

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SHARKNINJA, INC.,
SHARKNINJA OPERATING LLC,
SHARKNINJA MANAGEMENT LLC, AND
SHARKNINJA SALES COMPANY,
Petitioners,

v.

DYSON TECHNOLOGY LIMITED
Patent Owner.

Case No. IPR2023-01324

U.S. Patent No. 9,414,662

**PATENT OWNER'S CONTINGENT MOTION TO AMEND
PURSUANT TO 37 C.F.R. § 42.121**

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PATENT OWNER'S EXHIBIT LIST

Exhibit	Description
2001	Declaration of Brianna Lynn Silverstein in Support of Motion for <i>Pro Hac Vice</i> Admission
2002	Declaration of Breigh Nonte Roszelle, Ph.D.

Patent Owner Dyson Technology Limited (“Patent Owner”) respectfully moves under 35 U.S.C. § 316(d) and 37 C.F.R. § 42.121 to amend certain claims of U.S. Patent No. 9,414,662 (“the ’662 Patent”) contingent on the outcome of this trial as to whether Claims 26-28 (the “Challenged Claims”) are unpatentable. In the event the Board finds any original claim unpatentable, Patent Owner respectfully requests that the Board grant this Motion to Amend and issue the corresponding substitute claims presented.

I. INTRODUCTION

As this Motion and the accompanying Declaration of Dr. Breigh Nonte Roszelle (EX-2002) demonstrate, this motion and the substitute claims meet all the requirements of 37 C.F.R. § 42.121. Specifically, each amended claim is responsive to a ground of unpatentability involved in this proceeding, none of the amendments seeks to enlarge the scope of the claims or introduce new subject matter, each amendment proposes only one substitute claim for each conditionally cancelled claim, and the Motion clearly shows the changes sought and the support in the original disclosure of the ’662 Patent for each claim that is amended and the support in an earlier-filed disclosure for each claim for which benefit of the filing date of the earlier filed disclosure is sought.

Patent Owner further submits **Appendix A** that includes a clean version of substitute claims 40-42 and a marked-up version of substitute claims 40-42

showing amendments with respect to conditionally cancelled Claims 26-28, respectively.

Petitioners bear the burden of proving unpatentability of the amended claims by a preponderance of the evidence. *See Aqua Prods. v. Matal*, 872 F.3d 1290, 1296 (Fed. Cir. 2017) (en banc) (“§ 316(e) unambiguously requires the petitioner to prove all propositions of unpatentability, including for amended claims”); *Lectrosonics, Inc. v. Zaxcom, Inc.*, Case IPR2018-01129, 01130, Paper 15 (Feb. 25, 2019) (“[P]atent owner does not bear the burden of persuasion to demonstrate the patentability of substitute claims presented in a motion to amend . . . the burden of persuasion ordinarily will lie with the petitioner to show that any proposed substitute claims are unpatentable by a preponderance of the evidence”). Nevertheless, the instant Motion demonstrates that the proposed amended claims are patentable over the references at issue in this proceeding. Accordingly, Patent Owner respectfully requests the Board grant this Motion if Claims 26-28 are found unpatentable or partially grant this Motion with respect to substitute claims 40 and/or 41 if only Claims 26 and/or 27 are found unpatentable.

Patent Owner also requests preliminary guidance from the Board on this Motion to Amend under the pilot program concerning motion to amend practice and procedures in trial proceedings. 84 Fed. Reg. 9497, 9497-9507; *see also* Scheduling Order, Paper No. 8, at 4-5 (Feb. 26, 2024). This proceeding was

instituted on February 26, 2024, which is after the March 15, 2019, starting date for this pilot program.

II. INDEPENDENT CLAIM

A. Substitute Independent Claim 40

The '662 Patent includes one challenged independent claim, namely Claim 26. Reproduced below from **Appendix A** is the marked-up version of substitute claim 40, offered to amend independent Claim 26:

Claim 40 (Substitute for Claim 26, if found unpatentable): A hair care appliance comprising a body and a handle, the handle having a first end proximal to the body and a second end distal from the body and comprising an inner wall and an outer wall, wherein the inner wall is disposed radially inwardly from the outer wall, [[and]] defines a primary fluid flow path that extends from a primary fluid inlet into the appliance, and extends from the primary fluid inlet to the first end of the handle, wherein the outer wall is an external surface of the handle, and wherein the primary fluid flow path from the primary fluid inlet to a primary fluid outlet from the body is non linear.

Because Patent Owner is only proposing one substitute claim for Claim 26, it has proposed a reasonable number of substitute claims pursuant to 37 C.F.R. § 42.121(a)(3).

B. Substitute claim 40 does not enlarge the scope of Claim 26

Pursuant to 37 C.F.R. § 42.121(a)(2)(ii), substitute claim 40 does not enlarge the scope of original Claim 26. Instead, only new limitations are added, which do not enlarge the scope of Claim 26. The first added limitation “handle having a first end proximal to the body and a second end distal from the body” may have been inherent in Claim 26 and thus may not in of itself narrow the scope of Claim 26, but it does not enlarge the scope of Claim 26 and provides antecedent basis for the second added limitation. The second added limitation “inner wall . . . extends from the primary fluid inlet to the first end of the handle” defines the extent of the inner wall, which was not explicitly defined previously. Thus, no aspect of Claim 26 is broadened in substitute claim 40.

C. Substitute claim 40 does not introduce new matter

The '662 Patent issued on August 16, 2016, from U.S. Pat. App. No. 14/323,937 (“the '937 Application”) filed on July 3, 2014 (EX-1002 at 10-67), which claims priority under 35 U.S.C. § 119 to Great Britain App. No. 1312068.8 (“the Priority Application”) filed on July 5, 2013 (EX-1002 at 78-138). As demonstrated below, substitute claim 40 is supported by the originally filed disclosure of the '937 Application and the Priority Application. Pursuant to 37 C.F.R. § 42.121(b), support for the substitute claim is provided below with reference to the originally filed '937 Application and the Priority Application.

- 1. A hair care appliance comprising a body and a handle, the handle having a first end proximal to the body and a second end distal from the body and comprising an inner wall and an outer wall,**

This limitation of substitute claim 40 is supported in the original specification and drawings of the '937 Application at least in the following locations: Figures 1-3; page 1, lines 8-9 ("hair care appliance such as a hairdryer"); page 19, lines 23-25 ("The handle has a first end 22 which is connected to the body 30 and a second end 24 distal from the body 30 and which includes a primary inlet 40."); and page 24, line 16 ("The handle 20 has an outer wall 200 and an inner wall 220."). EX-1002 at 10, 28, 33, 50-52. This limitation is also supported in the Priority Application at least in the following locations: Figures 1-3; page 1, lines 6-7 ("hair care appliance such as a hairdryer"); page 19, lines 14-16 ("The handle has a first end 22 which is connected to the body 30 and a second end 24 distal from the body 30 and which includes a primary inlet 40."); and page 24, line 10 ("The handle 20 has an outer wall 200 and an inner wall 220."). EX-1002 at 81, 99, 104, 125, 126.

- 2. wherein the inner wall is disposed radially inwardly from the outer wall, defines a primary fluid flow path that extends from a primary fluid inlet into the appliance, and extends from the primary fluid inlet to the first end of the handle,**

This limitation of substitute claim 40 is supported in the original specification and drawings of the '937 Application at least in the following locations: Figure 3 (showing inner wall 220 radially inward from outer wall 200);

page 1, lines 27-28 (“the handle comprising a wall and an outer wall wherein the wall defines a primary fluid flow path that extends from a primary fluid inlet into the appliance”); page 23, lines 17-18 (“The third piece comprising outer wall 360 of the body 30 and inner wall 220 of the handle 20 are moulded as a one piece unit from a plastic material”); page 24, lines 16-17 (“The inner wall 220 is a duct which surrounds and defines a primary fluid flow path 400”); and page 25, lines 5-6 and 9-13 (“the outer wall 200 includes the primary fluid inlet 40; however it is not essential that the outer wall extends over the entire length of the inner wall 20 . . . In the event that the outer wall 200 does not extend the entire length of the inner wall 220, then either the inner wall 220 would comprise the inlet 40 at its distal end from the junction 90 with the body 30 or a separate inlet body attachable to the outer wall 200 and/or inner wall 220 could be provided.”). EX-1002 at 10, 32-34, 52. This limitation is also supported in the Priority Application at least in the following locations: Figure 3 (showing inner wall 220 radially inward from outer wall 200); page 9, lines 11-12 (“the handle comprising a wall and an outer wall wherein the wall defines a primary fluid flow path that extends from a primary fluid inlet into the appliance”); page 23, lines 10-11 (“The third piece comprising outer wall 360 of the body 30 and inner wall 220 of the handle 20 are moulded as a one piece unit from a plastic material”); page 24, line 11 (“inner wall 220 is a duct which surrounds and defines a primary fluid flow path 400”); and page 25, lines 1-

2 and 5-9 (“the outer wall 200 includes the primary fluid inlet 40; however it is not essential that the outer wall extends over the entire length of the inner wall 20 . . .

In the event that the outer wall 200 does not extend the entire length of the inner wall 220, then either the inner wall 220 would comprise the inlet 40 at its distal end from the junction 90 with the body 30 or a separate inlet body attachable to the outer wall 200 and/or inner wall 220 could be provided.”). EX-1002 at 89, 103-105, 126.

Figures 1-7 show embodiments in which the inner wall 220 extends from a primary fluid inlet 40 to the end of the handle 20 that is proximal to body 30. EX-1002 at 50-56.

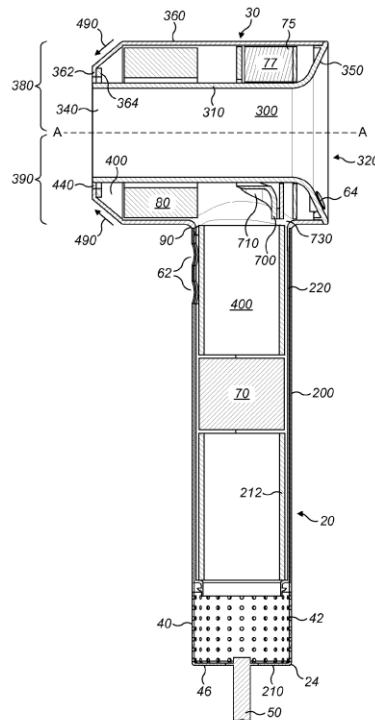


FIG. 3

In particular, as mentioned above, the '937 Application and the Priority Application specify that in the illustrated embodiments body 30 and inner wall 220 are molded as a one piece unit. EX-1002 at 32, 102-103. In addition, as mentioned above, the '937 Application and the Priority Application specify that it is not essential that the outer wall 200 extends over the entire length of the inner wall 220 and where it does not, the primary fluid inlet 40 may be in the inner wall or a separate body attached to the end of the inner wall. EX-1002 at 33-34, 105. These teachings also provide support for the amendment requiring an inner wall that “extends from the primary fluid inlet to the first end of the handle.”

3. wherein the outer wall is an external surface of the handle, and

This limitation of substitute claim 40 is supported in the original specification and drawings of the '937 Application at least in the following locations: Figure 3 and page 1, line 29 (“outer wall is an external surface of the appliance”). EX-1002 at 10, 52. This limitation is also supported in the Priority Application at least in the following locations: Figure 3 and page 9, line 13 (“outer wall is an external surface of the appliance”). EX-1002 at 89, 126.

4. wherein the primary fluid flow path from the primary fluid inlet to a primary fluid outlet from the body is non linear.

This limitation of substitute claim 40 is supported in the original specification and drawings of the '937 Application at least in the following locations: Figure 3; page 10, lines 8-9 (“the primary fluid flow path from the

primary fluid inlet to the primary fluid outlet is non linear”); and page 11, line 29 – page 12, line 1 (“the primary fluid flow path extends along the handle and into the body to a primary fluid outlet . . . the primary fluid flow path is non-linear”). EX-1002 at 19-21, 52. This limitation is also supported in the Priority Application at least in the following locations: Figure 3; page 10, lines 7-8 (“the primary fluid flow path from the primary fluid inlet to the primary fluid outlet is non linear”); and page 11, lines 22-25 (“the primary fluid flow path extends along the handle and into the body to a primary fluid outlet . . . the primary fluid flow path is non-linear”). EX-1002 at 90, 91, 126.

D. Substitute claim 40 responds to each ground of unpatentability

Pursuant to 37 C.F.R. § 42.121(a)(2)(i), each of the amendments to claim 40 respond to each of the five grounds of unpatentability set forth in the Petition. In particular, none of U.S. Patent Application Publication No. US 2013/0111777 (“Jeong”); Japanese Patent Application Publication No. JP S 60-249907 (“Yoshida”); or U.S. Patent No. 5,407,135 (“Jeffs”) disclose or render obvious the newly amended limitation “the handle having a first end proximal to the body and a second end distal from the body and comprising an inner wall . . . [that] extends from the primary fluid inlet to the first end of the handle.” The addition of these limitations further distinguishes and renders substitute claim 40 patentable over Jeong, Yoshida, and Jeffs for at least the reasons provided below.

1. Ground 1: Jeong fails to anticipate or render obvious substitute claim 40

Jeong does not disclose “the inner wall . . . extends from the primary fluid inlet to the first end of the handle” of substitute claim 40. Petitioners assert that Jeong’s discharge nozzle 30 is the claimed “body” and that Jeong’s housing 10 is the claimed “handle.” Pet. at 24-25; EX-1003 ¶ 70.

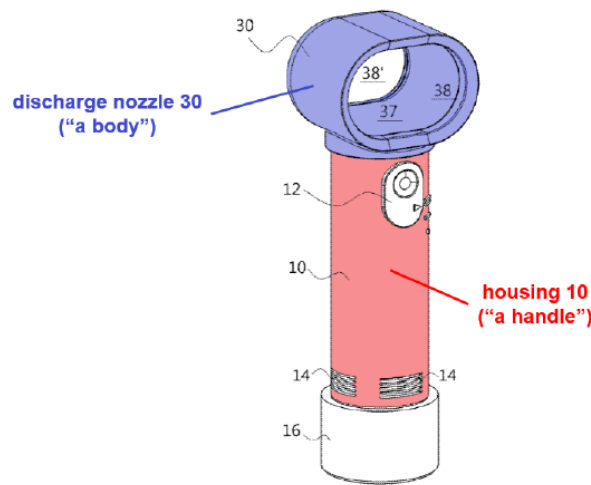


FIG. 1

Pet. at 25; EX-1003 ¶ 70

Petitioners then assert that Jeong’s housing 10 is the claimed “outer wall,” Jeong’s motor housing 18 is the claimed “inner wall,” and Jeong’s plurality of inflow slots 14 are the claimed “primary fluid inlet.” Pet. at 27-29, 31; EX-1003 ¶ 77.

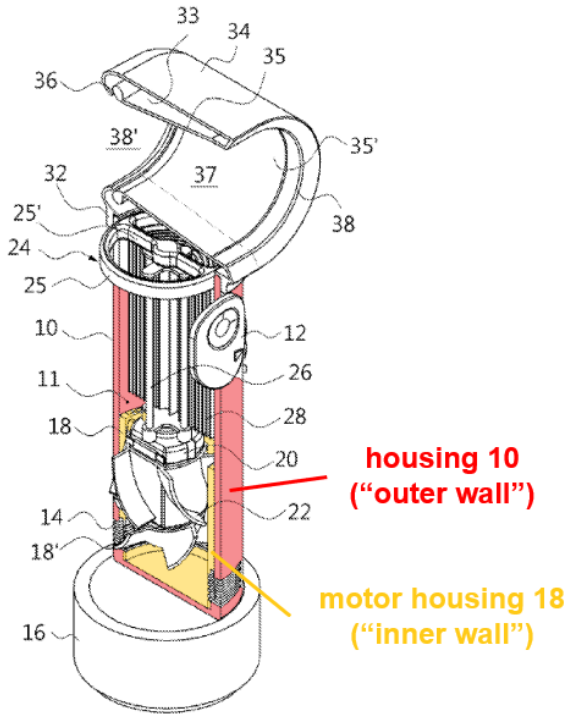


FIG. 2

Pet. at 28; EX-1003 ¶ 77

motor housing 18
("inner wall")

housing 10
("outer wall")

motor housing 18
("inner wall")

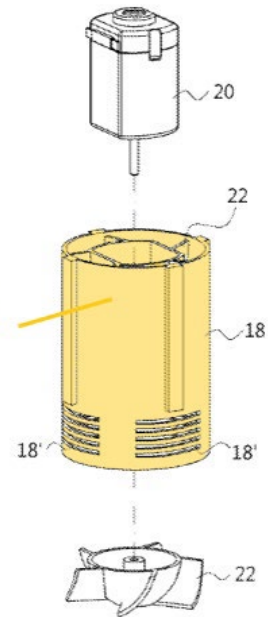


FIG. 3

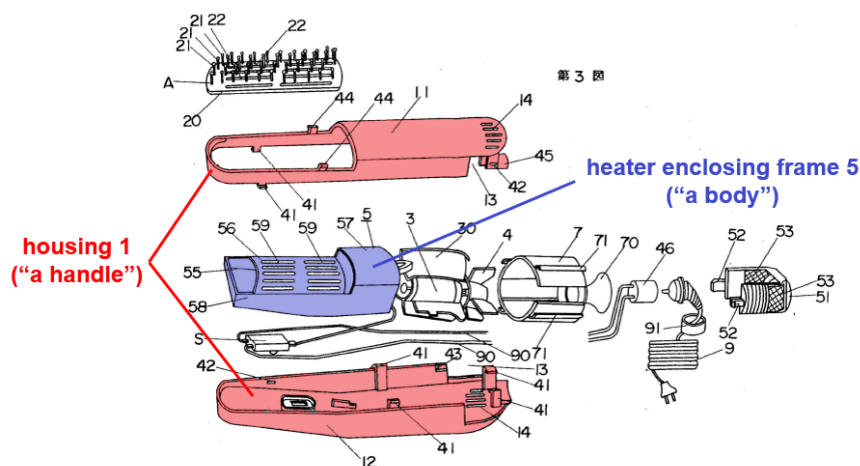
Pet. at 29; EX-1003 ¶ 77

However, Petitioners' and Dr. Nosenchuck's own illustrations show that Jeong's motor housing 18 does not extend from the plurality of inflow slots 14 to the end of housing 10 that is proximal to the discharge nozzle 30. EX-2002 ¶ 113. Instead, Jeong's motor housing 18 that Petitioners and Dr. Nosenchuck assert is the claimed "inner wall" only extends from the plurality of inflow slots 14 about half-way up housing 10, which Petitioners and Dr. Nosenchuck assert is the claimed "handle," and does not extend to the first end of the handle proximal to the body as required by substitute claim 40. EX-2002 ¶ 113. Thus, Jeong fails to disclose the added limitation to substitute claim 40 "the inner wall . . . extends from the primary fluid inlet to the first end of the handle." EX-2002 ¶ 114. In addition, a

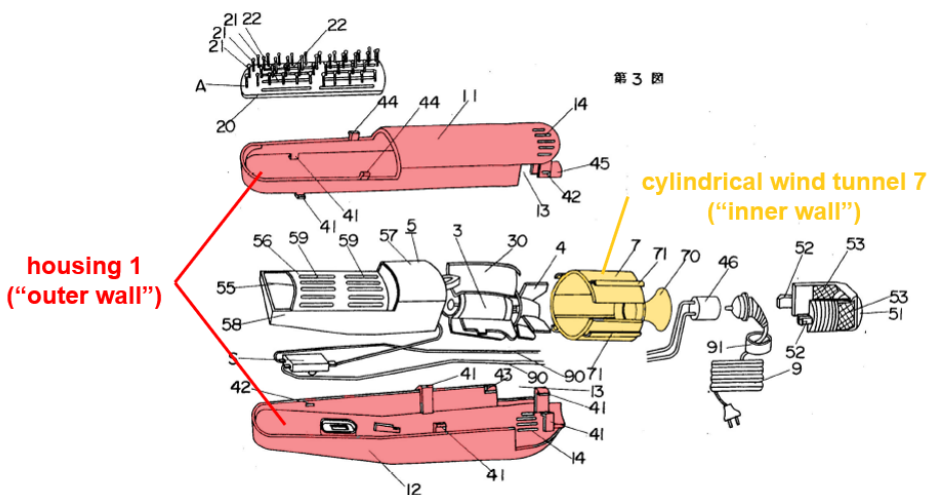
person of ordinary skill in the art would have not been motivated to modify Jeong to extend motor housing 18 the length of housing 10 because such extension would likely increase material cost when motor housing 18 is already accomplishing its purpose of housing the motor without such an extension. EX-1004 ¶¶ [0033]-[0034]; EX-2002 ¶ 115. Thus, Jeong fails to anticipate or render substitute claim 40 obvious.

2. Ground 2: Yoshida fails to anticipate or render obvious substitute claim 40

Yoshida does not disclose “the inner wall . . . extends from the primary fluid inlet to the first end of the handle” of substitute claim 40. Petitioners assert that Yoshida’s housing 1 is the claimed “outer wall,” Yoshida’s heater enclosing frame 5 is the claimed “body,” and that Yoshida’s cylindrical wind tunnel 7 is the claimed “inner wall.” Pet. at 50-51 (citing EX-1003 ¶¶ 96-98), 56-57 (citing EX-1003 ¶¶ 105-107).

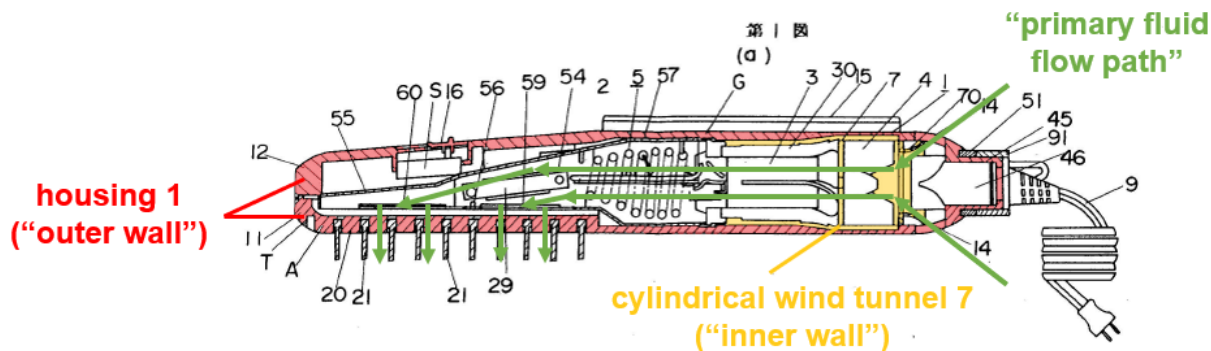


Pet. at 51; EX-1003 ¶ 97



Pet. at 56; EX-1003 ¶ 105

Petitioners then assert that the claimed “primary fluid flow path” originates at Yoshida’s suction ports 13 and 14, which Petitioners assert are the claimed “primary fluid inlet,” travels through Yoshida’s cylindrical wind tunnel 7 (asserted claimed “inner wall”) through Yoshida’s heater enclosing frame 5 (asserted claimed “body”), and exits through discharge ports 59, which Petitioners assert are the claimed “primary fluid outlet from the body.” Pet. at 60-62 (citing EX-1003 ¶¶ 110-111).



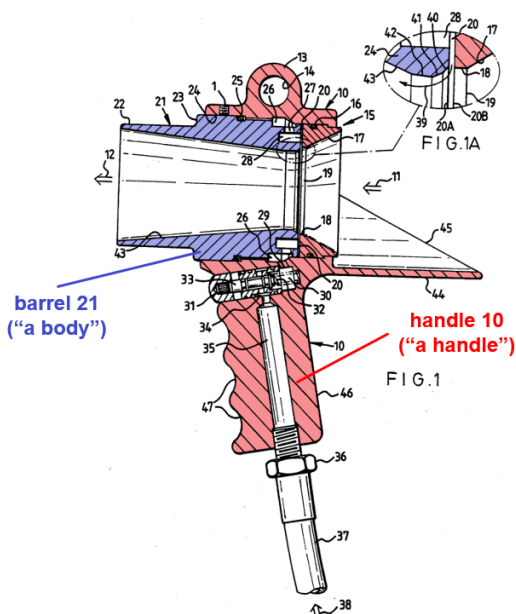
Pet. at 62; EX-1003 ¶ 111

However, Petitioners' and Dr. Nosenchuck's own illustrations show that Yoshida's cylindrical wind tunnel 7 does not extend from the suction ports 13 and 14 to the end of housing 1 (the alleged claimed "handle") that is proximal to heater enclosing frame 5 (the alleged claimed "body"). EX-2002 ¶ 122. Instead, Yoshida's cylindrical wind tunnel 7 that Petitioners and Dr. Nosenchuck assert is the claimed "inner wall" extends from the suction ports 13 and 14 only about half-way up housing 1, which Petitioners and Dr. Nosenchuck assert is the claimed "handle," and does not extend to the first end of the handle proximal to the body as required by substitute claim 40. EX-2002 ¶ 122. Thus, Yoshida fails to disclose the added limitation of substitute claim 40 "the inner wall . . . extends from the primary fluid inlet to the first end of the handle." EX-2002 ¶ 123. In addition, a person of ordinary skill in the art would have not been motivated to modify Yoshida to extend cylindrical wind tunnel 7 the length of housing 1 because cylindrical wind tunnel 7 is already accomplishing its purpose of housing fan 4 and increasing the air blowing efficiency of fan 4. EX-1005 at 48; EX-2002 ¶ 124. In fact, one of ordinary skill in the art would expect a decrease in air blowing efficiency to the heater inside the heater enclosing frame 5 if the cylindrical wind tunnel 7 was extended to have a length coextensive with housing 1 because the cylindrical wind tunnel 7 would no longer maintain the cylindrical shape around

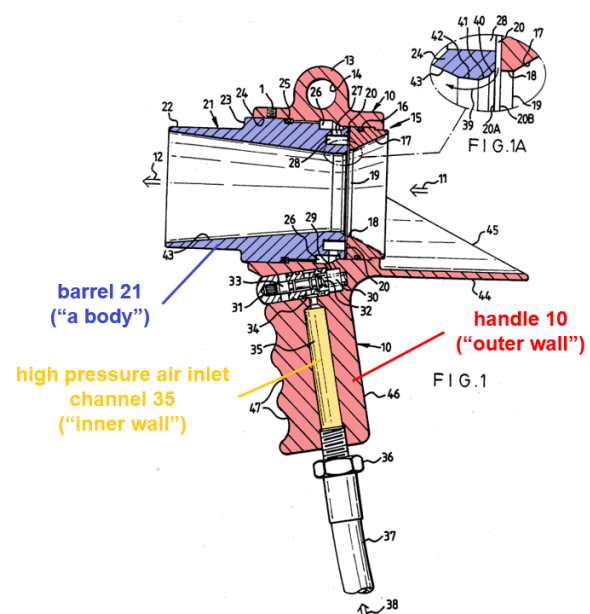
the blowing air created by fan 4. EX-2002 ¶ 124. Thus, Yoshida fails to anticipate or render substitute claim 40 obvious.

3. Ground 3: Jeffs fails to anticipate or render obvious substitute claim 40

Jeffs does not disclose “the inner wall . . . extends from the primary fluid inlet to the first end of the handle” of substitute claim 40.¹ Petitioners assert that Jeffs’ handle 10 is the claimed “handle,” Jeffs’ barrel 21 is the claimed “body,” and Jeffs’ high pressure air inlet channel 35 is the claimed “inner wall.” Pet. at 74-78; EX-1003 ¶¶ 134-141.



Pet. at 75; EX-1003 ¶ 135

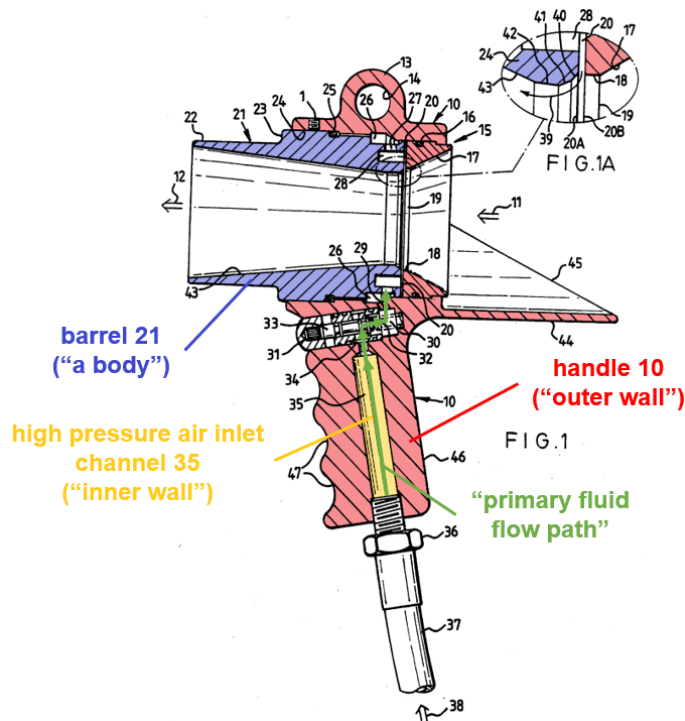


Pet. at 77; EX-1003 ¶ 139

¹ As discussed in the Patent Owner Response, Jeffs also does not disclose a distinct “outer wall” and “inner wall” as required by Claim 26. POR at 31-32. Because those limitations still exist in substitute claim 40, Jeffs also fails to anticipate substitute claim 40 for the same reason. EX-2002 ¶ 134.

Petitioners further assert that Jeffs' union 36 is the claimed "primary fluid inlet."

Pet. at 79-81; EX-1003 ¶¶ 144-145.



Pet. at 81; EX-1003 ¶ 145

However, Petitioners' and Dr. Nosenchuck's own illustrations show that Jeffs' high pressure air inlet channel 35 (the asserted claimed "inner wall") does not extend from union 36 (the asserted claimed "primary fluid inlet") to the end of handle 10 (the asserted claimed "handle") that is proximal to the barrel 21 (the asserted claimed "body"). EX-2002 ¶ 130. Instead, Jeffs' high pressure air inlet channel 35 that Petitioners and Dr. Nosenchuck assert is the claimed "inner wall" only extends from union 36 about half-way up handle 10, which Petitioners assert is the claimed "handle," and does not extend to the first end of the handle proximal

to the body as required by substitute claim 40. EX-2002 ¶ 130. Thus, Petitioners have not shown that Jeffs discloses the additional limitation of substitute claim 40 “the inner wall . . . extends from the primary fluid inlet to the first end of the handle.” EX-2002 ¶ 131. In addition, a person of ordinary skill in the art would have not been motivated to modify Jeffs to extend high pressure air inlet channel 35 the length of handle 10 because high pressure air inlet channel 35 is already accomplishing its purpose of directing compressed air to the high pressure air inlet valve 30, 32, 33, which is inside handle 10. EX-1006 at Fig. 1, 4:25-37; EX-2002 ¶ 132. Thus, Jeffs fails to anticipate or render substitute claim 40 obvious.

4. Ground 4 and 5: Jeffs in combination with either Jeong or Yoshida fails to render obvious substitute claim 40

As explained above in Sections II.D.1. and II.D.2., like Jeffs, neither Jeong nor Yoshida disclose or teach “the inner wall . . . extends from the primary fluid inlet to the first end of the handle” of substitute claim 40. Thus, no combination of Jeong, Yoshida, and Jeffs renders obvious substitute claim 40. EX-2002 ¶ 136-137.

III. DEPENDENT CLAIMS

A. Substitute Dependent Claims 41 and 42

The '662 Patent includes two challenged dependent claims, namely Claims 27 and 28, each of which depends on claim 26. This Motion to Amend includes substitute claims 41 and 42 as contingent substitutes for Claims 27 and 28, respectively. Claim 41 is identical to Claim 27 and claim 42 is identical to Claim

28, except for their dependencies which are changed from Claim 26 to substitute claim 40. Reproduced below from **Appendix A** is the marked-up version of substitute claims 41 and 42:

Claim 41 (Substitute for Claim 27, if found unpatentable): The appliance of claim ~~[[26]]~~40, wherein the primary fluid flows within the handle in a first direction and within the body in a second direction.

Claim 42 (Substitute for Claim 28, if found unpatentable): The appliance of claim ~~[[26]]~~40, wherein the primary fluid flow in the body is substantially orthogonal to the primary fluid flow in the handle.

Because Patent Owner is only proposing one substitute claim for each of Claims 27 and 28, it has proposed a reasonable number of substitute claims pursuant to 37 C.F.R. § 42.121(a)(3).

B. Substitute claims 41 and 42 do not enlarge the scope of Claims 27 or 28

As mentioned above, claims 41 and 42 merely restate claims 27 and 28, but are dependent on substitute claim 40. Thus, pursuant to 37 C.F.R. § 42.121(a)(2)(ii), claims 41 and 42 do not enlarge the scope of claim 27 or 28 for the same reasons as set forth in Section II.B.

C. Substitute claims 41 and 42 do not introduce new matter

As demonstrated below, substitute claims 41 and 42 are supported by the originally filed disclosure of the '937 Application and the Priority Application.

Pursuant to 37 C.F.R. § 42.121(b), support for the additional limitations of substitute claims 41 and 42 is provided below with reference to the originally filed '973 Application and Priority Application.

1. Claim 41: wherein the primary fluid flows within the handle in a first direction and within the body in a second direction.

This limitation of substitute claim 41 is supported in the original specification and drawings of the '937 Application at least in the following locations: Figure 3 and page 10, lines 9-10 ("the primary fluid flows within the handle in a first direction and within the body in a second direction"). EX-1002 at 19, 52. This limitation is also supported in the Priority Application at least in the following locations: Figure 3 and page 10, lines 8-9 ("the primary fluid flows within the handle in a first direction and within the body in a second direction"). EX-1002 at 90, 126.

2. Claim 42: wherein the primary fluid flow in the body is substantially orthogonal to the primary fluid flow in the handle.

This limitation of substitute claim 42 is supported in the original specification and drawings of the '937 Application at least in the following locations: Figure 3 and page 10, lines 10-11 ("the primary fluid flow in the body is substantially orthogonal to the primary fluid flow in the handle"). EX-1002 at 19, 52. This limitation is also supported in the Priority Application at least in the following locations: Figure 3 and page 10, lines 9-10 ("the primary fluid flow in

the body is substantially orthogonal to the primary fluid flow in the handle”). EX-1002 at 90, 126.

D. Substitute claims 41 and 42 overcome each ground of unpatentability

Substitute claims 41 and 42 depend from substitute claim 40 and thus include all the limitations of substitute claim 40. Therefore, pursuant to 37 C.F.R. § 42.121(a)(2)(i), substitute claims 41 and 42 respond to and overcome each of Grounds 1-5 of the Petition for at least the same reasons as set forth above in Section II.D. for substitute claim 40.²

IV. CONCLUSION

Patent Owner satisfied the requirements of 37 C.F.R. § 42.121, and thus, the substitute claims should be entered into the record in this matter contingent upon a finding of unpatentability with respect to the Challenged Claims. Moreover, for the reasons given, should any Challenged Claim be found unpatentable, the respective substitute claim is patentable. Thus, for the foregoing reasons, Patent Owner

² As discussed in the Patent Owner Response, Jeong, Yoshida, and Jeffs do not disclose the additional limitations of Claims 27 and 28. POR §§ IV.A.2, IV.B.2., IV.C.2. Because those limitations still exist in substitute claims 41 and 42, respectively, Jeong, Yoshida, and Jeffs also fail to anticipate substitute claims 41 and 42 for the same reason. EX-2002 ¶¶ 117, 126, 135.

respectfully requests that the Motion to Amend is granted contingent upon a finding of unpatentability of the Challenged Claims.

Respectfully submitted,

Faegre Drinker Biddle & Reath LLP

By: /Christopher P Bruenjes/

Christopher P Bruenjes

Reg. No. 62,941

Attorney for Patent Owner

Date: May 22, 2024

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **PATENT OWNER'S PRELIMINARY RESPONSE PURSUANT TO 37 C.F.R. § 42.017** was served upon Petitioners by email on May 22, 2024:

GDC-SharkNinjaIPRD@gibsondunn.com

Date: May 22, 2024

/Christopher P. Bruenjes/
Christopher P. Bruenjes

CLAIMS APPENDIX A

CLEAN

Claim 40 (Substitute for claim 26, if found unpatentable)

Claim 40. A hair care appliance comprising a body and a handle, the handle having a first end proximal to the body and a second end distal from the body and comprising an inner wall and an outer wall, wherein the inner wall is disposed radially inwardly from the outer wall, defines a primary fluid flow path that extends from a primary fluid inlet into the appliance, and extends from the primary fluid inlet to the first end of the handle, wherein the outer wall is an external surface of the handle, and wherein the primary fluid flow path from the primary fluid inlet to a primary fluid outlet from the body is non linear.

Claim 41 (Substitute for claim 27, if found unpatentable)

Claim 41. The appliance of claim 40, wherein the primary fluid flows within the handle in a first direction and within the body in a second direction.

Claim 42 (Substitute for claim 28, if found unpatentable)

Claim 42. The appliance of claim 40, wherein the primary fluid flow in the body is substantially orthogonal to the primary fluid flow in the handle.

MARKED UP

Proposed amended claims are shown in marked-up form below beginning with claim 40. Modifications to the original claims are shown in the substitute by underlining (added material) and bracketing (deleted material).

Claim 40 (Substitute for claim 26, if found unpatentable)

Claim [[26]] 40. A hair care appliance comprising a body and a handle, the handle having a first end proximal to the body and a second end distal from the body and comprising an inner wall and an outer wall, wherein the inner wall is disposed radially inwardly from the outer wall, [[and]] defines a primary fluid flow path that extends from a primary fluid inlet into the appliance, and extends from the primary fluid inlet to the first end of the handle, wherein the outer wall is an external surface of the handle, and wherein the primary fluid flow path from the primary fluid inlet to a primary fluid outlet from the body is non linear.

Claim 41 (Substitute for claim 27, if found unpatentable)

Claim [[27]] 41. The appliance of claim [[26]]40, wherein the primary fluid flows within the handle in a first direction and within the body in a second direction.

Claim 42 (Substitute for claim 28, if found unpatentable)

Claim [[28]] 42. The appliance of claim [[26]]40, wherein the primary fluid flow in the body is substantially orthogonal to the primary fluid flow in the handle.