

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.

IPR2023-00849
Patent 10,799,745 B2

Before MEREDITH C. PETRAVICK, NEIL T. POWELL, and
FREDERICK C. LANEY, *Administrative Patent Judges*.

PETRAVICK, *Administrative Patent Judge*.

DECISION

Denying Petitioner's Request for Rehearing of Final Written Decision
37 C.F.R. § 42.71(d)(2)

INTRODUCTION

LifeCore Fitness, LLC d/b/a Assault Fitness (“Petitioner”) timely filed a Request for Rehearing (Paper 44, “Request” or “Req. Reh’g”) under 37 C.F.R. § 42.71(d) on November 25, 2024. Petitioner’s Request for Rehearing seeks reconsideration of our Final Written Decision (Paper 42, “Decision” or “Dec.”) entered on October 24, 2024. Subsequently, on December 23, 2024, Petitioner filed a Notice of Appeal (Paper 46) to the U.S. Court of Appeals for the Federal Circuit (“the Federal Circuit”) from the Decision, and on January 6, 2025, Woodway USA, Inc. (“Patent Owner”) filed a Notice of Cross-Appeal (Paper 47) to the Federal Circuit from the Decision.

On March 7, 2025, the Federal Circuit ordered a limited remand of the case to the Board to allow the Board to decide Petitioner’s pending Request for Rehearing in this proceeding. *See* Paper 49.

In our Decision, we determined that Petitioner had shown by a preponderance of the evidence that claims 1, 4, 7–12, 14, 17, and 21–25 of U.S. Patent No. 10,799,745 B2 (Ex. 1001, “the ’745 patent”) are unpatentable under 35 U.S.C. § 103 as being obvious over prior art and had not shown such for claims 18, 20, 26, and 27. Dec. 83; Paper 43, 2 (errata). Petitioner’s Request is limited to the portion of our Final Written Decision that found Petitioner failed to show by a preponderance of the evidence that claims 18 and 20 are unpatentable. Req. Reh’g 1–10.

For the reasons detailed in our Decision and below, we do not find the Request persuasive. Petitioner’s Request is *denied*.

STANDARD

A party requesting rehearing bears the burden of showing that a decision should be modified. 37 C.F.R. § 42.71(d). The party must identify all matters it believes the Board misapprehended or overlooked, and the place where each matter was addressed previously in a motion, an opposition, or a reply. *Id.* A request for rehearing is not an opportunity to present new arguments or evidence or merely to disagree with the panel's assessment of the arguments or weighing of the evidence.

When rehearing a decision, we review the decision for an abuse of discretion. *See generally* 37 C.F.R. § 42.71(b)–(d). An abuse of discretion occurs when a “decision was based on an erroneous conclusion of law or clearly erroneous factual findings, or . . . a clear error of judgment.” *PPG Indus. Inc. v. Celanese Polymer Specialties Co.*, 840 F.2d 1565, 1567 (Fed. Cir. 1988) (citations omitted).

DISCUSSION

Claim 18 of the '745 patent is reproduced below.

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 that 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, 34:27–51 (emphasis added). Claim 20 depends from claim 18 and further requires that “the treadmill is a manually powered, non-motorized treadmill.” *Id.* at 34:55–56.

In the Decision, we determined that “[t]he evidence supports Patent Owner’s position that the plain and ordinary meaning of the term ‘disposing a running belt on the plurality of bearings’ [as recited in claim 18] is that the belt is above the bearings, i.e., the bearings are below the belt.” Dec. 23 (citing Ex. 1040, 27:21–23). We further determined that the preponderance of the evidence shows that Socwell¹ does not disclose the bearings on which a running belt is disposed as recited in claim 18. *Id.* at 69. We found that Socwell’s rollers 98, which are alleged by Petitioner to form top bearings for belt 16, are above belt 16 and therefore the belt is not disposed on rollers 98. *Id.* at 69–70 (citing Pet. 80). We found that even though Socwell’s belt 16 is disposed on deck 56, deck 56 is not a plurality of bearings as recited in claim 18. *Id.* at 70. We also determined that Petitioner’s reliance on

¹ U.S. Patent No. 5,897,461, issued Apr. 27, 1999 (Ex. 1011). *See also* Dec. 12–13.

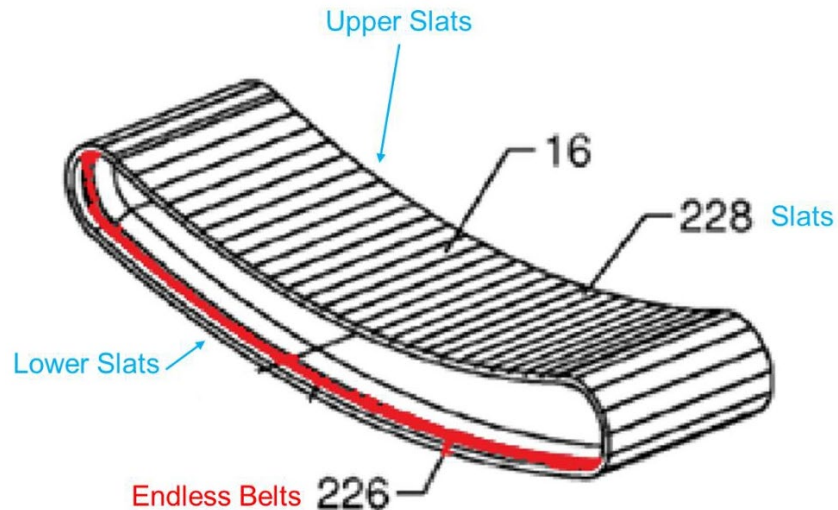
Socwell for dependent claim 20 does not resolve the deficiencies in Petitioner’s contentions regarding claim 18 and therefore, for the same reasons as claim 18, Petitioner has not shown by a preponderance of the evidence that claim 20 is unpatentable. *Id.* at 71.

In the Request, Petitioner argues that we “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.” Req. Reh’g 1 (emphasis in original).² Petitioner asserts that “[t]he ’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.” *Id.* at 3.

In particular, Petitioner relies on the following portion of the ’745 patent specification for support: “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.” Req. Reh’g 3 (quoting Ex. 1001, 13:58–61, and citing Pet. Reply 4; Ex. 1036 ¶ 25) (emphasis in original) (internal

² Petitioner also asserts that we construed this phrase “to require the running belt to be positioned *vertically above* the plurality of bearings.” Req. Reh’g 1 (in the heading for § II.A of the Request) (bold removed and emphasis added). This differs from what we determined to be the plain and ordinary meaning of the phrase, which is that “the belt is *above* the bearings.” Dec. 23 (emphasis added).

quotation marks omitted). Petitioner also points to an annotated excerpt from Figure 6 of the '745 patent, which is reproduced below.



Id. at 4 (reproducing annotated excerpt from Ex. 1001, Figure 6). Petitioner asserts that “[t]he 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.**” *Id.* (citing Pet. Reply 4; Ex. 1036 ¶¶ 25–26) (emphasis in original). As such, Petitioner argues, we overlooked “the ’745 Patent’s use of the phrase ‘disposed on’ to describe above and below arrangements.” *Id.* Notably, Petitioner does not provide any evidence as to what one of ordinary skill in the art would consider to be the plain and ordinary meaning of “disposed on.”

Petitioner is, in effect, asking us to consider the same arguments supplied in Petitioner’s Reply, which we did not consider persuasive in the Final Written Decision, and we do not find more compelling on rehearing.

See Pet. Reply 4; Dec. 22–23, 70. We determine that Petitioner identifies no reversible error in our claim construction.

Petitioner asks us on rehearing to consider that claim 18’s specific claim language that *disposes* a running belt *on* the bearing such that the curved *top* profile of the bearings defines a portion of the curved running surface to have multiple meanings. In practical effect, Petitioner asks us to read out unambiguous claim language, i.e., “disposed . . . on . . . such that the top profile,” expressly requiring the running belt to be disposed *above* the bearings that are *below* the running belt, based on the ’745 patent specification’s use of “disposed on” in the description of the running belt 16 relative to the endless belts 226 that, in Petitioner’s view, does not support that plain language. Reh’g Req. 3–4. We note that Petitioner’s excerpt of Figure 6 does not show the location of the bearings.

Figure 6 of the '745 patent is reproduced below in its entirety.

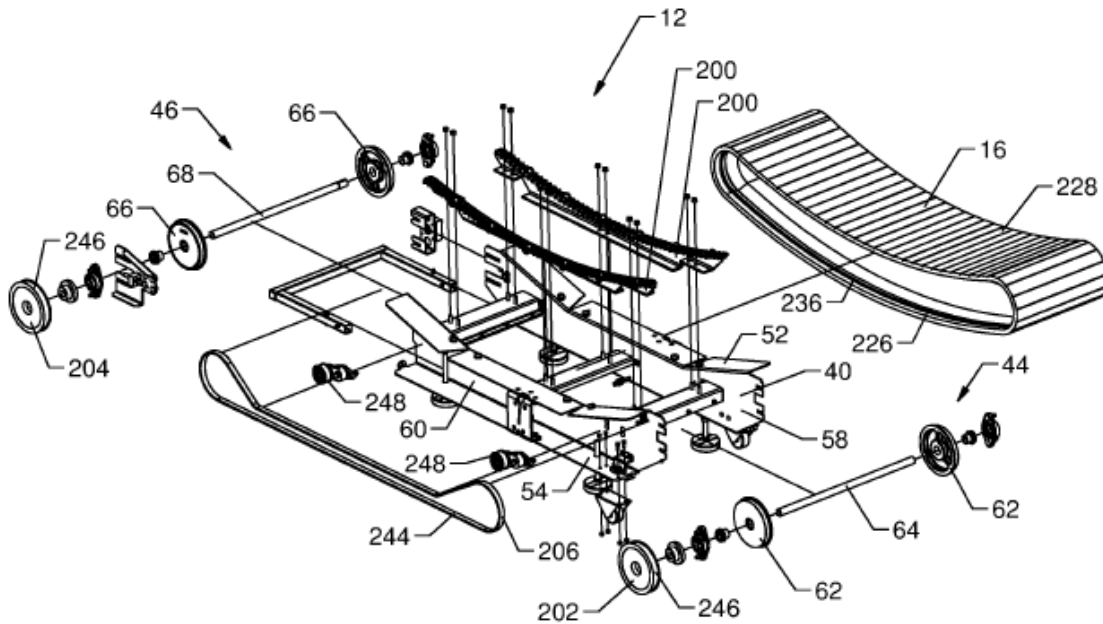


FIG. 6

Figure 6 “is an exploded view of a portion of the manual treadmill of FIG. 1 having the side panels and handrail removed.” Ex. 1001, 3:13–15. As shown in Figure 6, bearing rails 200 include bearings with a curved top profile. *Id.* at 11:20–22. “[R]unning belt 16 moves substantially along the top profile 210 of the bearing rails.” *Id.* at 37–39. The '745 patent does provide that “endless belts 226 are *shown disposed on* opposite sides of the running belt 16, generally interior to the outer, lateral edges of the slat 228.” *Id.* at 13:59–61 (emphasis added). Petitioner’s reliance on Figure 6 is misplaced because, the quoted recitation of “disposed on” is used in reference to the sides of running belt 16 rather than whether the belt is above or below slats 228. *Id.*

As such, Petitioner’s arguments are unavailing to show an overlooked point. That Petitioner disagrees with the Board’s findings is not a basis for granting the Rehearing Request. *See Voice Tech Corp. v. Unified Patents, LLC*, 110 F.4th 1331, 1339 (Fed. Cir. 2024) (“The language in the regulation specifying that a party identify only matters it believed the Board ‘misapprehended or overlooked’ is narrower in scope than the set of all matters in a Board’s final decision that a party may disagree with.”).

In the Request, Petitioner also argues that our construction of “disposing a running belt on the plurality of bearings” is in conflict with the immediately following limitation, “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” (the “such that” limitation). Req. Reh’g 4–7; Ex. 1001, 34:33–36. Petitioner argues that claim 18 requires that the bearings define the curved running surface because the curved running surface is disposed on the bearings. Req. Reh’g 4–5. Relying on the Federal Circuit’s discussion of construction of a term “disposed over” in *Weber, Inc. v. Provisur Techs., Inc.*, 92 F.4th 1059 (Fed. Cir. 2024), Petitioner argues that “[l]ike the claims in *Weber*, claim 18 contains no restrictions that would require direct alignment of the running belt above the bearings.” Req. Reh’g 6. Petitioner further asserts that “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.”** *Id.* at 6–7.

Because Petitioner does not identify the place in the record where it previously raised and addressed this argument, we determine that it is raised

improperly for the first time in the Request. *See* 37 C.F.R. § 42.71(d) (a request for rehearing must specifically identify, for each matter the party believes the Board misapprehended or overlooked, the place in the record where that matter previously was addressed in the party’s submissions).

Alternatively, even if we overlook the fact that Petitioner’s argument is an untimely new argument, we deny the Request because Petitioner’s argument is not persuasive in demonstrating that we reversibly erred in the Decision. First, Petitioner’s reliance on *Weber* is misplaced because our case is factually different from that of *Weber*. At issue in *Weber* was the Board’s 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; *see also* Req. Reh’g 6 (discussing *Weber*). The Federal Circuit reversed the Board’s construction in *Weber* because “[t]he plain language of the claims, read in view of the specification, requires only that the feed apparatus be generally positioned above the loading apparatus.” *Weber*, 92 F.4th at 1070. Noting that “[t]he parties’ experts generally agreed that the plain claim language did not contain additional alignment requirement,” the Federal Circuit stated “[o]ur case law does ‘not support prescribing a more particularized meaning unless a narrower construction is required by the specification or prosecution history.’” *Id.* at 1069 (quoting *3M Innovative Props. Co. v. Tredegar Corp.*, 725 F.3d 1315, 1329 (Fed. Cir. 2013)).

Unlike the rejected construction in *Weber*, our construction of “*disposing* a running belt *on* the plurality of bearings” as the belt being

above the plurality of bearings is based on the plain and ordinary meaning supported by the evidence and does not prescribe a more particularized meaning, such as “direct alignment of the running belt above the bearings” as alleged by Petitioner. Req. Reh’g 6; *compare id. with* Dec. 22–23. This is also consistent with our construction of “bearings” in the Decision, wherein we did “not construe ‘bearings’ as requiring any particular structure, positioning under the running belt, nor bearing any weight.” Dec. 22.

Moreover, Petitioner cites no evidence to support its claim construction argument that the “such that” limitation of claim 18 “suggests something more, e.g., arranging bearings above the running belt,” which is contrary to the running belt above the bearings in accordance with the plain and ordinary meaning of “disposing a running belt on the plurality of bearings.” Req. Reh’g 6–7. Nevertheless, Petitioner argues, in effect, that because Socwell’s belt 16, deck 56, and rollers 98 satisfy the “such that” limitation of claim 18 and because claim 18 requires that this is a result of being *disposed on* the bearings, Socwell’s belt 16 must be *disposed on* rollers 98, even though they are *above* the belt 16. *See id.* at 4–8; *see also* Pet. 82–83. We are not persuaded by Petitioner’s unsupported, circular argument.

For the reasons discussed above, Petitioner fails to persuade us that we misapprehended or overlooked any of the arguments presented regarding the “disposing a running belt on the plurality of bearings” limitation of claim 18. Req. Reh’g 1–9. Rather, we addressed the issue at least on pages 22–23 and 69–70 of the Decision and found that Socwell does not teach

what Petitioner asserts that it teaches. The fact that Petitioner disagrees with our resolution of this issue is not grounds for rehearing.

Claim 20 depends from claim 18 and further requires that “the treadmill is a manually powered, non-motorized treadmill.” Ex. 1001, 34:55–56. In the Request, Petitioner asserts that the Petition explained how Socwell discloses this limitation and claim 20 includes the same limitations as claims 7 and 11, which we determined were unpatentable over Socwell. Req. Reh’g 9 (citing Pet. 105, Ex. 1011, 11:34–38, 11:53–61, Ex. 1003 ¶¶ 363, 390, 407–410; Dec. 8, 71, 82–83). Petitioner argues that upon rehearing, we should find claim 20 unpatentable. *Id.* at 10.

None of the arguments presented in the Rehearing Request demonstrates that the Board misapprehended or overlooked any arguments presented for claim 20. Req. Reh’g 9. In the Decision, we determined that Petitioner’s reliance on Socwell for dependent claim 20 does not resolve the deficiencies in Petitioner’s contentions regarding claim 18. Dec. 71. However, Petitioner continues to rely on its contentions regarding claim 18 for claim 20. We could not have misapprehended or overlooked arguments for claim 20 that Petitioner never made to resolve the deficiencies in its contentions regarding claim 18. Accordingly, we deny Petitioner’s Request regarding claim 20 as well.

CONCLUSION

For the foregoing reasons, we determine that Petitioner has not met its burden to show that, in the Decision, the panel misapprehended or overlooked any matter or abused its discretion. Accordingly, Petitioner’s Request for Rehearing is *denied*. In summary:

Outcome of Decision on Rehearing:

Claim(s)	35 U.S.C §	Reference(s)/Basis	Denied	Granted
18, 20	103(a)	Schonenberger, Socwell, Magid, Sclater ³	18, 20	
18, 20	103(a)	Schonenberger, Socwell, Magid, Sclater	18, 20	
18, 20	103(a)	Socwell, Magid, Sclater	18, 20	
Overall Outcome			18, 20	

³ Under the first two grounds, Petitioner relies on the combination of Schonenberger (U.S. Patent No. 4,614,337, Ex. 1010) and Socwell as teaching the limitation of “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” in claim 18. *See* Pet. 30–41. In the Decision, we determined that “Petitioner has not adequately shown by a how a skilled artisan facing the modification of Schonenberger to change orientation of the rollers from flat to an arc/curved shape, as taught by Socwell, would have understood how the architecture of the Schonenberger system would be redesigned to accomplish a curved running surface,” as required by claim 18. Dec. 51. In the Request, Petitioner does not seek reconsideration of our determination regarding the combination of Schonenberger and Socwell. *See generally* Req. Reh’g.

Final Outcome after Rehearing:

Claim(s)	35 U.S.C. §	Reference(s)/Basis	Claim(s) Shown Unpatentable	Claim(s) Not Shown Unpatentable
1, 4, 7–12, 14, 17, 18, 20–27	103(a)	Schonenberger, Socwell, Magid, Sclater		1, 4, 7–12, 14, 17, 18, 20–27
1, 4, 7–12, 14, 17, 18, 20–27	103(a)	Schonenberger, Socwell, Magid, Sclater		1, 4, 7–12, 14, 17, 18, 20–27
1, 4, 7–12, 14, 17, 18, 20–25	103(a)	Socwell, Magid, Sclater	1, 4, 7–12, 14, 17, 21–25	18, 20
Overall Outcome			1, 4, 7–12, 14, 17, 21–25	18, 20, 26, 27

ORDER

Accordingly, it is:

ORDERED that Petitioner’s Request for Rehearing is *denied*.

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