

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LIFECORE FITNESS LLC
d/b/a ASSAULT FITNESS
Petitioner,

v.

WOODWAY USA, INC.
Patent Owner.

U.S. Patent No. 10,799,745 to Bayerlein et al.

Case No.: IPR2023-00849

PETITIONER'S REQUEST FOR REHEARING

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I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.71(d), Petitioner, LifeCORE Fitness, LLC, requests rehearing for claims 18 and 20 of U.S. Patent No. 10,799,745 (“the ’745 Patent”). In its Final Written Decision (“FWD,” Paper 42) of October 24, 2024, the Board:

A. misapprehended claim 18 to construe the phrase “*disposing a running belt on the plurality of bearings*” to require the running belt to be positioned above all bearings and to exclude bearings positioned above the running belt—overlooking the ’745 Patent disclosure of a running belt with an endless belt *disposed on* the belt slats by being disposed above and below the belt slats.

Petitioner respectfully requests rehearing to address unsupported factual findings and clear legal error in the Final Written Decision. Upon rehearing, the Board should find claims 18 and 20 unpatentable.

II. BASIS FOR RELIEF REQUESTED

A. **The Board misapprehended claim 18 to construe the phrase “*disposing a running belt on the plurality of bearings*” to require the running belt to be positioned vertically above the plurality of bearings.**

Independent claim 18 requires:

18. A method, comprising:

providing a treadmill having a frame with a front end and a rear end;

providing a plurality of bearings coupled to the frame, wherein the plurality of bearings define at least a portion of a curved top profile;

disposing a running belt on the plurality of bearings such that¹ the curved top profile of the plurality of bearings define at least a portion of a curved running surface of the running belt;

providing a first safety race element coupled to the frame and to the running belt and a second safety race element coupled to the frame, wherein at least one of the first and second safety elements is adapted for rotation relative to the frame, and wherein one of the first and second safety race elements substantially surrounds the other of the one of the first and second safety race elements;

permitting rotation of one of the first and second safety race elements and the running belt in a first direction of rotation; and

substantially preventing rotation of the running belt in a second direction, opposite the first direction, by, at least in part, the one of the first and second safety race elements.

(Ex.1001, claim 18.)

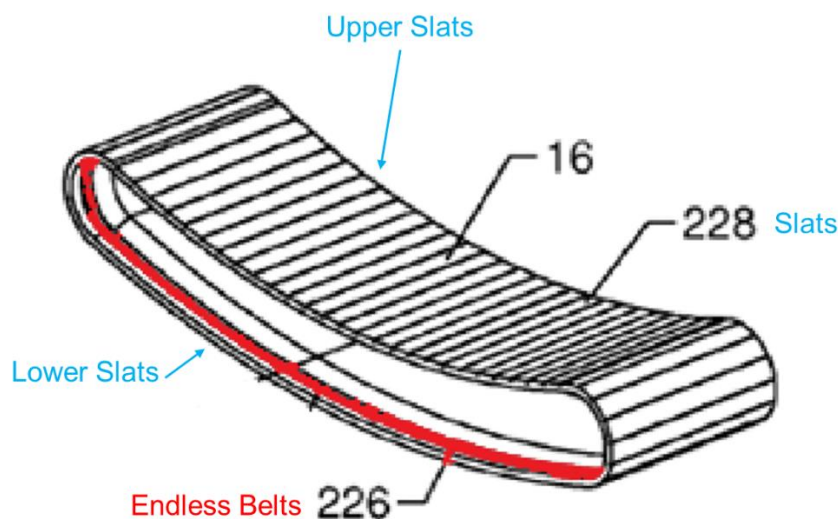
The Board construed the phrase “*disposing a running belt on the plurality of bearings*,” as “the belt being above the bearings.” (FWD, 23.) Therefore, the Board’s construction excluded the Socwell rollers 98 (“*bearings*”) that are located above the belt.

¹ Emphasis added by Petitioner unless otherwise noted.

Patent Owner argued that the plain meaning of “*bearings*”, “*support*”, and “*disposed . . . on*” all require the belt to be on top of the bearings in a weight-bearing relationship, without providing an express construction. (POR, 7-14; Reply, 2; Ex.1036, ¶12.) This implied claim construction is wrong. In accordance with the ’745 Patent’s use of the phrase “*disposed on*,” the Socwell belt 16 is “*disposed on*” both the deck 56 and rollers 98 which collectively provide the “*plurality of bearings*.” That is all claim 18 requires. (Pet., 76-77, 80; Reply, 5-6; Ex.1036, ¶21, 24-26.)

1. The specification does not limit the term “disposed on” to arrangements in which a component is positioned vertically above another component.

The ’745 Patent uses the phrase “disposed on” to refer to arrangements where one component “disposed on” another is not on top of or in a weight-bearing relationship with the other component. For example, the ’745 Patent discloses endless belts 226 being “disposed on” the slats 228 of the running belt 16—whether such belts are above or below the slats: “The endless belts 226 are shown disposed on opposite sides of the running belt 16, generally interior to the outer, lateral edge of the slats 228.” (Reply, 4; Ex.1001, 13:58-61; Ex.1036, ¶25.)



Ex.1001, Fig.6 Excerpt (Annotated)

The endless belt 226 extends in a continuous loop about the running belt 16 such that it is necessarily positioned above the lower slats 228 (as annotated in red in the above figure) and **below the upper slats 228**. (Reply, 4; Ex.1036, ¶25-26.) The Board’s construction of “*disposing . . . on*” to exclude bearings positioned above the running belt overlooks the ’745 Patent’s use of the phrase “disposed on” to describe above and below arrangements. The specification “is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term.” *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996).

2. The other claim limitations do not limit the running belt to be positioned vertically above the bearings.

Claim 18 further requires that the bearings define the curved running surface

as a result of being disposed on the bearings, i.e., “***disposing*** a running belt ***on*** the plurality of bearings ***such that*** the curved top profile of the plurality of bearings define at least a portion of a curved running surface of the running belt.”

Socwell describes its deck 56 and rollers 98 (“*plurality of bearings*”)—as fulfilling this limitation exactly:

Referring now to FIG. 5, the curved deck treadmill 10 may include one or more belt securing assemblies 94 which provide a means for retaining the endless belt 16 in a curvilinear configuration being substantially flush with the upper surface 66 of the deck 56. Preferably, the belt securing assemblies 94 provide a means for substantially conforming the inherent flexible nature of the belt 16 to the arcuate configuration of the intermediate portion 62 of the deck 56. In design, one or more belt securing assemblies 94 may be disposed in spaced-apart relation along the upper surface 66 of the intermediate portion 62 of the deck 56, as shown in FIG. 2, to sufficiently retain the belt 16 in operable disposition to the deck 56.

In one presently preferred embodiment of the present invention, the belt securing assembly 94 comprises a roller 98. . . .[T]he roller 98 may engage the belt 16, thereby substantially retaining a side portion of the belt 16 substantially flush with the deck 56.

(Ex.1011, 10:5-23.)

Thus, the Board’s narrow construction conflicts with the “*such that*” limitation: i.e., “***disposing*** a running belt ***on*** the plurality of bearings ***such that*** the

curved top profile of the plurality of bearings define at least a portion of a curved running surface of the running belt.” This further confirms that the construction is wrong. “[T]he context in which a term is used in the asserted claim can be highly instructive.” *Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005).

The Federal Circuit’s holding in *Weber, Inc., v. Provisur Tech., Inc.*, 92 F.4th 1059 (Fed. Cir. 2024) is instructive. In *Weber*, the Federal Circuit reversed the PTAB’s overly narrow construction of the term “disposed over” to require that the “feed apparatus and its conveyor belts and grippers are ‘positioned above and in vertical and lateral alignment with’ the food article loading apparatus and its lift tray assembly.” *Weber*, 92 F.4th at 1069-1070. The Court noted:

The claim language contains no restrictions that would require direct alignment of the conveyor belts and lift tray assembly from the two apparatuses. ‘Had the patent drafter intended to limit the claims’ to address the alignment of the conveyor belts and lift tray assembly between the apparatuses, ‘narrower language could have been used in the claim.’

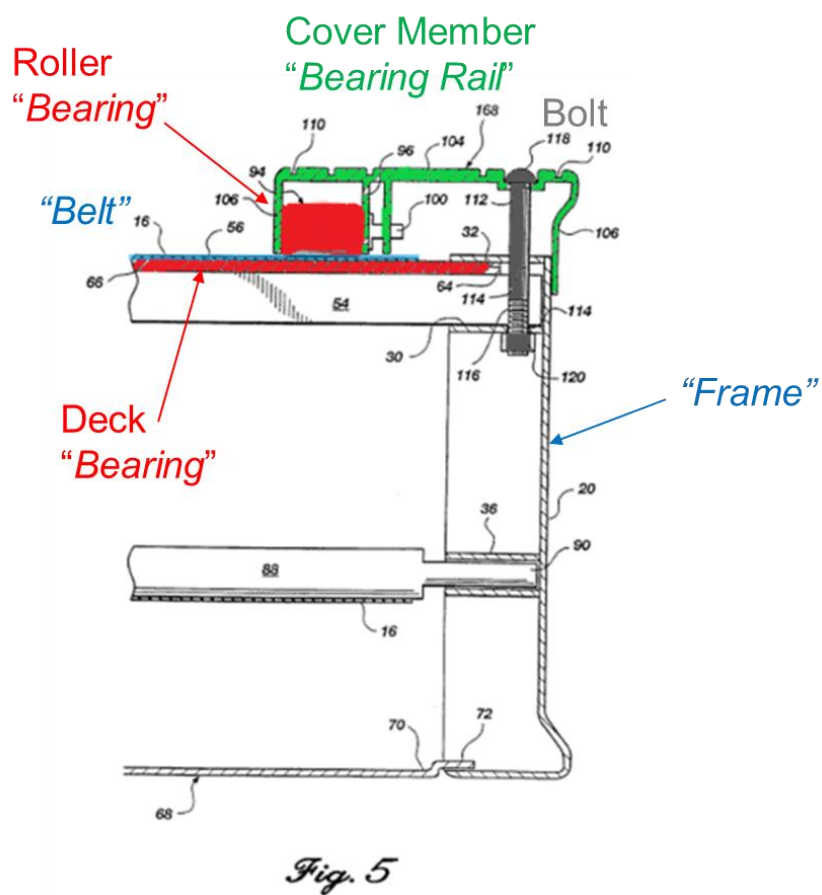
Id. at 1069 quoting *Cyntec Co. v. Chilisin Elecs. Corp.*, 84 F.4th 979, 986 (Fed. Cir. 2023).

Like the claims in *Weber*, claim 18 contains no restrictions that would require direct alignment of the running belt above the bearings. On the contrary, the “*such that*” limitation of claim 18 suggests something more, e.g., arranging bearings above

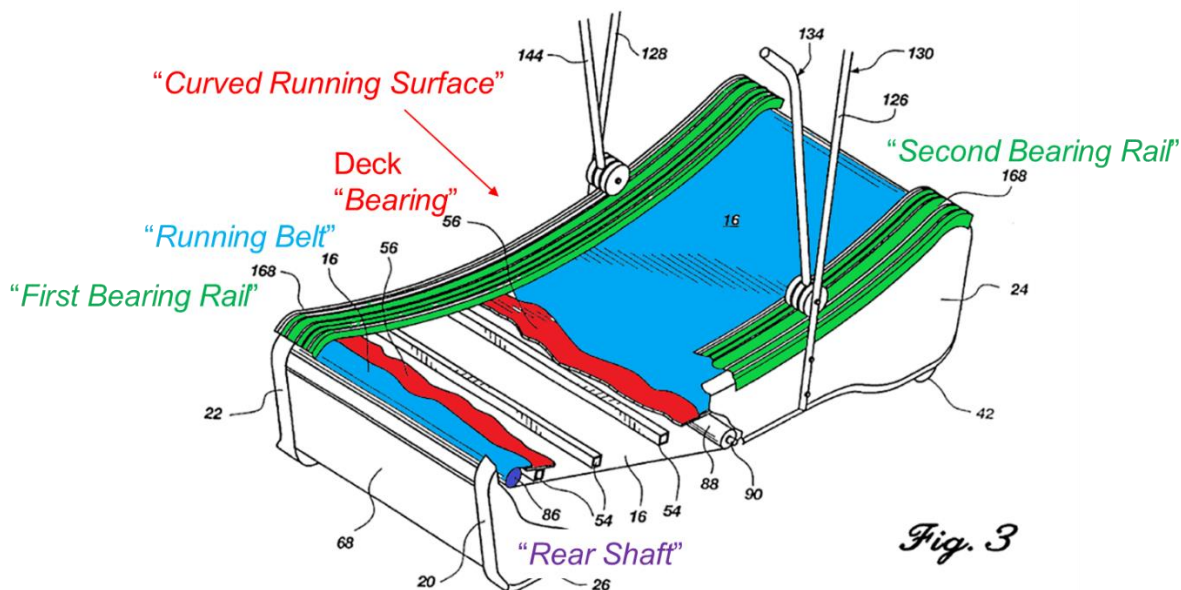
the running belt, “***such that the curved top profile of the plurality of bearings define at least a portion of a curved running surface of the running belt.***” Therefore, the Board’s construction is not correct.

3. The Petition demonstrated that Socwell discloses the “*disposing a running belt on the plurality of bearings*” limitation of claim 18.

Socwell’s rollers 98 and the deck 56 collectively provide a “*plurality of bearings.*” (Pet., 80-83; Ex.1003, ¶¶401-404; Reply 5; Ex.1036, ¶¶19-21.) Socwell further discloses a running belt 16 that is “*dispos[ed] . . . on*” the curved deck 56 and the rollers 98 “*such that the curved top profile of the plurality of bearings define at least a portion of a curved running surface of the running belt.*” (Pet., 82-83; Ex.1011, 10:17-26, 4:13-19, Fig.5; Ex.1003, ¶¶404-406; Reply, 5-6; Ex.1036, ¶¶24-26.)



Ex.1011, Fig.5 (Annotated)



Ex.1011, Fig.3 (Annotated)

Accordingly, LifeCORE requests rehearing regarding the “*disposing a running belt on the plurality of bearings*” limitation of claim 18.

4. The Petition demonstrated that Socwell discloses the “*non-motorized treadmill*” limitation of claim 20.

Claim 20 depends from claim 18 and further requires that “*treadmill is a manually powered, non-motorized treadmill.*” Petitioner explained how Socwell discloses this limitation at Petition. (Pet., 105, Ex.1011, 11:34-38, 11:53-61; Ex.1003, ¶¶363, 390, 407-410.) Claim 20 includes the same limitations as claims 7 and 11, which the Board determined were unpatentable over Socwell. (Pet., 105; FWD, 8, 71, 82-83.)

III. CONCLUSION

For the reasons set forth above, Petitioner respectfully requests rehearing of the Final Written Decision of the '745 Patent, and upon rehearing, the Board should find claims 18 and 20 unpatentable.

Respectfully submitted,

Dated: November 25, 2024

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Certificate of Service

The undersigned hereby certifies that on November 25, 2024, a complete and entire copy of **PETITIONER'S REQUEST FOR REHEARING**, was served via electronic mail to the attorneys listed below at rmckenna@foley.com; kjelenchick@foley.com; srieger@foley.com.

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Certificate of Compliance Pursuant to 37 C.F.R. § 42.24

This paper complies with the type-volume limitation of 37 C.F.R. § 42.24(a)(1(v)). The paper contains 10 pages excluding the parts of the paper exempted by § 42.24(c).

This paper also complies with the typeface requirements of 37 C.F.R. § 42.6(a)(ii) and the type style requirements of § 42.6(a)(iii)&(iv).

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