

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BAZOOKA-FARMSTAR, LLC,
Petitioner,

v.

NUHN INDUSTRIES LTD.,
Patent Owner.

IPR2023-01161
Patent 11,358,425 C1

Before MEREDITH C. PETRAVICK, MATTHEW S. MEYERS, and
BRENT M. DOUGAL, *Administrative Patent Judges*.

DOUGAL, *Administrative Patent Judge*.

ERRATA TO DECISION
Granting Institution of *Inter Partes* Review

On January 9, 2024 we issued a Decision Granting Institution of an *inter partes* review challenging the patentability of claims 1–21 of U.S. Patent 11,358,425 C1. Paper 12 (“Decision” or “Dec.”). The Decision inadvertently refers to pre-AIA law. This inadvertent error does not change the outcome of our Decision. In view of the error, we modify our decision as follows:

The text at page five is modified as indicated, with deletions shown by strikethrough:

Claim(s) Challenged	35 U.S.C. § ⁵	Reference(s)/Basis
1–7, 12–19	103(a)	Truxor, Yoon
1–7, 12–19	103(a)	Truxor, Carrier
1–7, 12–19	103(a)	SenwaTec, Yoon
1–7, 12–19	103(a)	SenwaTec, Carrier
1–21	102	Carrier
1–21	103(a)	Puck, Bryham
1–21	103(a)	Puck, Bryham, Bennett II
1–21	103(a)	Lyseng

~~⁵The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284, 285–88 (2011), revised 35 U.S.C. §§ 102, 103 effective March 16, 2013. We refer to the pre-AIA versions of §§ 102, 103.~~

The text at page six is modified as indicated, with deletions shown by strikethrough:

Claim(s) Challenged	35 U.S.C. § ⁵	Reference(s)/Basis
1–21	103(a)	Lyseng

The text at page nine is modified as indicated, with additions shown by underlining and deletions shown by strikethrough:

1. Liquid Manure – Means-Plus-Function

Patent Owner argues that “a fluid pump for pumping liquid manure” should be construed as a means-plus-function limitation under 35 U.S.C. § 112(f). ¶ 6.⁶ Prelim. Resp. 28–30. This statute states:

An element in a claim . . . may be expressed as a means or step for performing a specified function without the recital of structure . . . , and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

~~⁶ Patent Owner cites to 35 U.S.C. § 112(f), however the ’425 patent is subject to the pre-AIA version of the statute, i.e., 35 U.S.C. § 112 ¶ 6.~~

The text at page ten is modified as indicated, with additions shown by underlining and deletions shown by strikethrough:

The standard is whether the words of the claim are understood by persons of ordinary skill in the art to have a sufficiently definite meaning as the name for structure. When a claim term lacks the word “means,” the presumption can be overcome and § 112[(f)], ~~para. 6~~ will apply if the challenger demonstrates that the claim term fails to “recite sufficiently definite structure” or else recites “function without reciting sufficient structure for performing that function.”

For PETITIONER:

Thomas Leach
Robert Kalinsky
Jeffrey Blake
Taylor Stemler
MERCHANT & GOULD P.C.
tleach@merchantgould.com
rkalinsky@merchantgould.com
jblacke@merchantgould.com
tstemler@merchantgould.com

For PATENT OWNER:

James B. Luchsinger
Matthew L. Cutler
Scott Yackey
HARNESS, DICKY & PIERCE P.L.C.
bluchsinger@harnessip.com
mcutler@harnessip.com
syackey@harnessip.com