

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CIVIQ SMARTSCAPES LLC,  
Petitioner,

v.

MANUFACTURING RESOURCES INTERNATIONAL, INC.,  
Patent Owner.

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Case IPR2018-00774  
Patent No. 8,854,572 B2

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Before WILLIAM V. SAINDON, KEVIN W. CHERRY, and  
NATHAN A. ENGELS, *Administrative Patent Judges*.

ENGELS, *Administrative Patent Judge*.

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

## I. INTRODUCTION

CIVIQ Smartscales LLC (“Petitioner”) filed a Petition under 35 U.S.C. § 311 requesting *inter partes* review of claims 1–3, 5–9, and 11–15 of U.S. Patent No. 8,854,571 B2 (Ex. 1001, “the ’572 patent”). Paper 2 (“Pet.”). Manufacturing Resources International, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 5 (“Prelim. Resp.”).

We have authority under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted unless the information presented in the Petition and the Preliminary Response shows that “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a); *see also* 37 C.F.R. § 42.4(a) (“The Board institutes the trial on behalf of the Director.”). Having considered Petitioner’s Petition and Patent Owner’s Preliminary Response, we conclude that the information presented in the Petition does not establish a reasonable likelihood that Petitioner would prevail with respect to at least one of the challenged claims. Accordingly, we do not institute an *inter partes* review.

## II. BACKGROUND

### A. *Real Party-in-Interest*

Petitioner identifies Civiq Smartscales LLC, Civiq Holdings, LLC, Comark, LLC, Comark Holdings, LLC, JMC Platform Fund I-A L.P., JMP/Civiq Holdings, LP, JMC Platform Co-Investment Fund I, LLC, JMC/Comark Holdings, LP, and JMC Mezzanine Fund II, L.P. as the real parties in interest to the Petition. Pet. 3.

*B. Related Proceedings*

Petitioner states that Patent Owner asserts the '572 patent against Petitioner in *Manufacturing Resources, Inc. v. Civiq Smartscapes, LLC*, No. 1:17-cv-00269 (D. Del.). Pet. 3.

*C. The '572 Patent (Ex. 1001)*

The '572 patent is directed to systems and methods for cooling electronic displays. Prelim. Resp. 4 (citing Ex. 1001, 3:19–24). In particular, the '572 patent describes cooling electronic displays by (i) circulating gas through a cooling chamber or plenum in a “closed loop” around the display and (ii) forcing air from the environment through a gap between the cooling chamber and back of the display. *See, e.g.*, Ex. 1001, 2:21–58, 5:34–41, Abstract.

According to the '572 patent, the disclosed invention achieves increased cooling by placing a wall of the closed-loop cooling chamber in close proximity to the back of a display and forcing external air through the gap between the wall and the display. Ex. 1001, 4:23–42, 5:34–41. The '572 patent explains that the size of the gap between the wall and the display may depend on many factors, including the size of the display, the desired operating environment, and the size and speed of fans that force air through the gap, but the patent states that ideal distances may be between 0.25 and 2.5 inches. Ex. 1001, 4:33–40.

*D. Challenged Claims*

Petitioner challenges claims 1–3, 5–9, and 11–15 of the '572 patent, all of which are method claims. Pet. 1. Claims 1 and 8, reproduced below, are independent claims.

1. A method for cooling an electronic display having a rear surface, comprising the steps of:
  - placing a substantially planar surface adjacent to the rear surface of the electronic display to define a gap between the planar surface and the electronic display;
  - placing a closed loop of circulating gas around the display;
  - forcing a circulating gas around the closed loop; and
  - forcing cooling air through said gap.
  
8. A method for cooling an electronic display having a front surface and a gap defined between a rear surface of the electronic display and a second posterior surface, comprising the steps of:
  - circulating gas around the display in a closed loop;
  - allowing the gas to contact the front surface of the electronic display; and
  - forcing cooling air through the gapwhere the cooling air is not permitted to mix with the circulating gas.

*E. Prior Art and Asserted Grounds*

Petitioner asserts the following grounds:

| <b>Prior Art</b>                         | <b>Basis</b> | <b>Claims Challenged</b> |
|------------------------------------------|--------------|--------------------------|
| Yare <sup>1</sup>                        | Anticipation | 1, 5, 6, 8, 9, 13, 14    |
| Yare                                     | Obviousness  | 1, 5, 6, 8, 9, 13, 14    |
| Heady <sup>2</sup>                       | Anticipation | 1, 5, 6, 8, 9, 13, 14    |
| Heady                                    | Obviousness  | 1, 5, 6, 8, 9, 13, 14    |
| Williams <sup>3</sup>                    | Anticipation | 1, 5, 6                  |
| Williams                                 | Obviousness  | 1, 5, 6                  |
| Williams and Heady                       | Obviousness  | 8, 9, 13, 14             |
| Yare, Heady, Williams                    | Obviousness  | 2, 3, 11, 12             |
| Yare, Heady, Williams, Sato <sup>4</sup> | Obviousness  | 7, 15                    |

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<sup>1</sup> Yare (GB 2,402,205; published Dec. 1, 2004). Ex. 1020.

<sup>2</sup> Heady et al. (US 5,991,153; issued Nov. 23, 1999). Ex. 1005.

<sup>3</sup> Williams et al. (US 8,758,144 B2; issued June 24, 2014). Ex. 1024.

<sup>4</sup> Sato et al. (US 5,869,919; issued Feb. 9, 1999). Ex. 1027.

*1. Yare*

Yare describes systems and methods for removing heat from an electronic display. Ex. 1020, Abstract. Among other things, Yare's system and methods include circulating air in a "sealed zone" and separately circulating air an "atmospheric air zone." Ex. 1020, 2:8–12. A heat exchanger mounted on a baffle plate separates the sealed zone from the atmospheric zone and is arranged to transfer heat between air in the sealed zone and air in the atmospheric zone. Ex. 1020, 4:29–5:10.

*2. Heady*

Heady describes systems and methods for cooling an electronic display mounted in a housing that is sealed from the environment. Ex. 1005, Abstract. Among other things, Heady describes circulating air within the sealed housing to transfer heat to internal fins within the housing that in turn transfer heat to external fins outside of the housing. Ex. 1005, 6:9–7:13. Heady states that the large surface area of the external fins provides an improved heat transfer surface for dissipating heat to the environment, and Heady also states that air may be blown across the external fins. Ex. 1005, 6:60–7:13.

*3. Williams*

Williams discloses a gaming machine that includes an optical module and a lighting module for illuminating the optical module. Ex. 1024, Abstract. Among other things, Williams describes transferring heat from the lighting module with air flowing past the lighting module through a sealed plenum and across the bottom part of a heat exchanger, with a separate flow of external air across the top part of the heat exchanger. Ex. 1024, 6:19–7:7.

4. *Sato*

Sato discloses a display panel that includes an air blower to cause air to flow between the display panel and the panel's housing. Ex. 1027, Abstract. In relevant part, Sato describes drawing air from outside of the panel's housing, passing the air around the display panel, and passing the air out through the front of the display panel. Ex. 1027, 4:44–52. Sato does not disclose a closed-loop airflow.

III. PATENTABILITY ANALYSIS

A. *Level of Ordinary Skill in the Art*

Petitioner argues the following regarding the level of ordinary skill in the art:

a POSA [person of ordinary skill in the art] in 2008 would have had [a] bachelor's degree in a pertinent discipline, such as mechanical engineering, physics, product design, or a related field. Such a person would also have 2–4 years of experience in working with electronic displays and have an understanding of product design issues and failure modes associated with electronic displays. Alternatively, a POSA would have had 5–7 years of experience in the field working with electronic displays and have a similar understanding of product design issues and failure modes associated with electronic displays. To the extent necessary, a POSA may collaborate with one or more other persons of skill in another art (*e.g.*, one of skill in the art of electrical engineering) for one or more aspects with which the other person may have expertise, experience, and/or knowledge that was obtained through her own education, industrial or academic experience.

Pet. 16 (citing Ex. 1002 ¶ 30).

Patent Owner argues the following regarding the level of ordinary skill in the art:

A person of ordinary skill in the art (POSITA) in the 2008-2010 timeframe would have had a bachelor's degree in a pertinent discipline, such as mechanical or electrical engineering, physics, applied physics product design, or a related field. Such a person would also have 2-4 years of experience in working with electronic displays and have an understanding of product design issues and failure modes associated with electronic displays. Alternatively, a POSITA would have had 4-6 years of experience in the field working with electronic displays and have a similar understanding of product design issues and failure modes associated with electronic displays.

Prelim. Resp. 10 (citing Ex. 2003 at 3).

The positions advanced by both Petitioner and Patent Owner advocate a relatively high level of ordinary skill, which is consistent with the disclosures of the '572 patent and the cited prior art. At this stage and for the purposes of this decision, we do not find a meaningful difference between Petitioner's and Patent Owner's articulations of the level of ordinary skill. We adopt Petitioner's proposed level of ordinary skill for purposes of this Decision.

### *B. Claim Construction*

The Board interprets claims of an unexpired patent using the broadest reasonable construction in light of the specification of the patent in which they appear. *See* 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs., LLC v. Lee*, 136 S.Ct. 2131, 2144–46 (2016) (upholding the Board's use of the broadest reasonable interpretation standard in *inter partes* review proceedings). “Under a broadest reasonable interpretation, words of the claim must be given their plain meaning, unless such meaning is inconsistent with the specification and prosecution history.” *Trivascular, Inc. v. Samuels*, 812 F.3d 1056, 1062 (Fed. Cir. 2016); *see also Phillips. v. AWH Corp.*, 415 F.3d 1303, 1315 (Fed. Cir. 2005) (en banc) (“Claims must always be read in light

of the specification.”). Any special definitions for claim terms or phrases must be set forth in the specification with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

Although our claim interpretation cannot be divorced from the specification, *see Microsoft Corp. v. Proxyconn, Inc.*, 789 F.3d 1292, 1298 (Fed. Cir. 2015) (quoting *In re NTP, Inc.*, 654 F.3d 1279, 1288 (Fed. Cir. 2011)), we must be careful not to import limitations from the specification that are not part of the claim language, *see SuperGuide Corp. v. DirecTV Enters., Inc.*, 358 F.3d 870, 875 (Fed. Cir. 2004).

Petitioner and Patent Owner both state the position that the term “adjacent to” in claim 1 of the ’572 patent means “near to.” Pet. 30 (citing Ex. 1002 ¶ 50; Ex. 1006 (American Heritage College Dictionary)); Prelim. Resp. 11–12 (citing Ex. 2005 at 4; explaining that the parties have agreed to this meaning in district-court litigation). Notably, though, Petitioner’s arguments comparing claim 1 to the prior art do not reflect the “near to” interpretation. *See* Pet. 33 (using the language “adjacent to” in comparing claim 1 to Yare), 43 (using the language “adjacent to” in comparing claim 1 to Heady), 54 (using the language “adjacent to” in comparing claim 1 to Williams); *cf.* Prelim. Resp. 19 (noting disagreements between the parties’ positions regarding the meanings of “adjacent to” and “near to”), 26 (arguing Petitioner’s contentions that Yare anticipates claim 1 “essentially render[] the term ‘adjacent’ meaningless”). In fact, the Petition includes the following arguments regarding the broadest reasonable interpretation of “adjacent to”:

Under the broadest reasonable interpretation of the term “adjacent to,” the planar surface need not be located directly behind the rear surface of the electronic display.

Rather, such a surface is adjacent to the rear of the electronic display so long as it defines a gap through which cooling air can be forced.

Pet. 42.

We determine that it is unnecessary to expressly interpret “adjacent to” or other elements of the challenged claims to render our Decision, but our Decision reflects implicit claim interpretations where necessary to resolve the parties’ dispute. *See Eon Corp. IP Holdings v. Silver Spring Networks*, 815 F.3d 1314, 1318 (Fed. Cir. 2016) (“a court need not attempt the impossible task of resolving all questions of meaning with absolute, univocal finality”; “such an endeavor could proceed ad infinitum, as every word—whether a claim term itself, or the words a court uses to construe a claim term—is susceptible to further definition, elucidation, and explanation”).

### *C. Independent Claim 1*

Petitioner asserts that each of Yare, Headly, and Williams anticipates claim 1 or renders, individually, claim 1 obvious. Pet. 13–14. In support of those arguments, the Petition compares each reference to claim 1 on a limitation-by-limitation basis and cites the Declaration of Greg Blonder (Ex. 1002) in support. *See* Pet. 31–34 (comparing Yare to claim 1), 37–44 (comparing Headly to claim 1), 52–54 (comparing Williams to claim 1).

Patent Owner’s arguments in the Preliminary Response primarily address the following limitations of claim 1: “placing a substantially planar surface adjacent to the rear surface of the electronic display to define a gap between the planar surface and the electronic display” and “forcing cooling air through said gap.” *See, e.g.*, Prelim. Resp. 18–19 (summarizing

arguments). Because we agree with Patent Owner, we limit our analysis to these limitations.

*1. Yare*

Comparing Yare to claim 1, Petitioner states Yare discloses the “placing a substantially planar surface” step with its disclosures of an electronic display “arranged within a cabinet (10) having a back planar surface (rear wall of atmospheric air zone 40) adjacent to the rear surface of the electronic display (20) so as to define a gap between the planar surface and the electronic display.” Pet. 33 (citing Ex. 1020, 4:4–9, Figs. 1–3); *accord* Pet. 31 (“The atmospheric air zone includes a back planar surface.”) (citing Ex. 1020, Fig. 4). Regarding the “forcing cooling air through said gap” step, Petitioner quotes Yare as follows: “[a]ir from the outside of the cabinet 10 is drawn th[r]ough vents 60 into the atmospheric air zone 40” (Pet. 34 (quoting Ex. 1020, 4:11–12)) and “[a]ir is drawn through the atmospheric air zone 40 by fans 50. As the air is drawn through the atmospheric air zone 40 it passes across one or more surfaces of the heat exchanger 70” (Pet. 34 (quoting Ex. 1020, 4:29–31)). In addition to those statements, the Petition summarizes the structures of Yare, but the Petition does not explain Petitioner’s contentions or further address the “placing” and “forcing” limitations beyond the statements quoted above. *See* Pet. 31–32 (summarizing Yare); *see also* Ex. 1002 ¶¶ 83–85 (same).

The relevant structures are shown in Yare’s Figure 4, copied below with red added to indicate the rear wall of atmospheric zone 40, yellow added to indicate the rear surface of electronic display 20, and blue added to indicate where baffle plate 90 and heat sink 70 separate atmospheric zone 40 from sealed zone 30.

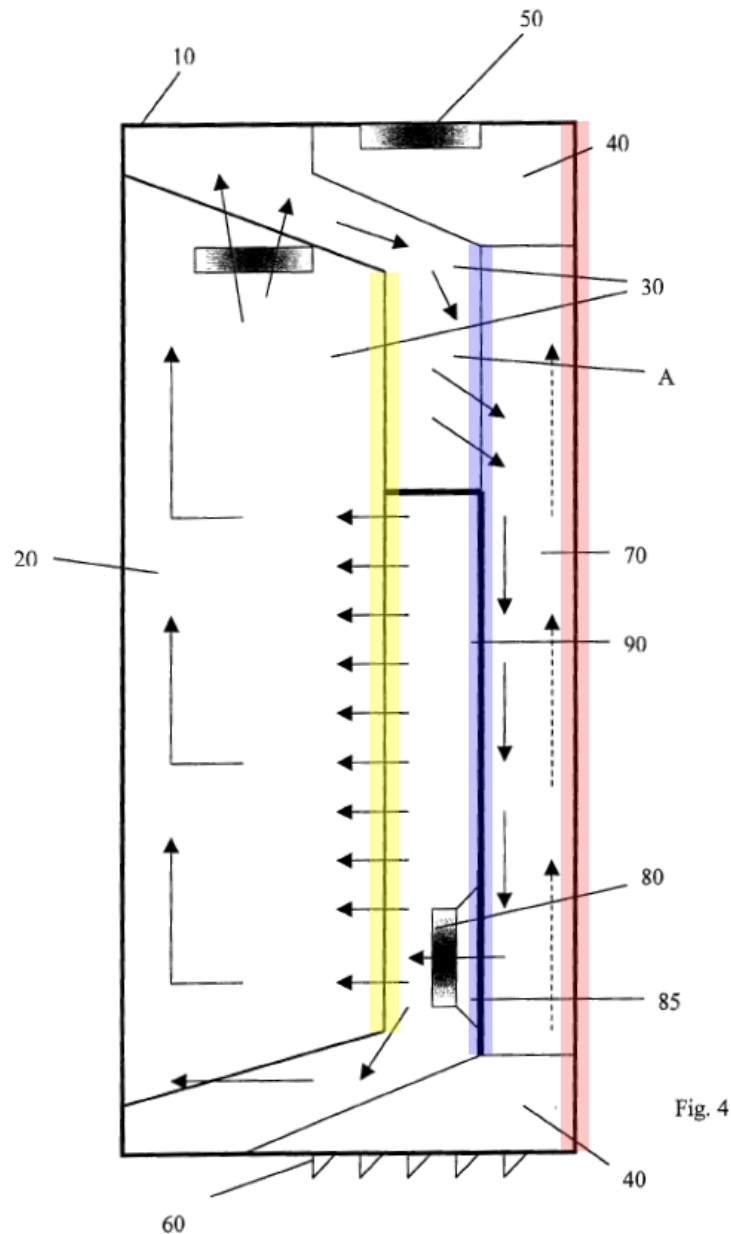


Figure 4 of Yare (Annotated)

Figure 4 depicts a cross section of Yare's invention showing electronic display 20 arranged within the left side of housing 10 and generally surrounded by sealed zone 30. Figure 4 depicts atmospheric zone 40 arranged within the right side of housing 10. Ex. 1020, 4:4-12. Arranged

between and separating sealed zone 30 and atmospheric zone 40 is heat exchanger 70 mounted on baffle plate 90. Ex. 1020, 4:18–22.

Yare's Figure 6, copied below, depicts a cross section of Yare's invention (perpendicular to the cross section of Figure 4) showing rear surface 35 of display 20 (shaded yellow), baffle plate 90 and heat sink 70 (both shaded blue), and rear wall of atmospheric zone 40 (shaded red).

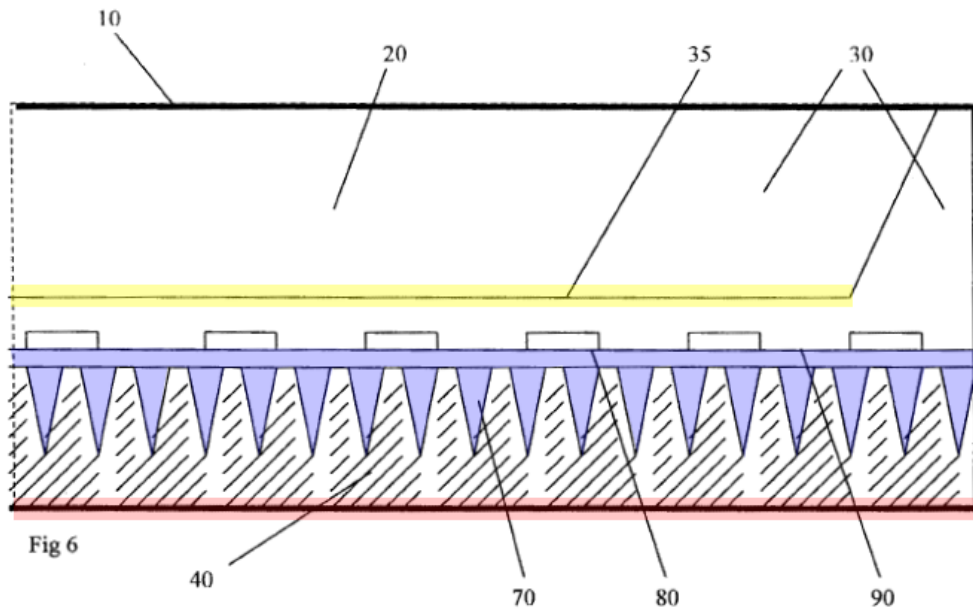


Figure 6 of Yare (Annotated)

As described in Yare and depicted in Figures 4 and 6, fans 50 force atmospheric air between heat sink 70 and the rear wall of atmospheric zone 40. Sealed from atmospheric zone 40, Yare explains that additional fans 80 circulate air in sealed zone 30. Ex. 1020, 4:18–27 (explaining that dashed arrows in Figure 4 depict movement of air in atmospheric zone 40 and solid arrows depict movement of air in sealed zone 30).

Critically, although claim 1 defines a single “gap” formed by placing the planar surface adjacent to the rear of the electronic display and through which cooling air is forced, Petitioner’s contentions for the “placing” and

“forcing” steps reflect two different “gaps.” The first “gap” identified by Petitioner is purportedly defined by the rear wall of atmospheric zone 40 and the rear surface of electronic display 20 (defined by the yellow surface and the red surface in the figures above). The second “gap” identified—the “gap” through which cooling air is forced—is atmospheric zone 40 itself (i.e., the space between the blue surface and the red surface above). As noted above, in claim 1, the “placing” and “forcing” steps recite a single gap—“placing a substantially planar surface adjacent to the rear surface of the electronic display to define a gap between the planar surface and the electronic display” and “forcing cooling air through *said gap*.” The Petition does not reconcile the difference between these two gaps. Because the Petition does not advance any claim interpretation or explanation to reconcile the inconsistent positions regarding the purported gap,<sup>5</sup> Petitioner has not adequately shown that Yare discloses each limitation of claim 1.

Having considered the evidence of record in light of the parties’ arguments, we determine Petitioner has not demonstrated sufficiently that Yare discloses “placing a substantially planar surface adjacent to the rear surface of the electronic display to define a gap between the planar surface and the electronic display” and “forcing cooling air through said gap,” as recited in claim 1. Accordingly, we determine that Petitioner’s arguments

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<sup>5</sup> Although both parties state that “adjacent to” means “near to” (Pet. 30; Prelim. Resp. 11–12), the Petition does not explain how such an interpretation applies in its anticipation arguments. We do not adopt or further address the parties’ interpretation of “adjacent to” (or other claim terms) other than to note that the Petition does not explain an interpretation of claim 1 that can reconcile Petitioner’s inconsistent positions regarding the recited “gap.”

and evidence are not sufficient to show a reasonable likelihood of prevailing with arguments that Yare anticipates claim 1.

We also we determine that Petitioner has not advanced arguments and evidence sufficient to show a reasonable likelihood of prevailing with arguments that claim 1 would have been obvious in view of Yare. The Petition includes no actual obviousness arguments or analysis, stating instead only that “[t]o any extent the Board might find that there are differences between claims 1, 5, 6, 8, 9, 13, and 14, and Yare, any differences are minor and would have been obvious modifications to a POSA.” Pet. 37 (citing Ex. 1002, ¶ 88).

## 2. *Heady*

Comparing Heady to claim 1, Petitioner states that for the disputed limitations, “the relevant gap is the space between the external housing of external fins 210 (the substantial[y] planar surface/ second posterior surface) and wall 105 in the display housing through which air is forced.” Pet. 41. Further, Petitioner contends Heady’s “display unit includes a housing having a planar surface covering the external fins (210). (See, e.g., [Ex. 1005] at Fig. 4.) The planar surface is adjacent to the rear surface of the display. (*Id.*) The planar surface defines a gap between the planar surface and the electronic display. (*Id.*)” Pet. 43. Petitioner presents the following annotated version of Heady’s Figure 4 to depict those structures (Pet. 39):

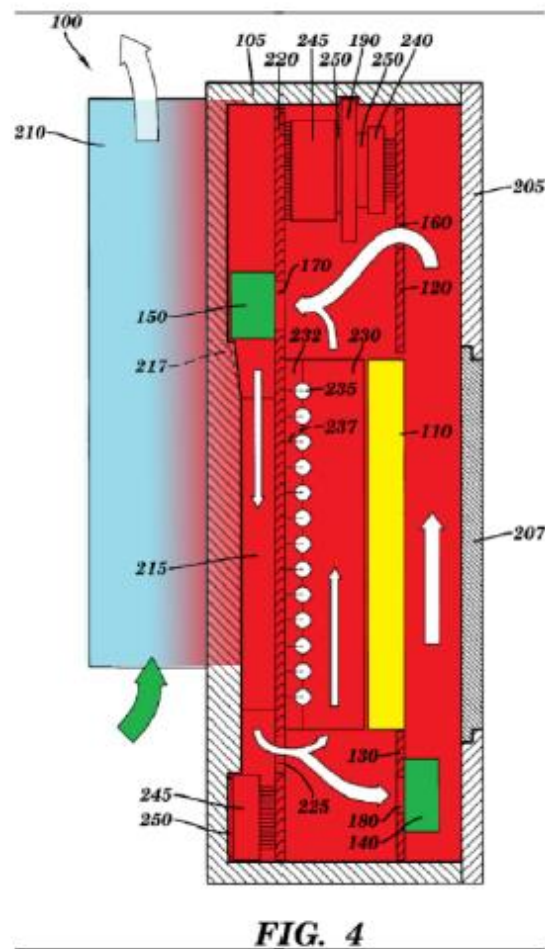


Figure 4 of Heady (coloring added by Petitioner)

Heady's Figure 4 depicts a cross-sectional view of Heady's display unit. Ex. 1005, 4:1–4. Figure 4 shows electronic display 110 (colored yellow by Petitioner), fans 140 and 150 (colored green by Petitioner), circuit board 220, back lights 235, and internal fins 215 among other structures within display housing 105. See Pet. 38–41; Ex. 1005, 7:53–8:8. Figure 4 also shows external fins 210 mounted outside of display housing 105. Arrows within display housing 105 depict a sealed, closed loop of air flow within the housing (colored red by Petitioner), and arrows at the top and bottom of

external fin 210 depict air blown through external fins 210 (colored blue by Petitioner). *See* Pet. 38–41; Ex. 1005, 6:67–7:2, 7:51–8:8.

Heady states that “external fins 210 are secured to the back of display housing 105 . . . in a manner such that a thermally conductive link exists between external fins [210] and internal fins 215 shown inside display housing 105.” Ex. 1005, 6:42–46. Contrasting an examiner’s rejection that identified the recited gap as the space between display 110 and circuit board 220, Petitioner argues “the relevant gap is the space between the external housing of external fins 210 (the substantial[y] planar surface/ second posterior surface) and wall 105 in the display housing through which air is forced.” Pet. 41.

Contrary to Petitioner’s arguments, however, Heady discloses that external fins 210 are *external* to housing 105, and we find no disclosures in Heady of an enclosure, housing, or other planar surface covering external fins 210. Heady explains that external fins 210 and internal fins 215 may be a unitary assembly, stating that Figure 5, copied below, “shows a side view of a double fin assembly” and Figure 6, also copied below, “shows a cross-sectional view of the double fin assembly in Figure 5.” Ex. 1005, 7:14–19.

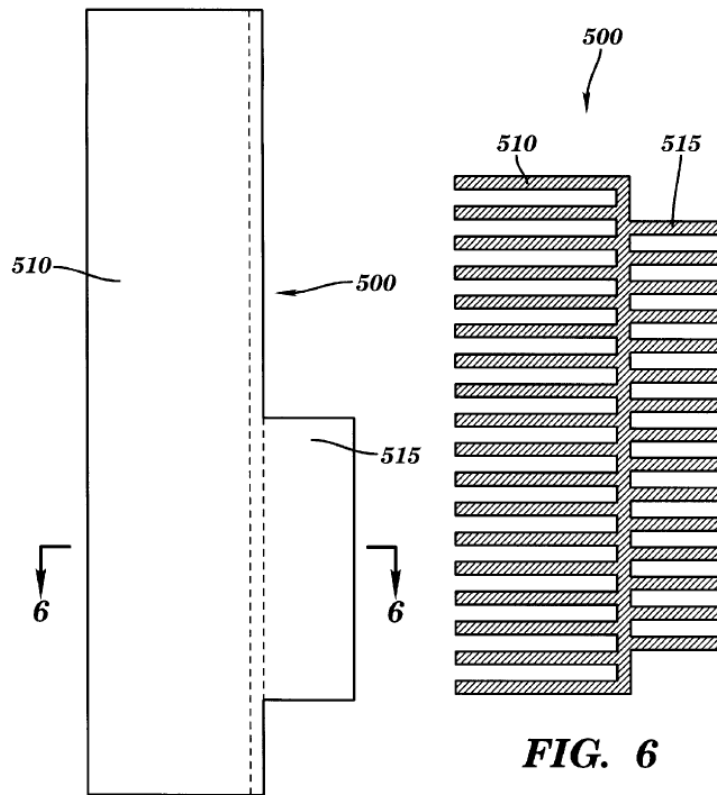


**FIG. 5**

**FIG. 6**

Heady's Figure 5 depicts double fin assembly 500 having external fins 510 (numbered 210 in Figure 4, above) and internal fins 515 (215 in Figure 4). Ex. 1005, 7:14–21. Heady's Figure 6 depicts external fins 510 open (uncovered) on the left side and internal fins 515 open right side. *Id.*; *contra* Pet. 41 (describing Heady's Figures 5 and 6 as “showing enclosure (Fig. 5) covering external (510) and internal (515) fins”) (citing Ex. 1005, 6:60–74), 43 (“The display unit includes a housing having a planar surface covering the external fins (210).”) (citing Ex. 1005, Fig. 4).

Heady states “an opening . . . would be formed in the rear of the display housing **105** wherein *internal fins 515 may be inserted* . . . to allow a suitable seal between display housing **105** and double fin assembly **500**.”

Ex. 1005, 7:25–29. Although internal fins 215/515 may be inserted into the opening of housing 105, external fins 210/510 remain external to the housing. *See id.* Further, contrary to Petitioner’s position that Figures 5 and 6 depict an enclosure covering external fins 510 (Pet. 41), neither Figure 5 or 6 nor the related descriptions disclose a housing, enclosure, or other substantially planar surface covering external fins 510. Because Petitioner’s arguments are premised on a factually incorrect understanding of Heady’s external fins 210/510, Petitioner has not shown sufficiently that Heady discloses placing a substantially planar surface adjacent to the rear surface of the electronic display to define a gap between the two surfaces.

Even if there were an enclosure or other substantially planar surface covering external fins 210/510, Petitioner fails to sufficiently explain how positioning such a surface over Heady’s external fins discloses “placing a substantially planar surface adjacent to the rear surface of the electronic display to define a gap between the planar surface and the electronic display.” Without addressing or applying the putative “near to” interpretation of the “adjacent to” claim language, the Petition states the following:

Under the broadest reasonable interpretation of the term “adjacent to,” the planar surface need not be located directly behind the rear surface of the electronic display. Rather, such a surface is “adjacent to” the rear of the electronic display so long as it defines a gap through which cooling air can be forced.

Pet. 42. The Petition cites no evidentiary support for that statement.

Further, in addition to incorrectly identifying a planar surface defining one side of the gap, Petitioner does not explain whether it contends that “the rear surface of the electronic display” is Heady’s “display housing 105,”

Heady’s “electronic display 110,” or some other portion of Heady’s device, such as “backlighting lamps 235.”<sup>6</sup> Because the Petition reflects a misunderstanding of Heady’s disclosures and therefore does not adequately explain how Heady satisfies the “placing” and “forcing” steps, Petitioner has not adequately shown that Heady discloses each limitation of claim 1.

Having considered the evidence of record in light of the parties’ arguments, we determine Petitioner has not demonstrated sufficiently that Heady discloses “placing a substantially planar surface adjacent to the rear surface of the electronic display to define a gap between the planar surface and the electronic display” and “forcing cooling air through said gap,” as recited in claim 1. Accordingly, we determine that Petitioner’s arguments and evidence are not sufficient to show a reasonable likelihood of prevailing with arguments that Heady anticipates claim 1.

We also we determine that Petitioner has not advanced arguments and evidence sufficient to show a reasonable likelihood of prevailing with arguments that claim 1 would have been obvious in view of Heady. The Petition includes no actual obviousness arguments or analysis, stating instead only that “[t]o any extent the Board might find that there are differences between claims 1, 5, 6, 8, 9, 13, and 14, and Heady . . . , any

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<sup>6</sup> We note that in the parties’ district-court litigation, Petitioner has advanced the position that “rear surface of the electronic display” in claim 1 means “rear surface of the backlight.” Corrected Joint Claim Construction Brief at 5, *Manufacturing Resources, Inc. v. Civiq Smartscales, LLC*, No. 1:17-cv-00269 (D. Del. July 31, 2018). We do not address that interpretation other than to note that Petitioner has not advanced that interpretation in this proceeding.

differences are minor and would have been obvious modifications to a POSA.” Pet. 37 (citing Ex. 1002, ¶ 106).

### 3. Williams

Comparing claim 1 to Williams, for the “placing” step, Petitioner argues that “Williams discloses placing a substantially planar surface (‘back casing 142’) adjacent to the rear surface of an electronic display (‘lighting module 112’) to define a gap there between.” Pet. 54 (citing Ex. 1024, 7:39–44, Figs. 1D, 1E). For the “forcing” step, Petitioner cites Williams’s disclosure of “[e]xternal air flow . . . through a plurality of fins 176 (FIG. 1E) on top portion 146 of heat exchanger 130.” Pet. 54 (citing Ex. 1024, 6:55–66, Figs. 1D, 1E). Those structures are depicted in Williams’s Figure 1E, copied below.

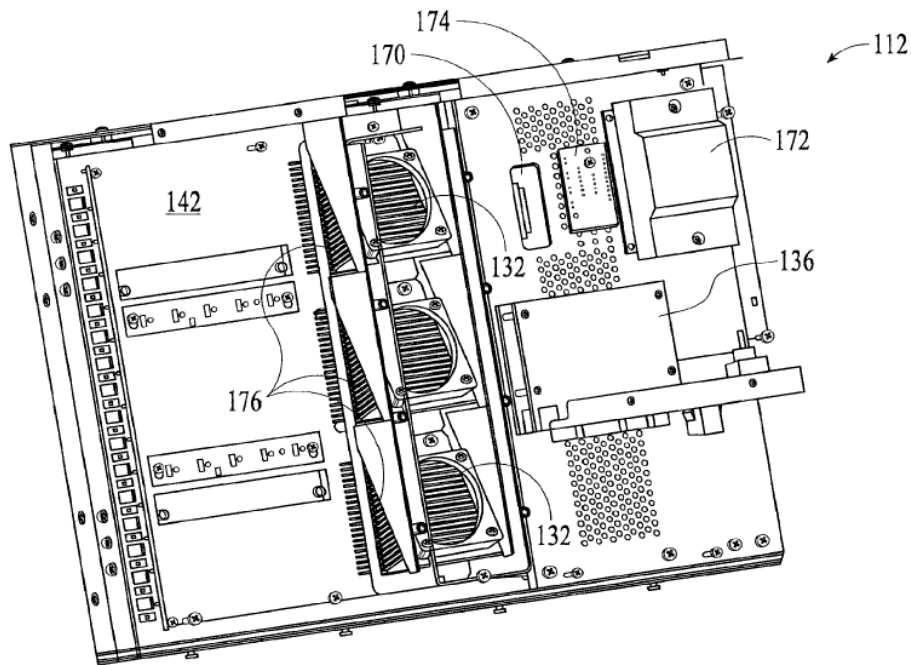


FIG.1E

Figure 1E of Williams

Figure 1E depicts a perspective view of the back of Williams's back-lighting system. Figure 1E shows back casing 142 enclosing portions of lighting module 112 with fans 132 and fins 176 open to external air. See Ex. 1024, 7:39–65. Figure 1D, copied below, depicts a perspective view of the back of Williams's back-lighting system without back casing 142 but with dashed arrows depicting the flow of “External Air” and solid arrows depicting the flow of “Re-circulated Air.”

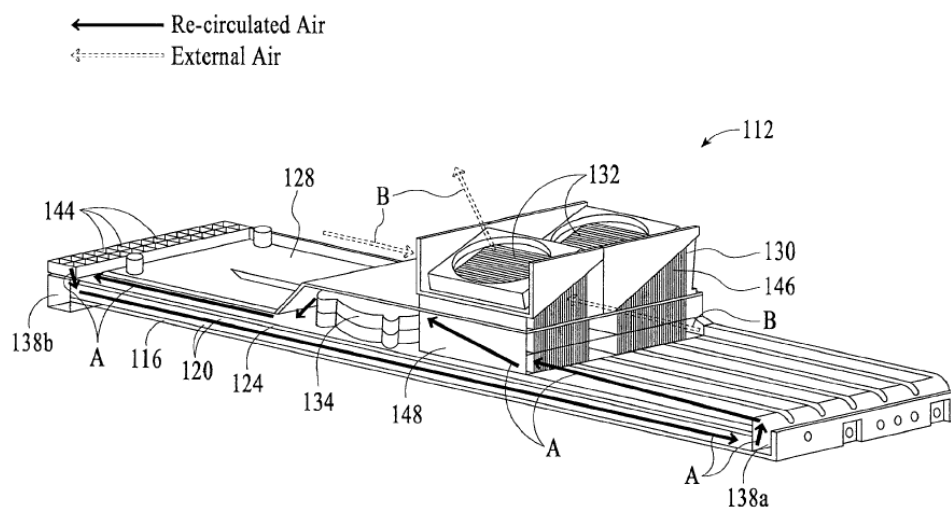


FIG. 1D

Figure 1D of Williams

As cited by Petitioner (Pet. 52 (citing Ex. 1024, 6:63–7:1)), Williams states that “[f]ans 132 may direct external air . . . through a plurality of fins 176 . . . out of the lighting module 112” (Ex. 1024, 6:63–7:1). Accord Ex. 1024, 7:26–27, Fig. 1D. As shown in Figure 1E, however, fins 176 are external to back casing 142. Contrary to Petitioner’s contention that Williams’s disclosures of external air directed through top portion 146 of fins 176 satisfies the “forcing” limitation (Pet. 54 (citing Ex. 1024, 6:55–66, Figs. 1D, 1E)), the Petition does not cite, and we do not find, any disclosure

of external, cooling air flowing between back casing 142 and internal portions of lighting module 112. *Cf.* Ex. 1024, Fig. 1D (depicting “External Air” entering the side of top portion 146 of heat exchanger 130 and exiting the top of heat exchanger 130 through fans 132). Because Petitioner does not sufficiently explain how Williams discloses “placing a substantially planar surface adjacent to the rear surface of the electronic display to define a gap between the planar surface and the electronic display” and “*forcing cooling air through said gap,*” Petitioner has not adequately shown that Williams discloses each limitation of claim 1.

Having considered the evidence of record in light of the parties’ arguments, we determine Petitioner has not demonstrated sufficiently that Williams discloses “placing a substantially planar surface adjacent to the rear surface of the electronic display to define a gap between the planar surface and the electronic display” and “forcing cooling air through said gap,” as recited in claim 1. Accordingly, we determine that Petitioner’s arguments and evidence are not sufficient to show a reasonable likelihood of prevailing with arguments that Williams anticipates claim 1.

We also we determine that Petitioner has not advanced arguments and evidence sufficient to show a reasonable likelihood of prevailing with arguments that claim 1 would have been obvious in view of Williams. The Petition includes no actual obviousness arguments or analysis, stating instead only that “[t]o any extent the Board might find that there are differences between claims 1, 5, and 6, and Williams, any differences are minor and would have been obvious modifications to a POSA.” Pet. 55 (citing Ex. 1002, ¶ 117).

*D. Independent Claim 8*

Petitioner asserts that both Yare and Headly anticipate claim 8 or render claim 8 obvious. Pet. 13–14. Petitioner also asserts that claim 8 would have been obvious in view of the combination of Williams and Headly. Pet. 15. With those arguments, the Petition compares the references to claim 8 on a limitation-by-limitation basis and cites the Declaration of Greg Blonder (Ex. 1002) in support. See Pet. 31–36 (comparing Yare to claim 8); 37–43, 46–48 (comparing Headly to claim 8); 55–59 (comparing Williams and Headly to claim 8).

Patent Owner’s arguments in the Preliminary Response focus primarily on the following language of claim 8: “[a] method for cooling an electronic display having a front surface and a gap defined between a rear surface of the electronic display and a second posterior surface, comprising the steps of: . . . forcing cooling air through the gap.” See, e.g., Prelim. Resp. 18–19 (summarizing arguments). Because we agree with Patent Owner, our analysis below centers primarily on these disputed limitations.

*1. Yare*

Comparing Yare to claim 8, Petitioner asserts substantively the same arguments regarding the recited “gap” and “forcing” limitation as those advanced for claim 1. Compare Pet. 34–36, with Pet. 33–34. Having considered the evidence of record in light of the parties’ arguments, for the same reasons discussed above, we determine Petitioner has not demonstrated a reasonable likelihood of prevailing on arguments that Yare anticipates claim 8 or that claim 8 would have been obvious in view of Yare.

2. *Heady*

Comparing Heady to claim 8, Petitioner asserts substantively the same arguments regarding the recited “gap” and “forcing” limitation as those advanced for claim 1. *Compare* Pet. 46–48, *with* Pet. 43–44. Having considered the evidence of record in light of the parties’ arguments, for the same reasons discussed above, we determine Petitioner has not demonstrated a reasonable likelihood of prevailing on arguments that Heady anticipates claim 8 or that claim 8 would have been obvious in view of Heady.

3. *Williams and Heady*

Petitioner asserts that “Williams discloses all of the elements of claims 8, 9, 13, and 14 except for allowing the circulating gas to contact the front of the electronic display.” Pet. 55 (citing Ex. 1002, ¶ 118). Comparing the cited references to claim 8, Petitioner asserts substantively the same arguments regarding the recited “gap” and “forcing” limitation as those advanced for the arguments that Williams anticipates claim 1. *Compare* Pet. 58–59, *with* Pet. 54. Having considered the evidence of record in light of the parties’ arguments, for the same reasons discussed above, we determine Petitioner has not demonstrated a reasonable likelihood of prevailing on arguments that claim 8 would have been obvious in view of Williams and Heady.

*E. Dependent Claims 2, 3, 5–7, 9, and 11–15*

Claims 2, 3, and 5–7 depend from claim 1, and claims 9 and 11–15 depend from claim 8. Claims 2, 3, 11, and 12 recite ranges of distances for the “gap” recited in the independent claims. Claims 5, 6, 13, and 14 recite that the “forcing” steps of the independent claims are performed by fans.

Claims 7 and 15 recite an additional step of “filtering the cooling air prior to forcing it through said gap.”

The Petition includes a limitation-by-limitation analysis of each of the dependent claims, relying on the same evidence and arguments addressed above for the independent claims. The Petition’s analyses of the dependent claims do not cure the deficiencies in the analyses of the independent claims, as discussed above.

Accordingly, having considered the evidence of record in light of the parties’ arguments, for the same reasons discussed above, we determine Petitioner has not demonstrated a reasonable likelihood of prevailing on arguments that dependent claims 2, 3, 5–7, 9, and 11–15 are anticipated or would have been obvious in view of the cited prior art.

#### IV. CONCLUSION

We have determined that Petitioner has not shown a reasonable likelihood of success in challenging any of claims 1–3, 5–9, and 11–15. Accordingly, we do not institute an *inter partes* review.

#### V. ORDER

In view of the foregoing, it is hereby:

ORDERED that an *inter partes* review of claims 1, 2, 4–9, 11, 12, 15–19, 21–23, and 25 of the ’071 patent is not instituted.

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