

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. 11,465,005 to Bayerlein et al.

Case No.: IPR2024-00083

PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE

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List of Exhibits

Exhibit #	Description
1001	U.S. Patent No. 11,465,005 (“the ‘005 Patent”)
1002	U.S. Patent No. 11,465,005 File History (“the ‘005 Patent File History”)
1003	Declaration of Robert Giachetti, Ph.D. P.E. (“Giachetti”)
1004	Robert Giachetti, Ph.D. P.E. Curriculum Vitae (“Giachetti CV”)
1005	Complaint, Woodway USA, Inc., v. LifeCORE Fitness, Inc. d/b/a Assault Fitness, Case No. 3:22-cv-00492-JO-BLM, Southern District of California, Filed April 11, 2022 (“Complaint”) (Ex.1005 at 1-8) Waiver of Service (April 13, 2022) (Ex.1005 at 9-10)
1006	Amended Complaint, Woodway USA, Inc., v. LifeCORE Fitness, Inc. d/b/a Assault Fitness, Case No. 3:22-cv-00492-JO-BLM, Southern District of California, Filed October 24, 2022 (“Amended Complaint”)
1007	Treadmills: Supplier Guide © 2010. Trade Practices (Consumer Product Safety Standard) (Treadmills) Regulations 2009 (“ACCC Product Safety Supplier Guide”)
1008	U.S. Patent No. 641,424 to Ziebell (“Ziebell”)
1009	U.S. Patent No. 1,211,765 to Schmidt (“Schmidt”)
1010	U.S. Patent No. 4,614,337 to Schonenberger (“Schenkenberger”)
1011	U.S. Patent No. 5,897,461 to Socwell (“Socwell”)
1012	U.S. Patent No. 5,538,489 to Magid (“Magid”)
1013	U.S. Patent No. 3,637,206 to Chickering (“Chickering”)
1014	U.S. Patent No. 3,642,279 to Cutter (“Cutter”)
1015	U.S. Patent No. 6,042,514 to Abelbeck (“Abelbeck”)
1016	Power Transmission Handbook, (Power Transmission Distributors Association 1993) (“PT Handbook”)
1017	Neil Sclater and Nicholas P. Chironis, Mechanisms & Mechanical Devices Sourcebook, Third Ed., (McGraw-Hill 2001) (“Sclater”) (available at https://catalog.loc.gov/vwebv/holdingsInfo?searchId=26&recCount=25&recPointer=0&bibId=12308523)

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1018	Mechanical Clutches and Torque Overload Devices, (Emerson Industrial Automation, 2001) (“Emerson”)
1019	Standard Specification for Motorized Treadmills, (ASTM, 2005) (“ASTM Standard”)
1020	Stationary Training Equipment – Part 6: Treadmills, additional specific safety requirements and test methods. (ISO, 2005) (“ISO Standard”)
1021	U.S. Patent No. 8,986,169 File History (“the ’169 File History”)
1022	Responsive Claim Constructions, Woodway USA, Inc., v. LifeCORE Fitness, Inc. d/b/a Assault Fitness, Case No. 3:22-cv-00492-JO-BLM, Southern District of California, Filed January 5, 2022
1023	United States District Courts – National Judicial Caseload Profile, December 2022
1024	Inhabitat, “HUMAN-POWERED GYMS in Hong Kong” (March 8, 2007) (available at https://inhabitat.com/human-powered-gyms-in-hong-kong/)
1025	Minute Order, Woodway USA, Inc., v. LifeCORE Fitness, Inc. d/b/a Assault Fitness, Case No. 3:22-cv-00492-JO-BLM, Southern District of California, March 30, 2023.
1026	Intentionally left blank
1027	Claim Construction Brief, Woodway USA, Inc., v. LifeCORE Fitness, Inc. d/b/a Assault Fitness, Case No. 3:22-cv-00492-JO-BLM, Southern District of California, March 1, 2023
1028	Responsive Claim Construction Brief, Woodway USA, Inc., v. LifeCORE Fitness, Inc. d/b/a Assault Fitness, Case No. 3:22-cv-00492-JO-BLM, Southern District of California, March 14, 2023
1029	U.S. Patent No. 4,635,771 to Shoji (“Shoji”)
1030	Intentionally left blank
1031	English Translation of German Patent DE 199 22 822 B4 to Tollkien (“Tollkien”)
1032	U.S. Provisional Patent Application No. 61/161027 File History

Exhibit #	Description
1033	Claim Construction Order Woodway USA, Inc., v. LifeCORE Fitness, Inc. d/b/a Assault Fitness No. 3:22-cv-00492-JO-BLM, Dkt. No. 59, Southern District of California, November 14, 2023
1034	Order Granting Motion to Extend Woodway USA, Inc., v. LifeCORE Fitness, Inc. d/b/a Assault Fitness, Case No. 3:22-cv-00492-JO-BLM, Southern District of California, March 1, 2024
1035	Correspondence with Patent Owner dated April 1, 2024
1036	Second Declaration of Robert Giachetti, Ph.D. P.E. (“Giachetti”)
1037	Confidential Transcript of Deposition of Eric A. Weber taken on March 19, 2024. LifeCore Fitness, Inc., d/b/a Assault Fitness v. Woodway USA, Inc., IPR2023-00836, IPR2023-00843, and IPR2023-00849
1038	Transcript of Deposition of Dr. Kim. B. Blair taken on April 8, 2024 LifeCore Fitness, Inc., d/b/a Assault Fitness v. Woodway USA, Inc., IPR2023-00836
1039	Transcript of Deposition of Dr. Kim. B. Blair taken on April 8, 2024 LifeCore Fitness, Inc., d/b/a Assault Fitness v. Woodway USA, Inc., IPR2023-00843
1040	Transcript of Deposition of Dr. Kim. B. Blair taken on April 9, 2024 LifeCore Fitness, Inc., d/b/a Assault Fitness v. Woodway USA, Inc., IPR2023-00849
1041	Woodway 4Front Owners Manual October 24, 2023 OM_EN_V2 (accessed March 31, 2024) (available at https://www.woodway.com/treadmills/4-front/)
1042	Woodway Homepage, (accessed March 31, 2024) (available at https://www.woodway.com/)
1043	Woodway Curve Specification (accessed March 31, 2024) (available at https://www.woodway.com/treadmills/curve/)
1044	Woodway Manual Treadmills Webpage (accessed March 31, 2024) (available at https://www.woodway.com/manual-treadmills/)
1045	Confidential Condensed Transcript of Deposition of Traci Bates taken on January 26, 2024 Woodway USA, Inc., v. LifeCORE Fitness, Inc. d/b/a Assault Fitness, Case No. 3:22-cv-00492-JO-BLM, Southern District of California

Exhibit #	Description
1046	Woodway Trueform Trainer Webpage dated August 12, 2020 (accessed April 4, 2024) available from Wayback at https://web.archive.org/web/20200812204597/https://www.woodway.com/product/trueform/trainer-powered-by-woodway/)
1047	Confidential Draft AirRunner Manual Treadmill Owner's Manual Assault Fitness Release v.01 (20.February,17)
1048	Order Granting Joint Motion to Amend the Scheduling Order Woodway USA, Inc., v. LifeCORE Fitness, Inc. d/b/a Assault Fitness, Case No. 3:22-cv-00492-JO-BLM, Southern District of California, April 29, 2024
1049	Declaration of Seyed Reza Roghani Esfahani for Pro Hac Vice Admission
1050	Transcript of Deposition of Dr. Kim. B. Blair taken on October 21, 2024 LifeCore Fitness, LLC., d/b/a Assault Fitness v. Woodway USA, Inc., IPR2024-00083
1051	Webster's New Universal Abridged Dictionary Deluxe 2 nd Edition 162-163 (Simon & Schuster 1983)
1052	U.S. Patent No. 5,470,293 to Schonenberger ("Schoenenberger")
1053	Tru Grit Runner Webpage (accessed on September 4, 2024) (available at https://trugrit-fitness.com/collections/cardio/products/grit-runner-curved-manual-treadmill)

I. INTRODUCTION

Patent Owner (“PO”) admits that the Ground 1 combination of Socwell, Magid, and Sclater teaches all claim limitations except “*a plurality of bearings.*” PO’s argument, however, implies a narrow claim construction and ignores other broad claim language.

PO’s Ground 2 arguments that the Tollkien/Sclater combination does not teach: 1) “*wherein the running belt includes a running surface,*” 2) shafts “*coupled to frame*” and “*adapted to support*” the pulleys, and 3) “*a plurality of bearings coupled to the frame*” are rigidly focused on the alleged lack of disclosure in Tollkien without taking full account of a POSA’s knowledge, creativity, and common sense.

PO’s secondary considerations of nonobviousness arguments also fail because, *inter alia*, there is no nexus to the “*safety device.*” Regardless, it is undisputed that the “*safety device*” limitation is disclosed in prior art.

II. LEVEL OF ORDINARY SKILL IN THE ART

Petitioner disagrees with PO’s proposed skill level that requires education “**or**” industry experience (POR,4) because both are necessary for a POSA to understand the ’005 Patent. PO’s argument that Petitioner’s proposed skill level would exclude certain inventors is irrelevant and unsupported as PO did not provide evidence of any inventor’s experience. (Ex.1036, ¶¶18-19; Ex.1003, ¶¶44-49.)

III. CLAIM CONSTRUCTION

Petitioner proposed claim constructions for “*substantially prevent[]*,” and “*safety device*” in the Petition. (Pet.,13-15.) The Board did not construe any terms in the Institution Decision (DI) but stated that its analysis “is consistent with the district court’s construction of these claim terms.” (DI,25.) If the Board adopts the Court’s constructions, this would not affect Petitioner’s analysis in the Petition. (Ex.1036,¶¶7-11.)

A. “*plurality of bearings*”

PO failed to construe “*a plurality of bearings*.” (POR,5-6.) Instead, PO implies specific constructions in its arguments, i.e., “[i]n the ’005 Patent, the ‘plurality of bearings’ is only described and depicted as lying below and supporting the running belt 16.” (*Id.*,7.) PO fails to perform a *Phillips*¹ analysis, and instead seeks to improperly narrow the claims by reading in limitations from the specification—this is improper. *See Thorner v. Sony Computer Entm’t Am. LLC*, 669 F.3d 1362, 1367 (Fed. Cir. 2012). The ’005 Patent does not support such a narrow construction. (Ex.1036,¶¶12-17.)

Under *Phillips*, the Board must first look to the language of the claims. *Phillips*, 415 F.3d at 1314. Claims 6, 13, and 16 specifically require “*at least one bearing . . . configured to at least partially support the running belt.*” PO seeks to

¹ *Phillips v. AWH Corp.*, 415 F.3d 1303, 1314 (Fed. Cir. 2005) (en banc).

extend this “*support*” requirement to all of the “*bearings*.” This construction is precluded by the plain language of the claims, which only require “*one bearing ... support the running belt*.” *Id.*

The plain language of the claims does not require that all of the bearings be located under the belt. The claims merely specify that *one* of the bearings supports the belt, leaving all the other bearings with the sole requirement of being “*coupled to the frame*.” Therefore, “*bearing*” as used in claims 6, 13, and 16 does not require a specific location relative to the belt. Indeed, the Board held as much when construing similar “*bearing*” limitations in a related proceeding. *See* IPR2023-00849, Paper 42, 20-22 (PTAB, October 24, 2024).

The plain and ordinary meaning of “*bearing*” is “a mechanical element that provides a means for low friction movement between two surfaces.” (Ex.1036,¶11;Ex.1003,¶65;Ex.1051,163.) The term does not require one element be located above, or have a weight bearing relationship with, another element. (Ex.1036,¶¶11-15.) Accordingly, PO’s implied constructions should be rejected.

IV. ALL CHALLENGED CLAIMS ARE UNPATENTABLE

A. The Cited Prior Art Discloses All Elements of the Challenged Claims

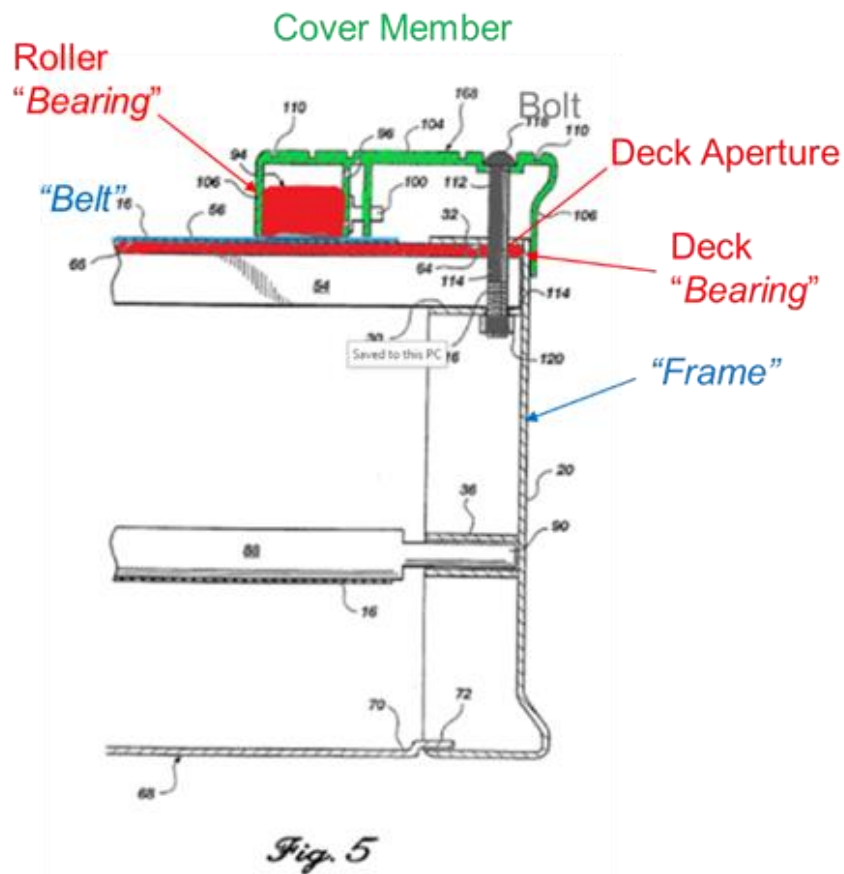
- 1. Socwell discloses “*a plurality of bearings coupled to the frame, at least one bearing of the plurality of bearings configured to at least partially support the running belt*” (Claims 6, 13, 16)**

The parties agree Socwell's deck 56 is a "*bearing*." (POR,11.) The parties dispute whether Socwell's rollers 98 are also "*bearings*."

PO argues Socwell's rollers 98 are not bearings because they not located below the belt. (POR,7-8.) But, as discussed above, this is based on an incorrect claim construction. The rollers 98 are mechanical elements of a treadmill that provide a means for low-friction movement; therefore, they are bearings. (See IPR2023-00849, Paper 40, 56-57; *see also* Ex.1036,¶26.) Claims 6, 13, and 16 only require *one* bearing partially support the running belt, and the deck 56 undisputedly discloses this.

The rollers 98 and the deck 56 ("*plurality of bearings*") are coupled² to the frame 12 by the cover members 168. The cover member 168 attaches to the frame 12 using bolts 118 that may extend through apertures in the deck 56 ("*bearing*") to attach the deck 56 to the frame 12. (Ex.1036,¶25.)

² The '005 Patent defines coupled as joining members "directly" or "indirectly." (Ex.1001,32:22-30.)



Ex.1011, Fig.5 (Annotated)

2. Tollkien discloses ***“a running belt ... wherein the running belt includes a running surface, at least a portion of which is curved”*** (Ground 2, [1.4], [9.3], [15.4])

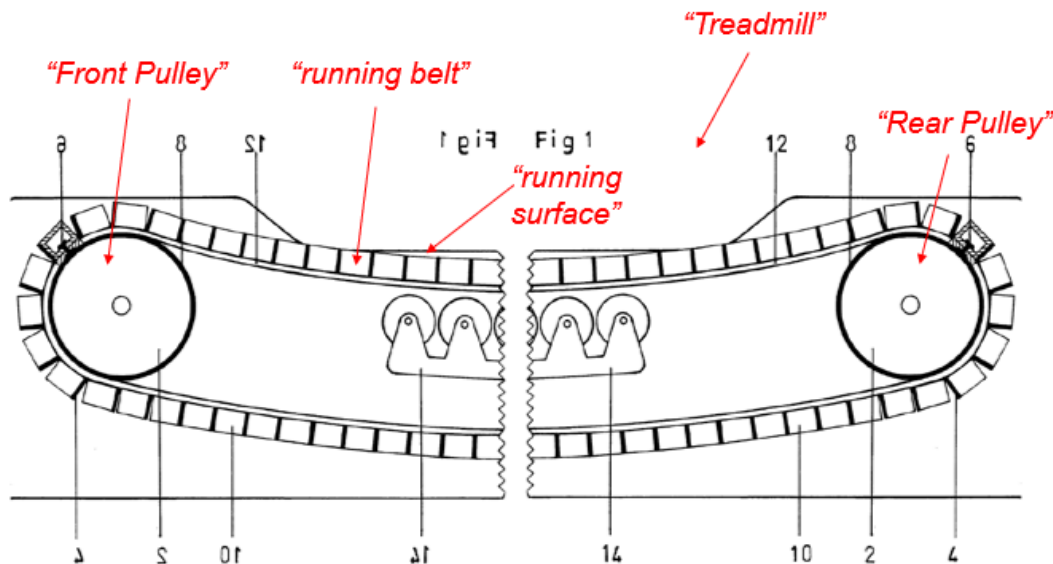
PO argues that Petitioner, “point[s] to a series of cross members that are attached to either belt 12 or belt 30” for satisfying the “*running surface*” limitation, “[b]ut such cross members are not ‘include[d]’ in the running belt as required by the

claims³” (POR,12.)

Petitioner relies on Tollkien’s belt assembly 12 for satisfying the “*running belt*” limitations and Tollkien’s cross members 10 for satisfying the “*at least one slat*” limitation of claim 8. (Pet.,79,96.) The belt assembly 12 includes the cross members 10, which “form a curved running surface.” (*Id.*,79.)

PO argues that Tollkien’s cross members 10 are a separate structural component from Tollkien’s running belt 12/30. (POR,12.) This is wrong. The running surface of a treadmill is not a separate structural component—it is the portion of the treadmill where the user is expected to place their feet while exercising, e.g., on a top surface of the running belt, as annotated by Dr. Giachetti below. (Ex.1003,¶58,271;Ex.1036,¶¶29-31.) Dr. Blair agrees, defining “*running surface*” as “a surface of the running belt on which a runner’s feet would typically make contact when the user is running on the treadmill during normal use.” (Ex.2018,¶92.)

³ Indeed, this position is undermined by PO’s own argument that its curved treadmills, having similar slats and running belt, embody the ’005 Patent. (POR,53-54.)



Ex.1031, Fig.1 (Annotated)

Tollkien describes the belt 12 as an assembly that includes a belt and cross members, i.e., “[t]he belt 30 is analogous to the belt 12 shown in Fig. 1, in particular **comprising** numerous cross members.” (Ex.1031, ¶[0022].) The belt assembly 12 also includes a belt attached to the cross members 10. “The running surface is formed by cross members 10 that are transverse to the direction of movement, which are attached with rivets 6 to a continuous belt 12.” (Ex.1031, ¶[0018]; Ex.1036, ¶32.)

The cross members 10 form or define the “*running surface*” but they are not structurally separate components from the belt assembly as PO argues. For example, Tollkien discloses, “[t]he running surface is **formed**⁴ by cross members 10.”

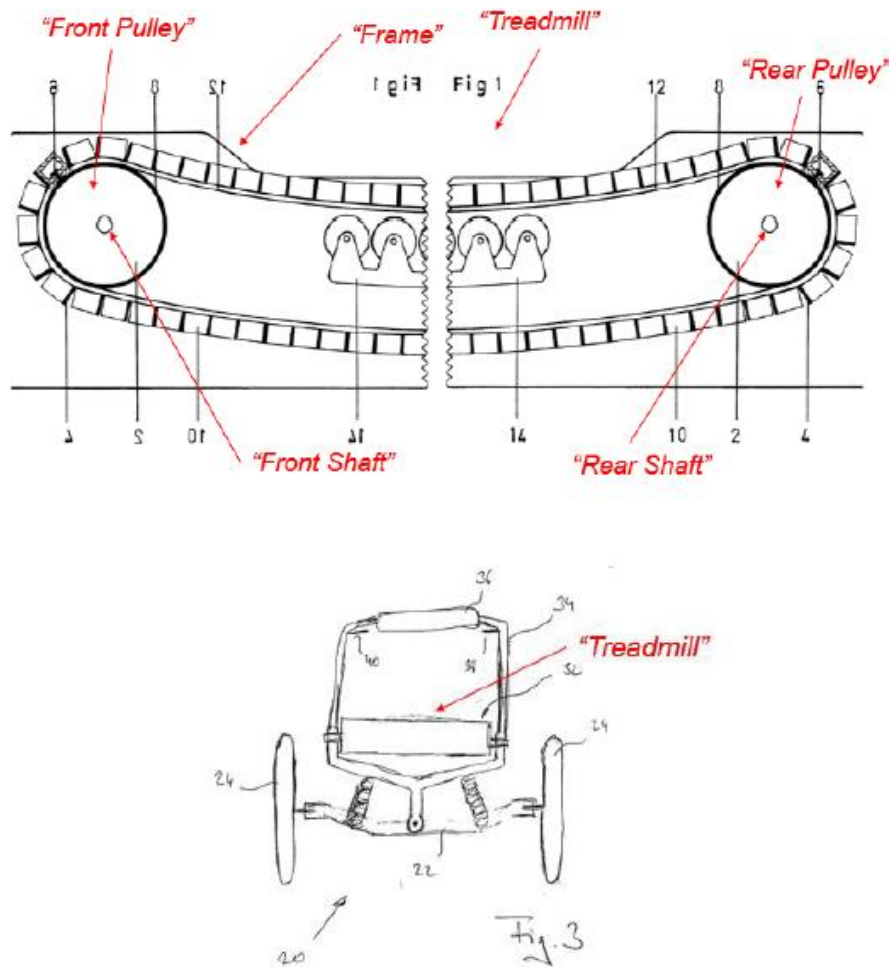
⁴ Emphasis added by Petitioner unless indicated otherwise.

(Ex.1031,¶[0018];Ex.1036,¶31.) Accordingly, Tollkien discloses claim limitations [1.4], [9.3], [15.4]. (Ex.1036,¶¶29-32.)

3. Tollkien discloses “a front [or rear] shaft coupled to frame, the front [or rear] shaft being adapted to support the at least one front [or rear] running belt pulley” (Claims 2-3)

PO argues, “Petitioner provides no support for the proposition that Tollkien expressly discloses a front or rear shaft that supports the identified front or rear pulley.” (POR,14.)

On the contrary, Tollkien discloses a shaft (“*front shaft*”) extending through the center of the front roller 2 (“*front pulley*”) and a shaft (“*rear shaft*”) extending through the center of the rear roller 2. (Pet.,90.) In Figure 3, Tollkien illustrates the shaft extending from opposing ends of the roller 32 and through holes formed in the frame to couple the roller to the frame for support. (*Id.*,90;Ex.1036,¶34.)



Ex.1031,Figs.1&3 (Annotated)

Petitioner further explained that a POSA would have understood the ends of these shafts extend from opposing ends of the roller 2/32 and are received in journals that are formed in the frames for support, such that each roller (“pulley”) is “coupled to the frame.” (Pet.,78;Ex.1036,¶35.)

PO argues that Tollkien does not teach the shaft limitations and faults Petitioner and Tollkien for not labeling the shaft in Figure 3. (POR,15.) PO’s

arguments demanding express language in Tollkien's specification improperly discount Tollkien's disclosure in its drawings (*Id.*,15,17) and the common sense of a POSA. This is a misstatement of law. *See In re Mraz*, 455 F.2d 1069, 1072 (CCPA 1972) ("Description for the purposes of anticipation can be by drawings alone as well as by words."); M.P.E.P. § 2125; *KSR v. Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 421 (2007) ("Rigid preventative rules that deny factfinders recourse to common sense, however, are neither necessary under our case law nor consistent with it.").

During deposition, Dr. Giachetti was repeatedly asked to locate the word "shaft" in Tollkien, and Dr. Giachetti explained that "the teachings of Tollkien are not just the words," "[t]hey are the pictures also[.]" (Ex.2082,61:11-12,64:9-19,64:24-65:3,65:4-66:19;Ex.1036,¶36.)

PO argues that Dr. Giachetti's response calls into question the accuracy of the Tollkien translation. (POR,18.) Dr. Giachetti confirmed the text did not recite the word "shaft," but then correctly pointed out that "shaft" can be translated in different ways. (Ex.2082,65:12-18;Ex.1036,¶36.) Conjecturing that a translator could have used a different word when translating from German to English does not amount to attacking the accuracy of the translation. (Ex.1036,¶¶36-39.)

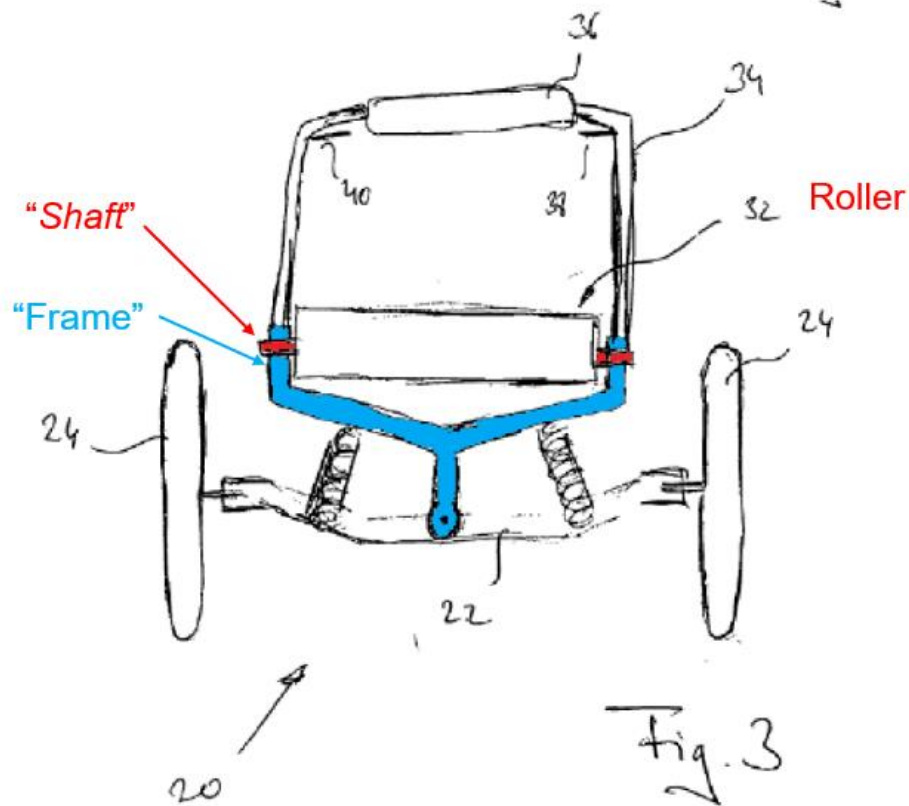
Dr. Blair stated, "a POSA would have no indication of what the circle in Figure 1 is intended to represent." (Ex.2018,¶101.) However, Dr. Blair admitted the circle in Tollkien's Figure 1 "could be" a shaft, and that "shafts are commonly used

in treadmills to support a roller or a pulley.” (Ex.1050,59:11-60:2;Ex.1036,¶¶40-43.)

Dr. Blair also stated that Tollkien’s “Figure 3 similarly does not disclose either a front shaft or a rear shaft coupled to the frame” (Ex.2018,¶102.) Yet, he admitted that “Figure 3 shows a roller 32 with two cylindrical projections extending from its ends[,]” that these projections or “protrusions would be coupled to the frame[,]” and that the Y-shaped component “could be called a frame” and “supports the roller 32.” (Ex.1050,60:14-64:4;Ex.1036,¶¶44-45.) Dr. Blair would not agree that Tollkien’s protrusions were shafts, implying a narrow construction of the term “*shaft*.” However, during the related litigation, PO argued for a broad construction of the term “shaft” and offered the following dictionary definition: “[a] long slender, usually cylindrical part.” (Ex.1033,27;Ex.1036,¶¶46-47.)

Accordingly, Tollkien discloses, “*a front [or rear] shaft coupled to frame, the front [or rear] shaft being adapted to support the at least one front [or rear] running belt pulley.*”

PO’s arguments are rigidly focused on the alleged lack of express disclosure in Tollkien, without taking full account of a POSA’s “knowledge, creativity, and common sense.” *Randall Mfg. v. Rea*, 733 F.3d 1355, 1362 (Fed. Cir. 2013). Nonetheless, Dr. Giachetti has further annotated Figure 3 to label the “*shaft*” extending from the roller 32 and coupled to the “*frame*.” (Ex.1036,¶¶48-49.)



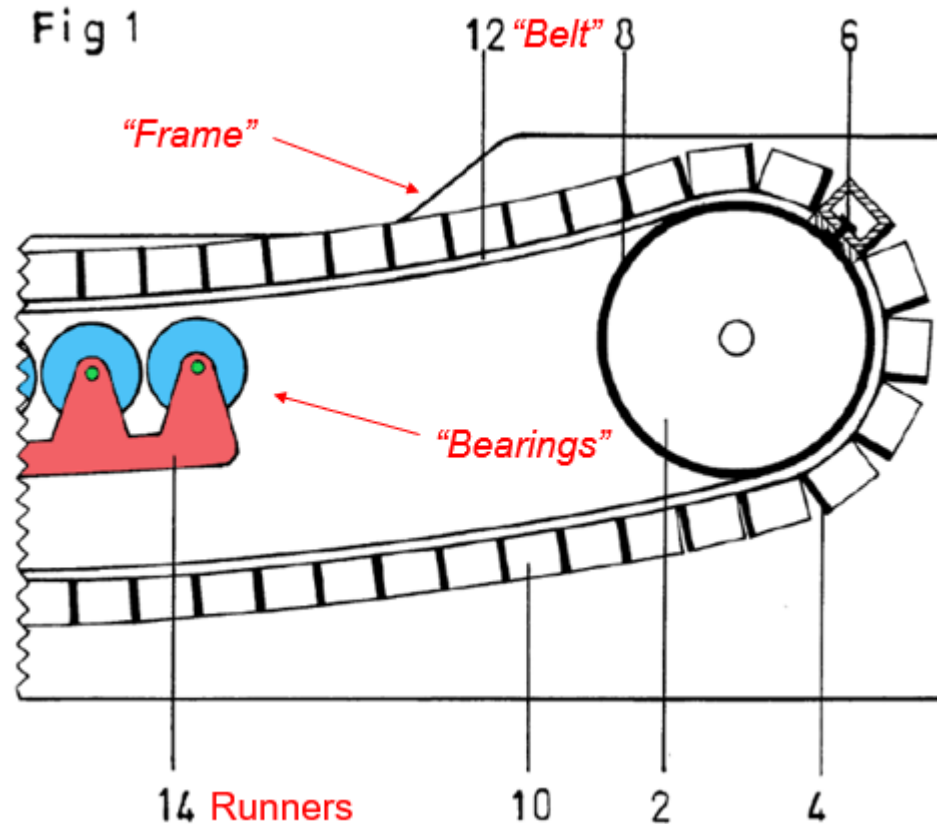
Ex.1031, Fig. 3 (Annotated)

4. Tollkien discloses “a plurality of bearings coupled to the frame” (Claims 6/13/16)

PO argues that Petitioner does not “provide any support for the proposition that Tollkien discloses that the runners 14 are ‘mounted and fixed to the frame’ or that any portion of the runners 14 constitute ‘bearings’ as that term is used in the ’005 Patent.” (POR,22.) But again PO fails to consider the common sense of a POSA to understand basic teachings in the prior art. *Randall Mfg.*, 733 F.3d at 1362 (Fed. Cir. 2013).

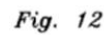
Petitioner explained that “[a] POSA would have understood that the runners

14 are mounted and fixed to the frame and the bearings are mounted for rotation about the axels and relative to the frame to provide rolling engagement with the continuous belt 12.” (Pet.,94-95;Ex.1036,¶¶51-52.)

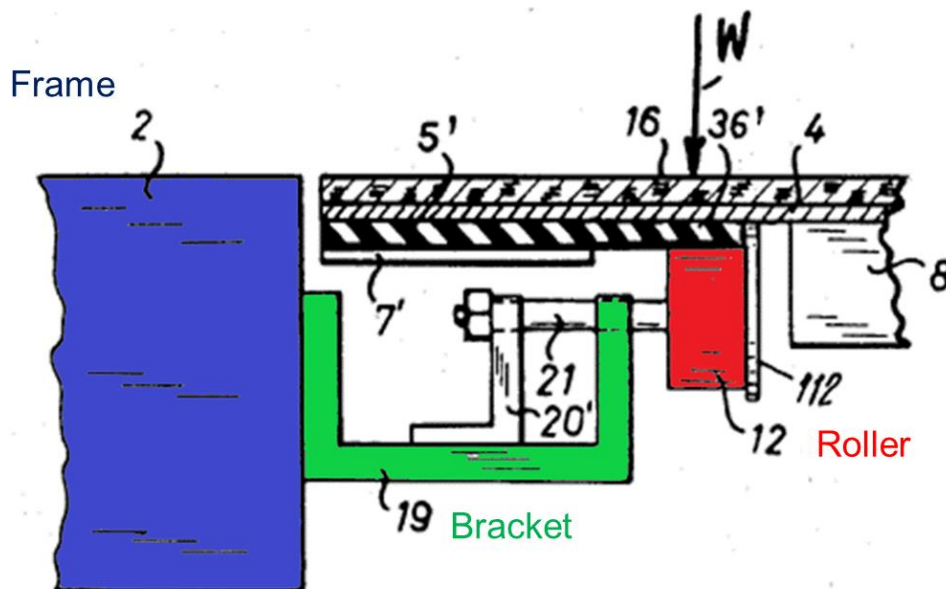


Ex.1031, Fig.1 (Annotated)

A POSA would have had such an understanding based on, for example, the teachings of other prior art treadmills having side bearing systems that include small rolling element bearings mounted to the side of the frame to support track style running surfaces such as Schonenberger and Abelbeck (Ex.1010;Ex.1015;Ex1036,¶¶50-53.)



Abelbeck discloses, with reference to Figure 12 (above), support members 36 or bearings (blue) mounted to the side frame 110 of a treadmill that support a track-style deck formed from a plurality of deck members 22. (Ex.1015,10:48-54.) Similarly, Schonenberger discloses rollers 12 (“bearings”) **“carried on shafts 21 secured to a bracket 19 which is attached to the sidewall 2 ... or to the frame of the apparatus”** as shown below in Figure 10. (Ex.1010,8:45-51;Ex.1003,¶¶58-59,68;Ex.1036,¶¶53-60.)



Ex.1010, Fig.10 (Annotated)

- a. Tollkien's runners 14 are “a plurality of bearings” not fixed bumpers**

PO argues, “[n]othing in [Tollkien’s] disclosure suggests rotation or rolling engagement with the belt” and notes “a conspicuous space between the belt and the round elements of runners 14” in Fig. 1. (POR,22.)

First, a POSA would have understood the weight of the user would close the gap between the belt and the runners to place them in contact when in use. (Ex.1036, ¶¶61-62.)

Second, having fixed bumpers, as proposed by Dr. Blair in his declaration, would create excessive friction and would not be a reasonable interpretation of Tollkien’s drawings. (Ex.2018, ¶112; Ex.1036, ¶¶63-64.) Dr. Blair admitted as much

Fig 1

12 "Belt"

8

6

"Frame"

"Bearings"

14 Runners

10

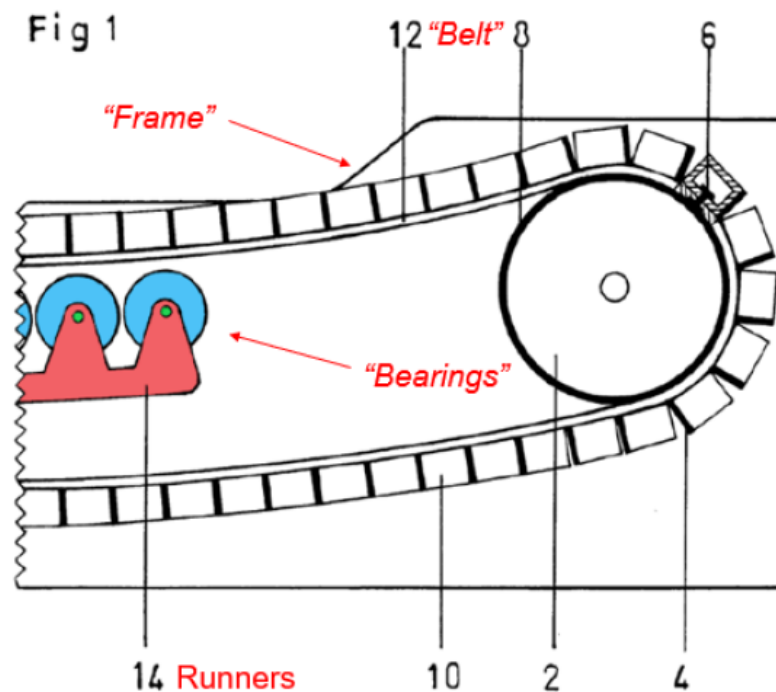
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b. Tollkien’s runners 14 are “coupled to the frame.”

16

for what Tolkien is talking about in terms of the bouncing.” (Ex.2082,72:20-23;Ex.1036,¶¶65-66.)



Ex.1031, Fig.1 (Annotated)

When asked during his deposition to “point to any structure” in Tolkien’s Figure 1 “that is the attachment point between the runners 14 and the frame” Dr. Giachetti responded that “there could be a ton of different ways that it’s attached” to the frame. (Ex.2082,73:23-74:13.) Dr. Giachetti was referring to different ways to attach the runners to the frame, not fastening the runners 14 to structures other than the frame. (Ex.1036,¶¶67-68.)

PO argues that “the runners 14 could be coupled to any of a number of

structures besides the frame[,]” and Dr. Blair stated that “the runners 14 could be attached to the belt itself or attached to and suspended between the front and rear pulleys.” (POR,24;Ex.2018,¶114.) However, during his deposition, Dr. Blair admitted that Tollkien’s disclosure of the runners preventing the belt from bouncing means “that the runners 14 have to be fixed to something other than the belt.” (Ex.1050,88:11-15;Ex.1036,¶¶68-70.)

Dr. Blair also clarified during his deposition that the runners would have to be either coupled to the frame or to a structure wholly external⁵ to the treadmill, e.g., the ceiling. (Ex.1050,88:11-24,87:17-22,89:3-17.) Dr. Blair’s hypothetical attachments of Tollkien’s runners/bearings to structure other than the frame would not have been reasonable to a POSA. (Ex.1036,¶¶69-73.)

B. Motivation to Combine and Likelihood of Success

1. A POSA would have been motivated to combine Magid with Socwell (Ground 1)

PO argues therapy and exercise are mutually exclusive uses of treadmills. (POR,27.) Neither the references nor the challenged claims support such limited interpretation. (Ex.1036,¶¶75-84.)

⁵ Dr. Blair admitted that he had never “seen a commercial treadmill that was designed that way.” (Ex.1050,87:23-25.)

Magid says that its therapeutic walker apparatus can be used for exercise and that its disclosure should be interpreted broadly. Socwell describes its treadmill as having “rehabilitative functionality” and being used for “rehabilitative exercises.” A POSA would have understood walking and rehabilitative exercises relate to therapeutic use of a treadmill. (Ex.1036, ¶¶75-79.)

The Petition also explains that it would have been obvious to a POSA to combine Socwell’s treadmill with Magid’s control means to permit only unidirectional movement of the running belt to reduce the risk of a user stepping onto the running belt of the treadmill and losing their balance when the belt moves in the forward direction. (*Id.*) Dr. Blair identified the same problem of unintended motion with Socwell. (Pet.,22-24;Ex.2018, ¶138;Ex.1036, ¶¶80-82.)

Several professional organizations have produced standards regarding treadmill safety. (*See* Ex.1019;Ex.1020;Ex.1007.) As Dr. Giachetti explained during a related proceeding, the ISO standard (Ex.1020) defines a treadmill as “training equipment with a unidirectional moving surface on which a walking or running activity can take place, where the feet are free to leave the moving surface.” (Ex.1020,4;Ex.2024,61:20-25.) Dr. Blair explained in testimony for related proceeding that a POSA would understand from this definition “that the [treadmill] is designed to be only walked on or run on in one direction.” (Ex.1040,58:18-20.) This definition provides further motivation for a POSA to modify Chickering and

Socwell to include Magid's unidirectional control means to limit their moving surfaces to one direction. (Ex.1036,¶¶83-84.)

2. PO's teaching away arguments are not focused on Petitioner's proposed combination

PO argues that Magid teaches away from its combination with Socwell because “[i]f a single belt were utilized, the key feature of ‘preventing the action of the user’s left foot from influencing the action of his right foot and vice-versa’ would be lost.” (POR,27.) PO also argues, “[d]esign and engineering requirements would urge a POSA to avoid combining the teachings of Socwell . . . with Magid[’s]” “flat, uniplanar walking device” (*Id.*,30.) PO does not even allege that Magid criticizes or discourages using his safety device in curved treadmills. *See Syntex (U.S.A.) LLC v. Apotex, Inc.*, 407 F.3d 1371, 1380 (Fed. Cir. 2005).

Petitioner's proposed Socwell/Magid combination is not relying on Magid's two-belts or a flat or uniplanar surface for satisfying any claim limitations. Therefore, Magid's disclosure regarding these features is not relevant to the proposed combinations, i.e., the solution in question. (Ex.1036,¶¶85-86.) *See In re Gurley*, 27 F.3d 551, 553 (Fed. Cir. 1994).

3. A POSA would have been motivated to combine Sclater with Socwell/Magid

c. Petitioner’s obviousness arguments regarding Sclater do not rely on hindsight (Ground 1)

PO argues that Petitioner does not explain why a POSA would “select the mechanism Petitioner relies on, rather than one of the dozens of other options Sclater present[s].” (POR,32.) As explained in the Petition, a POSA would have been specifically motivated to select the sprag-type clutch disclosed in Sclater based on Sclater’s description of the sprag-type clutch **for back stopping a conveyor belt**, and based on common use of such sprag-type clutches **as an option for exercise equipment**. (Pet.,29;Ex.1003,¶¶141-151;Ex.1018,52-53;Ex.1036,¶¶88-95.)

PO argues that Dr. Giachetti did not conduct the analysis of factors listed in Sclater. (POR,38.) However, Dr. Giachetti did consider such factors, and a POSA would have understood that since such one-way sprag type clutches were ubiquitous at the time, clutch manufactures already considered such factors. Therefore, commercially available and inexpensive sprag-type clutches would be attractive since they require less design and qualification work to implement. (Ex.1036,¶¶96-98.) For example, as explained by Dr. Blair, a user could identify a problem and a potential solution in a catalog, e.g., the Emerson catalog (Ex.1018) and then call the tech support line to confirm their clutch selection. (Ex.1038,89:12-90:12.) Dr. Blair further confirmed in a related proceeding that a POSA would have used the Emerson catalog to find a solution for “[p]reventing motion in the unintended direction” on

“a curved manual treadmill.” (Ex.1018;Ex.1038,104:21-105:12;Ex.1036,¶¶98-99.)

Dr. Blair’s explanation indicates it would have been obvious to a POSA to try adding the “*safety device*” to a curved manual treadmill with a reasonable expectation of success. A POSA would have had “good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense.” *KSR*, 550 U.S. at 402-403.

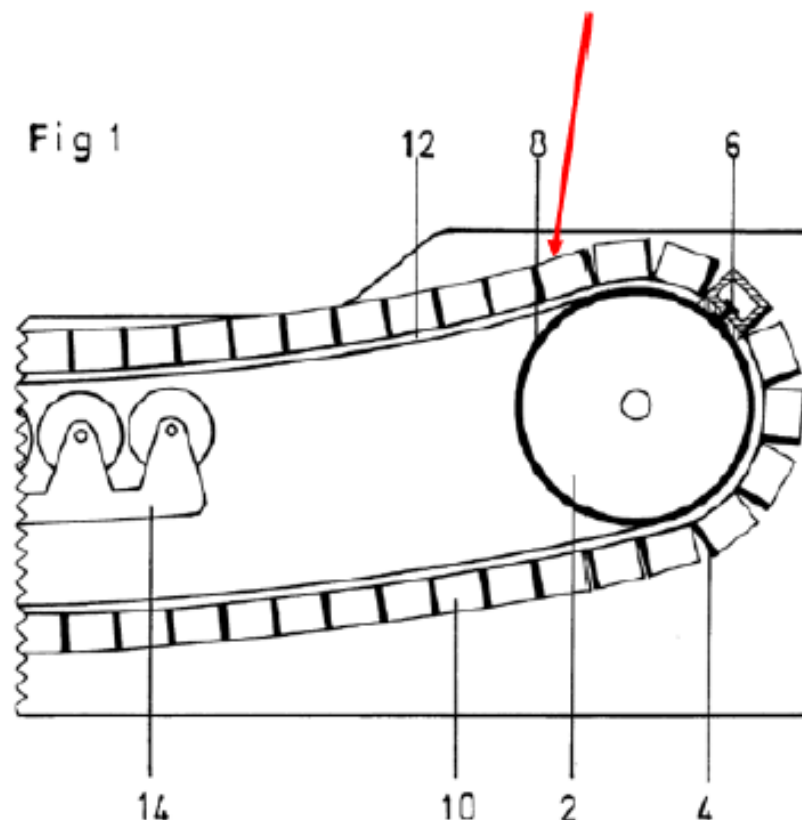
PO argues Petitioner’s argument does not apply to ratchet gears that do not include teeth. (POR,34-35.) However, PO’s toothless argument is not relevant to Petitioner’s proposed substitution of Magid’s toothed ratchet gear with Sclater’s one-way bearing. (Ex.1036,¶100.)

4. A POSA would have been motivated to combine Sclater with Tollkien (Ground 2)

a. The prior art recognized inadvertent forward belt movement as a safety hazard.

To challenge Petitioner’s rationale to combine Sclater with Tollkien, PO alleges that Petitioner’s positions on Socwell are inconsistent. (POR,42-43.) But, Petitioner’s argument remains the same—it has long been recognized users may be injured by falling off of a treadmill while mounting or dismounting it, or during use. This may be due to the treadmill belt moving in an unexpected direction or in such a way that the user cannot regain their equilibrium. The prior art, such as Socwell

and Chickering, identify this problem, but do not solve it. A POSA would have understood this safety concern is exacerbated in curved treadmills with unrestrained running belts, e.g., when a user steps on the back. (Pet.,67-69;Ex.1003,¶¶71-72,238-246;Ex.1036,¶¶102-104.)



Ex.1021, Fig.1 (Annotated)

PO argues that Socwell does not recognize unwanted belt rotation as a problem. (POR,43.) This is wrong. PO also asserts that Dr. Giachetti admitted, “Socwell itself does not expressly identify any safety issues associated with curved running surfaces.” (*Id.*) But his cited testimony was only discussing how a curved

running surface inhibits falling off the back, not whether Socwell identified any specific safety issues. (POR,43;Ex.2023,55:10-56:12;Ex.1036,¶¶103-105.) PO also argues that “Socwell explains that its curved running surface solves the safety issues associated with prior art, flat treadmills.” (POR,43.) A curved running surface may solve the issue of a user falling off the back of a treadmill, but it does not solve the problem of instability when mounting or dismounting a treadmill. (Ex.1036,¶¶105-106.)

b. A POSA would have been motivated to combine Sclater’s sprag-type clutch with Tolkien (Ground 2)

As explained above for Ground 1, Petitioner’s obviousness arguments regarding Sclater do not rely on hindsight. (Ex.1036,¶¶90-101.) Those same arguments apply here.

V. Secondary Considerations Fail

“[S]econdary considerations of non-obviousness ... simply **cannot** overcome a strong prima facie case of obviousness.” *Wyers v. Master Lock Co.*, 616 F. 3d 1231, 1246 (Fed. Cir. 2010). Here, obviousness is a strong case as the alleged invention is a mere combination of an off-the-shelf one-way clutch with a manual treadmill.

Even if considered, “to accord substantial weight to secondary considerations in an obviousness analysis, ‘the evidence of secondary considerations must have a ‘nexus’ to the claims, *i.e.*, there must be ‘a legally and factually sufficient

connection’ between the evidence and the patented invention.” *Fox Factory, Inc. v. SRAM, LLC*, 944 F.3d 1366, 1373 (Fed. Cir. 2019) (internal citations omitted).

A. Nexus

“A showing of nexus can be made in two ways: (1) via a presumption of nexus, or (2) via a showing that the evidence is a direct result of the unique characteristics of the claimed invention.” *Volvo Penta of the Am., LLC v. Brunswick Corp.*, 81 F.4th 1202, 1210 (Fed. Cir. 2023). A presumption of nexus requires the product embodies the invention and is coextensive with it. *Id.* at 1211.

1. No Rebuttable Presumption of Nexus

PO relies on a claim chart and the testimony of Dr. Blair purporting to show how its CURVE treadmills embody the claimed invention. (POR,51-58.) But PO makes no effort to show that its products are **coextensive** with them. (*Id.*) (*Brunswick Corp.* 81 F.4th at 1211, “[C]oextensiveness is a separate requirement”).

Even assuming PO’s patents broadly cover its Curve treadmills, Woodway is still unable to establish coextensiveness. Woodway Curve treadmills include many unclaimed features that could account for alleged success, e.g., toothed belt, V-belt, displays, heart-rate monitors, speed outputs, adjustable resistance, larger-sizes for larger-athletes, sophisticated load cells, data acquisition boards and software. (Ex.1037,27:13-24,28:20-29:13;Ex.2028,77-79;Ex.2057,3.) In fact, each model has different distinguishing features: e.g., CURVE XL has a “larger running surface,”

Curve LTG is a “lighter duty version,” Curve FTG has “different handrails” and “added features for providing different levels of resistance,” Curve 3.0 has “upgraded software and sophisticated electronics,” Curve Trainer has a “less steep curve” and “provides a quieter and quicker acceleration,” and the EcoMill and EcoMill Legacy have an “onboard generator system that produces power for the display and USB charging station.” (POR,49-51.) But none of these features are claimed.

PO cannot argue that these unclaimed features are insignificant. The '005 Patent, for example, incorporates by reference U.S. 5,470,293 (Ex.1052), which is directed to and claims a toothed-belt and V-belt means for treadmill (Ex.1001,14:4-6,14:49-53;Ex.1052,1:12-15.) Based on PO's own product manual for each of its allegedly covered products, such products include “tooth belts” (Ex.2028,32), showing that these features—unclaimed in the '005 Patent—are critical. *Fox Factory*, 944 F.3d at 1375. (“A patent claim is not coextensive with a product that includes a ‘critical’ unclaimed feature that is claimed by a different patent and that materially impacts the product’s functionality”).

Further, Woodway's sales could be due to (1) “industry reputation” *Ex Parte Jellá*, 90 USPQ2d 1009 (BPAI 2008), (2) “consumption by purchasers normally tied to [Woodway], or [3] other business events” *Ex Parte Jun Yang*, Appeal 2014-006514, 2017 WL 1150710, at *8 (PTAB Feb. 23, 2017) (citation omitted). As to

reputation, Woodway claims to be “the largest specialized treadmill manufacturer in the world and ... a market leader in ... fitness ... equipment ...” and can “command a pricing premium because of its durable, commercial-grade parts, reputation, service, history, and quality.” (Ex.2020,¶¶2, 13.) Indeed, having been “a market leader in ... fitness ... for more than 30 years,” (*Id.*) Woodway’s evidence of commercial success “carries little weight,” where it may be ascribed to “pre-existing market share.” *Geo M. Martin Co. v. Alliance Mach. Sys. Int’l LLC*, 618 F.3d 1294, 1304 (Fed. Cir. 2010).

2. No Direct Showing of Nexus

PO relies on a presumption of nexus. (POR,49-58.) However, PO does not attempt to show that “the evidence is a direct result of the unique characteristics of the claimed invention.” *Brunswick Corp.*, 81 F.4th at 1210. Because it cannot. “Where the offered secondary consideration actually results from something other than what is both claimed and *novel* in the claim, there is no nexus . . .” “there must be a nexus to some aspect of the claim not already in the prior art.” *Lectrosonics, Inc. v. Zaxcom, Inc.*, IPR2018-01129, Paper 33, 33 (PTAB Jan. 24, 2020) (precedential) (citation omitted). PO indicates, and the prosecution history of the ’005 Patent confirms, that the alleged inventive aspect is the safety device. (POR,62;Ex.2020,¶¶34-41;Ex.1002,208.) Yet, PO does not dispute that Sclater discloses such a safety device. Thus, because all elements of the challenged claims

are found in the prior art, there is no nexus. (*Id.*) See *Magseis FF LLC v. Seabed Geosolutions (US) Inc.*, 860 Fed. Appx. 746, 752 (Fed. Cir. 2021) (affirming the Board’s finding of no nexus because prior art discloses the allegedly novel feature). Indeed, PO’s own evidence suggests that any success that the covered products may have, results from other features. For example, the Curve Legacy was nominated for a FIBO Award because it is “environmentally friendly”, “has . . . no wear and tear components,” “not necessary to replace the deck or running belt,” includes “[a] durable WOODWAY membrane technology,” and provides “direct feedback.” (Ex.2057,3.) There is no mention of the safety device.

Lack of nexus alone is fatal to PO’s secondary considerations argument. *Western Union Co. v. MoneyGram Payment Sys., Inc.*, 626 F.3d 1361, 1372 (Fed. Cir. 2010) (finding “evidence of secondary considerations irrelevant” without nexus).

B. Commercial Success

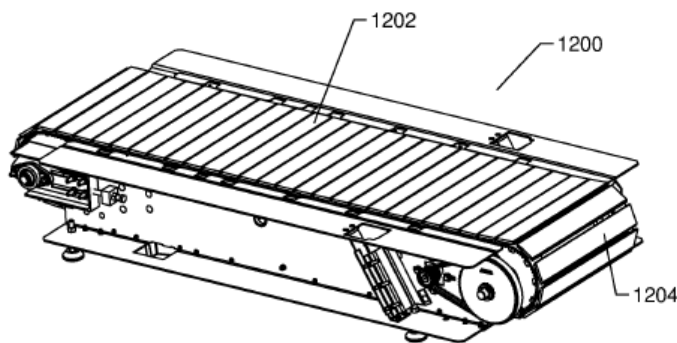
Commercial success is relevant only in a “close case where all other proof leaves the question of invention in doubt.” *Dow Chemical Co. v. Halliburton*, 324 U.S. 320, 330 (1945); *Jellá*, 90 USPQ2d 1009. This is not a “close case.”

1. Sales Figures Do Not Show Commercial Success Absent Market Share Evidence

In support of its success argument PO merely provides a gross sales figure

over a period of 14 years. (POR, 59.) However, “gross sales figures do not show commercial success absent evidence as to market share.” *Jellá*, 90 USPQ2d 1009; *In re Huang*, 100 F.3d 135, 139, 140 (Fed. Cir. 1996) (stating “bare sales numbers” are a “weak showing of commercial success, if any”) (citations omitted); *Geotab USA, Inc. v. Omega Pats., LLC*, IPR2023-00504, Paper 45, 52-54 (PTAB July 18, 2024) (finding evidence of “sales of over 900,000 units” weak because “there is no evidence in the record before us of *relative market share* establishing” that said products “were a commercial success”).

While PO asserts it “enjoyed 100% of the market share” for the initial several years “for curved, manual treadmills” (POR,64), the relevant market is manual treadmills, not curved manual treadmills. This is evident from the ’005 Patent itself. (See Ex.1001,1:21-23.)



Ex.1001, Fig. 35

PO’s own expert stated that **all claims** at issue are directed to a “manually powered treadmill.” (Ex.2018,¶177.) Yet, PO’s sales figures do not provide any

evidence as to market share in the manual treadmill market. *In re Applied Materials, Inc.*, 692 F.3d 1289, 1300 (Fed. Cir. 2012) (affirming the Board’s finding of weak evidence of commercial success because “[a]n important component of the commercial success inquiry ... is determining whether [PO] had a significant market share relative to *all* competing pads ..., which [PO] did not show”).

Indeed, PO’s commercial success argument lacks evidentiary support even if the relevant market was curved manual treadmills (it is not). As recognized by PO’s employee Weber, there are many other curved manual treadmills in the market (Ex.2020, ¶¶57,66)—at least some of which clearly do not infringe the ’005 Patent. (Ex.1052;Ex.1036, ¶¶109-112.) But PO has presented no evidence that its covered products are commercially successful in comparison with the competing products or that it has a large market share. PO’s reference to the Petitioner’s sales alone does not save its argument. (See Paper 31.) Even if Petitioner’s products practiced the Challenged Claims (they do not), Petitioner’s and PO’s sales and volumes are merely two numbers in a vacuum and are divorced from the size and volume of the relevant market.⁶ PO has failed to provide evidence of commercial success. *In re Huang*, 100 F.3d at 140; *In re Applied Materials, Inc.*, 692 F.3d at 1300.

⁶ Notably, PO does not even provide the market share of its own licensee.

2. PO's Sales Did Not Result From Unique Claim Characteristics

“If ... commercial success is relied upon, [PO] must offer proof ... ‘sales were a direct result of the unique characteristics of the claimed invention-as opposed to other economic and commercial factors’” *Ex Parte Detroit Radiant Prod. Co.*, Appeal 2008-6291, 2009 WL 164096, *7 (BPAI Jan. 22, 2009).

PO argues “[t]he commercial success of Patent Owner’s products was based on the key features of the claimed invention[,]” (POR,62) and cites Weber’s Declaration (Ex.2020, ¶¶34-41) where the only feature he asserts is “a safety mechanism to control the unintended rotation of the running belt.” (*Id.*, ¶34; *see also* ¶9 (emphasizing the “safety device” as the unique claimed feature).) But PO does not provide any evidence correlating sales with the “safety device.” To the contrary, while Weber testified in a related proceeding, that Woodway “use[s] social media” for marketing; however, when asked, “How many of your social media posts mention the safety device?” he responded, “I am not aware of us specifically advertising that.” (Ex.1037,45:10-15,46:7-8.) Weber states the safety device is “assumed” by customers who “wouldn’t buy the product if it didn’t have it.” (Ex.1037,45:17-21.) However, no evidence supports this. Accordingly, PO’s commercial success argument fails. *Detroit Radiant*, 2009 WL 164096, *7.

Further, as an employee of Woodway, Weber’s opinion should be given little weight. *See Yita LLC v. MacNeil IP LLC*, IPR2023-00173, Paper 70 at 107 (PTAB June 6, 2024).

C. Industry Praise Was Not Due to the Claimed Invention

“An invention may be praised or commercially successful for reasons other than the claimed invention but a nexus may still exist as long as it can be shown that such praise or success is also due in part to the claimed invention.” *Ex Parte Whirlpool Corp.*, Appeal 2013-008232, 2013 WL 5866602, *8 (PTAB Oct. 30, 2013) (informative) (citation omitted).

PO cites Exs.2045-2057 as industry-praise evidence. However, none mention the “safety device” (one-way bearing). (POR,62-63.) In a related proceeding, Weber argues references in Ex.2047 to a “unique curved design,” Ex.2052 to “rubber slats,” and Ex.2053 to using a treadmill “safely” (Ex.1037,54:13-15,60:1-9,62:13-14) each imply a “safety device.” However, in the end, Weber admitted he was “not aware of any ... articles” that describe the safety device, nor did he think PO would talk about such features. (Ex.1037,67:8-16.)

PO’s argument fails because Exs.2045-2057 do not show industry praise of the safety device. *ClassCo, Inc. v. Apple, Inc.*, 838 F.3d 1214, 1220 (Fed. Cir. 2016) (“[M]uch of ClassCo’s evidence of praise focused on conventional features in the prior art. ... [T]he Board properly discounted this and other evidence relating to

features that were in the prior art.”).

D. Copying

Federal Circuit precedent holds “copying requires evidence of efforts to replicate a **specific product**.” *Wyers*, 616 F.3d at 1246.

PO largely relies on Weber for evidence of copying and infringement. (*See* POR, 64.) But, Weber is neither qualified to opine on infringement (not as an expert or an engineer) (Ex.1037,69:19-70:3), nor has he tried to analyze infringement. (*Id.*,73:23-74:4.)

Mr. Weber has a similarly broad view of copying/testifying that “if they are using a device to prevent the movement in the—in reverse and they are a curved manual treadmill, yes, they are a copy... .” (*Id.*,44:19-45:1.) Weber also admitted not knowing inner components of competitor treadmills and whether they have a one-way bearing. (*Id.*,73:23-74:4.) Since Weber, PO’s Director of Sales and Marketing, admitted not knowing if any treadmills include a one-way bearing, *i.e.*, the claimed “*safety device*,” his opinions do not provide evidence of copying. *Wyers*, 616 F.3d, 1246; *see also Yita*, IPR2023-00173, Paper 70 at 107 (“Given his position as WeatherTech’s Vice-President of Product Development, we find that Mr. Granger’s ... testimony lacks credibility, and is entitled to little or no weight.”).

PO’s reference to the Samsara litigation is not relevant because the ’005 Patent was not found to infringe. (Ex.2042.) PO’s reference to the Petitioner’s products is

also without merit because the Petitioner’s products do not infringe the ’005 Patent. Even if the competing products infringed PO’s patents, “[n]ot every competing product that arguably falls within the scope of a patent is evidence of copying; otherwise, every infringement suit would automatically confirm the nonobviousness of the patent.” *Wyers*, 616 F.3d at 1246. Likewise, PO’s references to Petitioner’s draft product manual and sales document are without merit because neither document refers to a specific product. (Ex.2071,2,4,10,12,16-20;Ex.1045,76:15-18,80:7-10,216:21-217:6;Ex.2072.) As stated, “copying requires the replication of a specific product.” *Iron Grip Barbell Co., Inc. v. USA Sports, Inc.*, 392 F.3d 1317, 1325 (Fed. Cir. 2004). Here, there is absolutely no evidence of efforts—by Petitioner or others—to replicate PO’s specific products. *1964 Ears, LLC v. Jerry Harvey Audio Holding, LLC*, IPR2016-00494, Paper 56 at 32–34 (PTAB July 19, 2017).

E. Failure of Others

PO asserts that “[b]efore the priority date of the ’005 Patent, no one had successfully commercialized a curved, manual treadmill.” (POR,67.) However, to show failure of others, the evidence must establish “that others skilled in the art tried and failed to find a solution for the problem” solved by applicant. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 1540 (Fed. Cir. 1983). Woodway has offered no such proofs and its conclusory statements do not establish any nexus between the claim invention and any failure of others.

F. Passage of Time between Publication of the Prior Art and the Invention

PO asserts that “the length of time between the cited prior art references and the patent also ‘speaks volumes’ to ... nonobviousness” (POR,68.) However, “‘absent a showing of long-felt need or the failure of others, the mere passage of time without the claimed invention is not evidence of nonobviousness.’” *Ex Parte Sansone*, Appeal 2023-001331, 2023 WL 4677708, *7 (PTAB July 19, 2023) (citing *In re Kahn*, 441 F.3d 977, 990-991 (Fed. Cir. 2006)); *Iron Grip Barbell Co.*, 392 F.3d at 1324–25. Woodway has made no such showing.

VI. Conclusion

For the above mentioned reasons, Petitioner respectfully requests that the Board find all challenged claims unpatentable.

Dated: November 5, 2024

Respectfully submitted,

/ Andrew B. Turner /
Andrew B. Turner (Reg. No. 63,121)
John M. Halan (Reg. No. 35,534)
Rebecca J. Cantor (Reg. No. 57,748)
Kyle G. Konz (Reg. No. 68,910)
Seyed Reza Roghani Esfahani (*Pro Hac*
Vice Admission granted)
Brooks Kushman P.C.
150 W. Second St., Suite 400N
Royal Oak, MI 48067-3846
(248) 358-4400

Attorneys for Petitioner

Certificate of Service

The undersigned hereby certifies that on November 5, 2024, a complete and entire copy of **PETITIONER'S REPLY TO PATENT OWNERS RESPONSE AND EXHIBITS**, was served via electronic mail to the attorneys listed below:

LEAD COUNSEL	BACK-UP COUNSEL
Richard J. McKenna Foley & Lardner LLP 777 East Wisconsin Avenue Milwaukee, WI 53202 Direct Line: 414-297-5723 Fax: 414-297-4900 Email: rmckenna@foley.com USPTO Reg. No. 35,610	Kadie M. Jelenchick Foley & Lardner LLP 777 East Wisconsin Avenue Milwaukee, WI 53202 Direct Line: 414-319-7324 Fax: 414-297-4900 Email: kjelenchick@foley.com (<i>pro hac vice</i> admission granted) Sarah E. Rieger Foley & Lardner LLP 777 East Wisconsin Avenue Milwaukee, WI 53202 Direct Line: 414-319-7101 Fax: 414-297-4900 Email: srieger@foley.com (<i>pro hac vice</i> admission granted)

Respectfully submitted,

/ Andrew B. Turner /

Andrew B. Turner (Reg. No. 63,121)
John M. Halan (Reg. No. 35,534)
Rebecca J. Cantor (Reg. No. 57,748)
Kyle G. Konz (Reg. No. 68,910)
Seyed Reza Roghani Esfahani (*Pro Hac*
Vice Admission granted)
Brooks Kushman P.C.
150 W. Second St., Suite 400N
Royal Oak, MI 48067-3846
(248) 358-4400
Attorneys for Petitioner

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. The paper contains 6,042, excluding the parts of the paper exempted by §42.24(a). As provided in the order from August 28, 2024 (Paper 30), Petitioner is allowed 500 additional words to address supplemental Patent Owner's brief (Paper 30, 4).

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).

Respectfully submitted,

Dated: November 5, 2024

/ Andrew B. Turner /
Andrew B. Turner (Reg. No. 63,121)
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Rebecca J. Cantor (Reg. No. 57,748)
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Seyed Reza Roghani Esfahani (*Pro Hac*
Vice Admission granted)
Brooks Kushman P.C.
150 W. Second St., Suite 400N
Royal Oak, MI 48067-3846
(248) 358-4400

Attorneys for Petitioner