

Id. at 10:4–13 (emphasis added). Those passages from the Specification support that the term “suction nozzle” means simply the “dirty air inlet” portion of the overall “suction nozzle assembly,” contrary to Bissell’s assertion that the disputed claim element gives rise to ancillary parts such as “nozzle housing 551” and “nozzle cover 552.” *See* Prelim. Resp. 13–16.

In sum, we reject Bissell’s attempt to inject into claim 1 a term that is plainly, and seemingly intentionally, omitted. In the end, SharkNinja sufficiently shows that Beskow’s debris and fluid inlets 724 and 726 operate as a suction nozzle in fluid communication with a suction source, which is all the disputed claim element requires.

But, even assuming Bissell’s contention that the claimed “suction nozzle” refers to an “‘assembly’ of parts related to suction” (Prelim. Resp. 15), it is of no consequence given Beskow’s disclosure that debris and fluid inlets 724 and 726 “may be formed *entirely* . . . as a removable inlet tray 730” or “may be *separately* removable from the cleaning head 102.”⁴ Ex. 1001, 20:6–31 (emphases added). Beskow’s disclosure that the separately removable inlets also may be formed integrally as a single tray, in our view, constitutes an assembly of parts. As such, we reject the notion that Beskow’s debris and fluid inlets 724, 726 connected integrally together “would not be considered an ‘assembly’ according to that term’s ordinary meaning.” Prelim. Resp. 16.

Based on the preliminary record, we are persuaded that SharkNinja demonstrates a reasonable likelihood that at least claim 1 of the ’542 patent is unpatentable as anticipated by and/or obvious over Beskow. Bissell offers no arguments for dependent claims 2–20 at this time, nor do we see the need to further address them, given that SharkNinja’s challenge of claim 1 already satisfies the threshold for institution. Thus, we proceed with institution of all the claims as challenged on the basis of Beskow alone. *See SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348, 1356 (2018).

D. SharkNinja’s Challenge of Claims 1–20 Based on Beskow and Li

SharkNinja challenges claims 1–20 as obvious over the combination of Beskow and Li. Pet. 58–68. Bissell responds simply that SharkNinja’s showing “fails for the same reasons discussed with respect to Ground 1.”

⁴ We note Beskow’s disclosure that fluid inlet 726 may be formed as “an enclosed passageway,” vis-a-vis the open-top passageway depicted in Figure 7A. Ex. 1004, 20:34–35.

Prelim. Resp. 17. As discussed above, we find Bissell’s argument in that regard unpersuasive. In any event, because “[e]qual treatment of claims and grounds for institution purposes has pervasive support in *SAS*,” we institute on the Beskow/Li challenge as raised in the Petition. *PGS Geophysical AS v. Iancu*, 891 F.3d 1354, 1360 (Fed. Cir. 2018).

III. CONCLUSION

For the above reasons, we determine that SharkNinja demonstrates a reasonable likelihood of success in showing that claim 1 of the ’542 patent is unpatentable as anticipated by and/or obvious over Beskow. Accordingly, we institute an *inter partes* review of all claims as challenged in the Petition. See 37 C.F.R. § 42.108(a) (“When instituting . . . review, the Board will authorize the review to proceed on all of the challenged claims and on all grounds of unpatentability asserted for each claim.”).

IV. ORDER

Accordingly, it is:

ORDERED that, pursuant to 35 U.S.C. § 314(a), an *inter partes* review of claims 1–20 of the ’542 patent is *instituted*; and

FURTHER ORDERED that, pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4(b), notice is hereby given of the institution of trial, which will commence on the entry date of this Decision.

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