

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,
Petitioner,

v.

DYSON TECHNOLOGY LIMITED,
Patent Owner.

IPR2024-00219
Patent 11,589,660 B2

Before JAMES A. TARTAL, FRANCES L. IPPOLITO, and
MATTHEW S. MEYERS, *Administrative Patent Judges*.

MEYERS, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

A. *Background and Summary*

SharkNinja, Inc., SharkNinja Operating LLC, SharkNinja Management LLC, and SharkNinja Sales Company (“Petitioner”) filed a Petition to institute an *inter partes* review of claims 1–9, 15, 18, 23, 24, and 30–34 (the “challenged claims”) of U.S. Patent 11,589,660 B2 (Ex. 1001, “the ’660 patent”). Paper 9 (“Pet.”).¹ Dyson Technology Limited (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”).

We have authority, acting on the designation of the Director, to determine whether to institute an *inter partes* review. 35 U.S.C. § 314; 37 C.F.R. § 42.4(a) (2020). The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted unless “the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least [one] of the claims challenged in the petition.”

After considering the Petition, the Preliminary Response, and the evidence of record, we determine that Petitioner has demonstrated a reasonable likelihood that it would prevail with respect to at least one of the challenged claims. Accordingly, we institute an *inter partes* review of all challenged claims on all asserted grounds pursuant to 35 U.S.C. § 314. *See SAS Inst. Inc. v. Iancu*, 138 S. Ct. 1348, 1359–1360 (2018) (requiring institution on all claims, if any); *see also* Patent Trial and Appeal Board

¹ Pursuant to our authorization, Petitioner filed a Corrected Petition fixing four improper internal cross-references.

Consolidated Trial Practice Guide 64 (Nov. 2019) (providing guidance in view of *SAS*).²

B. Real Parties-in-Interest

Petitioner identifies SharkNinja, Inc., SharkNinja Operating LLC, SharkNinja Management LLC, and SharkNinja Sales Company as the real parties-in-interest. Pet. xi. Additionally, “out of an abundance of caution,” Petitioner identifies SharkNinja Midco LLC, SharkNinja Appliance LLC, Shark Ninja Appliance UK Holdco Limited, and SharkNinja Global SPV, Ltd. as real parties-in-interest. *Id.*

Patent Owner identifies Dyson Technology Limited as the real party-in-interest. Paper 5, 1.

C. Related Proceedings

The parties agree that there are no other matters that would affect, or be affected by, a decision in this proceeding. *See* Pet. xi.; Paper 5, 1.

D. Overview of the '660 Patent

The '660 patent is titled “Hand Held Appliance.” Ex. 1001, code (54). The '660 patent observes that a handheld appliance, for example, “a hair care appliance such as a hot styling device,” may have different attachments with different functions. *Id.* at 1:11–23. A problem exists, however, in providing “a solid connection between the attachment and the appliance for when hair is under tension.” *Id.* at 1:29–32.

Figure 9 of the '660 patent illustrates an appliance with an attachment, and is reproduced below.

² Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

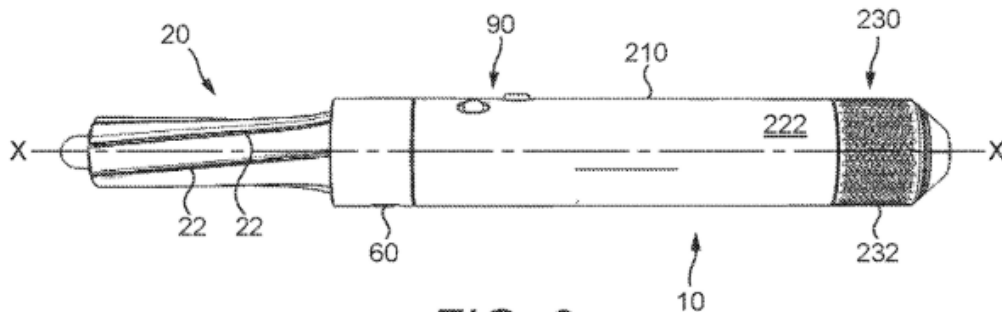


FIG. 9

Appliance 10 shown in Figure 9 is a “hot air styling device” with attachment 20. Ex. 1001, 4:7–8. Body 210 of appliance 10 includes button 60 for releasing attachment 20. *Id.* at 4:30–33.

Figure 1a of the '660 patent illustrates a portion of appliance 10, and is reproduced below.

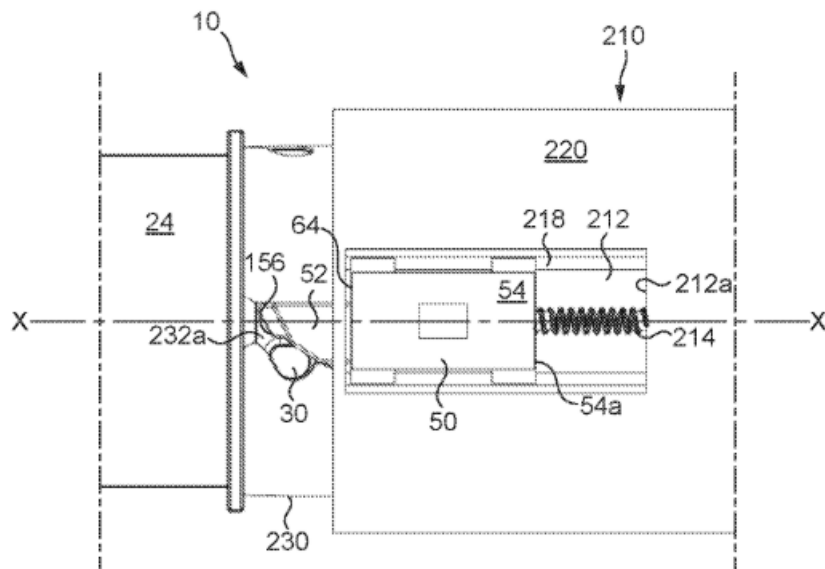


FIG. 1a

Figure 1a shows body 210 of appliance 10 as including attachment collar 230, which comprises an attachment mechanism having slot 232a for engagement with protrusion 30 on attachment 20. Ex. 1001, 4:40–44. As shown, slot 232a “constantly curves around the attachment collar 230, and thus, as the protrusion 30 is pushed into the slot 232[a] it automatically twists in the direction of the slot 232[a].” *Id.* at 4:62–65. In particular, “slot 232[a] extends radially around the body 210 and axially along the body 210.” *Id.* at 4:65–67.

Further, as shown in Figure 1a, slot 232a “includes an actuator 50 which is adapted to retain the attachment 20 on the body 210,” where “actuator 50 has a first part 52 which physically retains a protrusion 30 within slot 232a.” Ex. 1001, 5:1–5. Actuator 50 also has a second part 54 with which a user interacts in order to move actuator 50 and allow protrusion 30 to be removed from slot 232a. *Id.* 5:4–13. More specifically, a user interacts with button 60, identified above with respect to Figure 9, which “has a protrusion 62 which engages with a recess 58 within the second part 54 of the actuator,” and which “is typically glued to the actuator 50” (not shown in Figure 1a). *Id.* at 5:35–45.

E. Illustrative Claim

Petitioner challenges claims 1–9, 15, 18, 23, 24, and 30–34 of the ’660 patent. Pet. 3. Challenged claims 1 and 33 are independent. Claim 1 is illustrative, and is reproduced below.

1. A handheld appliance having a body and an attachment, the body comprising an attachment mechanism having a first slot and an actuator, the attachment comprising a first protrusion configured to engage with the first slot, wherein the actuator has a first position and a second position and the actuator is slidably moved from the first position towards the second position in a

longitudinal direction of the body as the first protrusion engages with the first slot; wherein the body extends along a longitudinal axis and the first slot extends both radially around and axially along the body.

Ex. 1001, 9:29–38.

F. Prior Art and Asserted Grounds

Petitioner asserts that claims 1–9, 15, 18, 23, 24, and 30–34 of the '660 patent are unpatentable on the following six grounds (Pet. 3–4):

Claim(s) Challenged	35 U.S.C. §³	Reference(s)/Basis
1–9, 15, 23, 24, 32	102	Hoblingre ⁴
1–9, 15, 18, 23, 24, 30–32	103	Hoblingre, Maclaine ⁵
1–9, 15, 18, 23, 24, 30–34	103	Hoblingre, Maclaine, Jeannet ⁶
1–9, 15, 23, 24, 32	102	Mouhot ⁷
1–9, 15, 18, 23, 24, 30–32	103	Mouhot, Maclaine
1–9, 15, 18, 23, 24, 30–34	103	Mouhot, Maclaine, Jeannet

Petitioner also relies on the Declaration of Daniel M. Nosenchuck, Ph.D. (Ex. 1003).

³ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284 (2011), amended 35 U.S.C. §§ 102 and 103 effective March 16, 2013. Because the '660 patent’s earliest effective filing date is after the effective date of the AIA amendments to §§ 102 and 103, this decision refers to the AIA versions of §§ 102 and 103.

⁴ US 4,943,182, issued July 24, 1990 (Ex. 1004, “Hoblingre”).

⁵ US 2015/0265022 A1, published Sept. 24, 2015 (Ex. 1007, “Maclaine”).

⁶ US 6,161,244, issued Dec. 19, 2000 (Ex. 1008, “Jeannet”).

⁷ EP 0 791 758 A1, published Aug. 27, 1997 (Ex. 1005, “Mouhot”).

II. ANALYSIS

A. Legal Standards

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (2012) (requiring *inter partes* review petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”)). Except in limited circumstances not present here, this burden of persuasion does not shift to the patent owner. *See Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015) (discussing the burden of proof in *inter partes* review).

I. Anticipation

A prior art reference can only anticipate a claim if it discloses all the claimed limitations “arranged or combined in the same way as in the claim.” *Wm. Wrigley Jr. Co. v. Cadbury Adams USA LLC*, 683 F.3d 1356, 1361 (Fed. Cir. 2012) (quoting *Net MoneyIN, Inc. v. VeriSign, Inc.*, 545 F.3d 1359, 1370 (Fed. Cir. 2008)). “However, a reference can anticipate a claim even if it ‘d[oes] not expressly spell out’ all the limitations arranged or combined as in the claim, if a person of skill in the art, reading the reference, would ‘at once envisage’ the claimed arrangement or combination.” *Kennametal, Inc. v. Ingersoll Cutting Tool Co.*, 780 F.3d 1376, 1381 (Fed. Cir. 2015) (alteration in original) (quoting *In re Petering*, 301 F.2d 676, 681 (CCPA 1962)); *see also Blue Calypso, LLC v. Groupon, Inc.*, 815 F.3d 1331, 1343 (Fed. Cir. 2016) (distinguishing *Net MoneyIN* when the

reference in question explicitly contemplated the combination of the disclosed functionalities).

2. *Obviousness*

A claim is unpatentable under 35 U.S.C. § 103(a) if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which that subject matter pertains. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) objective evidence of nonobviousness when presented. *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

In analyzing the obviousness of a combination of prior art elements, it can be important to identify a reason that would have prompted one of skill in the art “to combine . . . known elements in the fashion claimed by the patent at issue.” *KSR*, 550 U.S. at 418. A precise teaching directed to the specific subject matter of a challenged claim is not necessary to establish obviousness. *Id.* Rather, “any need or problem known in the field of endeavor at the time of invention and addressed by the patent can provide a reason for combining the elements in the manner claimed.” *Id.* at 420. Accordingly, a party who petitions the Board for a determination of unpatentability based on obviousness must show that “a skilled artisan would have been motivated to combine the teachings of the prior art references to achieve the claimed invention, and that the skilled artisan

would have had a reasonable expectation of success in doing so.” *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1381 (Fed. Cir. 2016) (citations omitted).

We analyze the challenges presented in the Petition in accordance with the above-stated principles.

B. Level of Ordinary Skill in the Art

We review the grounds of unpatentability in view of the understanding of a person of ordinary skill in the art at the time of invention. *Graham*, 383 U.S. at 17. Factors pertinent to determining the level of ordinary skill in the art include (1) the educational level of the inventor; (2) the type of problems encountered in the art; (3) prior-art solutions to those problems; (4) the rapidity with which innovations are made; (5) the sophistication of the technology; and (6) the educational level of workers active in the field. *Envtl. Designs, Ltd. v. Union Oil Co.*, 713 F.2d 693, 696–97 (Fed. Cir. 1983). Not all factors may exist in every case, and one or more of these or other factors may predominate in a particular case. *Id.* Moreover, these factors are not exhaustive, but merely a guide to determining the level of ordinary skill in the art. *Daiichi Sankyo Co. v. Apotex, Inc.*, 501 F.3d 1254, 1256 (Fed. Cir. 2007). Further, the prior art itself may reflect an appropriate skill level. *Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001).

Petitioner asserts that as of the earliest effecting filing date of the ’660 patent, one of ordinary skill in the art

would have had a Bachelor’s degree in Mechanical or Aerospace Engineering (or an equivalent discipline) or equivalent work experience, and at least one year’s worth of experience in

research, design, and/or development related to appliances such as hair care appliances (or other comparable industrial design).
Pet. 10 (citing Ex. 1003 ¶¶ 16–18). Petitioner further asserts that “[a]dditional education could substitute for experience, and vice versa.” *Id.* At this stage of the proceeding, “Patent Owner does not contest Petitioners’ definition of a person of ordinary skill in the art.” Prelim. Resp. 2 n.1.

On the current record, we determine that Petitioner’s definition of a person of ordinary skill in the art is consistent with the scope and content of the ’660 patent, and, at this stage, we apply Petitioner’s definition for purposes of this Decision.

C. Claim Construction

In an *inter partes* review, a patent claim shall be construed using the same claim construction standard that would be used to construe the claim in a civil action under 35 U.S.C. § 282(b). 37 C.F.R. § 42.100(b). This rule adopts the same claim construction standard used by Article III federal courts, which follow *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc), and its progeny.

Under that standard, the words of a claim are generally given their “ordinary and customary meaning,” which is the meaning the term would have to a person of ordinary skill at the time of the invention, in the context of the entire patent including the specification. *See Phillips*, 415 F.3d at 1312–13. “In determining the meaning of the disputed claim limitation, we look principally to the intrinsic evidence of record, examining the claim language itself, the written description, and the prosecution history, if in evidence.” *DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.*, 469 F.3d 1005, 1014 (Fed. Cir. 2006) (citing *Phillips*, 415 F.3d at 1312–17).

Petitioner submits “that no construction of any claim[] term is necessary.” Pet. 5. Petitioner does, however, take the position that the term “handheld,” as it appears in the preamble of claims 1 and 33, does not limit the claimed invention. Pet. 12–14, 53, 60–61, 96.

Patent Owner responds that “there are three claim construction issues for the Board to resolve in order to determine whether to grant the Petition and institute trial,” namely: 1) whether the preambles of claims 1 and 33 are limiting; 2) the meaning of the term “appliance”; and 3) the meaning of the term “attachment.” Prelim. Resp. 3. We address these issues in turn below.

1. Preambles of Claims 1 and 33

Claims 1 and 33 are both directed to “[a] handheld appliance.” Ex. 1001, 9:29, 10:63. Petitioner asserts that the general principle that “‘the preamble does not limit the claims’” applies in this case. Pet. 12–13 (quoting *Allen Eng’g Corp. v. Bartell Indus., Inc.*, 299 F.3d 1336, 1346 (Fed. Cir. 2002)). Additionally, Petitioner argues that the term “handheld” does not limit the claimed invention because “the ‘claim body describes a structurally complete invention.’” *Id.* at 13 (quoting *Catalina Mktg. Int’l, Inc. v. Coolsavings.com, Inc.*, 289 F.3d 801, 809 (Fed. Cir. 2002)).

Patent Owner contends that the entirety of the preambles of claims 1 and 33 should be construed as limiting. Prelim. Resp. 3. According to Patent Owner, “Petitioners have conceded that ‘appliance’ is limiting in both claims” (*id.* (citing Pet. 13–14, 53, 60–61, 96)), and no precedent supports Petitioner’s interpretation that the adjective “handheld” in the phrase “handheld appliance” is not limiting. *See id.* at 4. Instead, Patent Owner argues that “the Federal Circuit has repeatedly held that later reference to the

preamble without the recited adjective supports a finding that the entirety of the preamble, including the adjective, is limiting.” *Id.*

For example, Patent Owner asserts that in *Shoes by Firebug LLC v. Stride Rite Children’s Grp., LLC*, 962 F.3d 1362 (Fed. Cir. 2020), the phrase “textile footwear” was found to provide antecedent basis for a later reference to “the footwear” in the same claim. Prelim. Resp. 4 (citing 962 F.3d at 1368). Patent Owner also points out that in *Proveris Scientific Corp. v. Innovasystems, Inc.*, 739 F.3d 1367 (Fed. Cir. 2014), a claim preamble reciting “[a]n apparatus for producing image data representative of at least one sequential set of images of a spray plume” was found to provide antecedent basis for a later reference to “the image data,” where “image data” was “defined in greater detail in the preamble as being ‘representative of at least one sequential set of images of a spray plume,’ supporting the conclusion that the preamble [was] limiting.” *Id.* at 4–5 (quoting 739 F.3d at 1372–73).

Patent Owner also argues that the term “handheld” should be limiting because it is structural. Prelim. Resp. 5. More particularly, Patent Owner asserts that the Specification of the ’660 patent describes “a ‘hot air styling device’ that is necessarily ‘handheld’ for use.” *Id.* (quoting Ex. 1001, 4:7–53). Patent Owner adds that extrinsic evidence, particularly, dictionary definitions, further supports this argument. *See id.* at 5–6. Given the alleged structural aspect of the term “handheld,” Patent Owner argues that it is inappropriate to engage in “splicing or parsing the preamble so as to find that the entirety is not limiting.” *Id.* at 6 (citing *SIMO Holdings Inc. v. Hong Kong uCloudlink Net. Tech. Ltd.*, 983 F.3d 1367, 1376 (Fed. Cir. 2021); *Bio-*

Rad Lab ’vs, Inc. v. 10X Genomics Inc., 967 F.3d 1353, 1371 (Fed. Cir. 2020)).

At this stage of the proceeding, we agree with Petitioner that the general principle that a preamble does not limit claims applies here, and more particularly, that the term “handheld,” as it appears in the preamble of claims 1 and 33, does not serve to limit the appliance recited in the challenged claims. “[A] preamble is not limiting ‘where a patentee defines a structurally complete invention in the claim body and uses the preamble only to state a purpose or intended use for the invention.’” *Catalina Marketing*, 289 F.3d at 808 (quoting *Rowe v. Dror*, 112 F.3d 473, 478 (Fed. Cir. 1997)). This rule against giving effect to intended-use language in the preamble “reflects a longstanding substantive aspect of the patent statute—specifically, the ‘well settled’ fundamental principle ‘that the recitation of a new intended use for an old product does not make a claim to that old product patentable.’” *Arctic Cat Inc. v. GEP Power Products, Inc.*, 919 F.3d 1320, 1328 (Fed. Cir. 2019) (quoting *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997)). In this case, the phrase “handheld appliance” indicates an intended use of an appliance, rather than a structural limitation, and so we do not understand it to further limit the subject matter of claims 1 and 33.

Patent Owner does not point to any particular structural limitation required by the preamble term “handheld appliance.” Rather, Patent Owner attempts to rely on the antecedent basis that the preamble term “appliance” provides for the claim body recitation of “the appliance” to bootstrap the whole preamble phrase “handheld appliance” into providing a structural limitation. *See* Prelim. Resp. 4–5. The *Shoes by Firebug* case Patent Owner analogizes to the current case for this line of argument (*see id.* at 4) is

distinguishable. In that case, the claim for which the Federal Circuit found the preamble to be limiting included the phrase “textile footwear” in the preamble. 962 F.3d at 1365. The term “textile” in the context of the patents at issue in *Shoes by Firebug* denoted a structural material. *See id.* at 1368 (“[T]he written description itself discloses numerous materials other than textile suitable for footwear manufacture, including ‘leather, synthetics, [and] plastics.’”⁸). In contrast, the term “handheld” in claims 1 and 33 does not provide any further structural limitation. The Specification describes “a handheld appliance” as encompassing “a hair care appliance such as a hot styling device” (Ex. 1001, 1:11–13), but this does not define any specific structure. To hold that the term “handheld” provides a necessary structural limitation in claims 1 and 33 would simply beg the question as to which of the structures associated with an appliance used for hair care to include in the claim. In other words, we would need to resort to speculation and improper importation of limitations from the Specification into claims 1 and 33.

The *Proveris* case Patent Owner cites to (Prelim. Resp. 4–5) is also distinguishable. In that case, the claim at issue was drawn to “[a]n apparatus for producing image data representative of at least one sequential set of images of a spray plume,” and the body of the claim included components that were functionally related to the image data relating to the spray plume, namely, “an illuminator for providing an illumination of the spray plume”

⁸ Here, although the Federal Circuit quotes from the specification of a different patent than that for which a claim preamble was found to be limiting in *Shoes by Firebug*, it noted that the specifications of the two patents at issue shared a “substantially identical written description.” 962 F.3d at 1364 n.1.

and “an imaging device for generating the image data representative of an interaction between the illumination and the spray plume.” 739 F.3d at 1372. Here, neither claim 1 nor 33 includes any limitation in the body of the claim necessarily relating to using the claimed appliance in a “handheld” fashion. While claims 1 and 33 both recite an “actuator” that can be “slidably moved,” and claim 33 recites “a user operated button which engages with the actuator,” to the extent these elements could be manipulated by a user’s hands, the term “handheld” does not provide any particular structure that would permit this functionality. In other words, the term “handheld” does not provide any “essential structure or steps,” and is not ““necessary to give life, meaning, and vitality to”” claims 1 and 33. *Catalina Marketing*, 289 F.3d at 808 (quoting *Pitney Bowes, Inc. v. Hewlett-Packard Co.*, 182 F.3d 1298, 1305 (Fed. Cir. 1999)).

Accordingly, at this stage of the proceeding and on the current record, we determine that the term “handheld,” as it appears in the preamble, fails to further limit the subject matter recited in the body of claims 1 and 33.

2. “Appliance”

Patent Owner asserts that the plain and ordinary meaning of the term “appliance” should be understood to mean “an apparatus with a particular purpose or use.” Prelim. Resp. 7. According to Patent Owner, the Specification of the ’660 patent, as well as dependent claims 30 and 31, describe “that the ‘invention relates to a handheld appliance and in particular to a hair care appliance such as a hot styling device.’” *Id.* Patent Owner reasons that, because the claimed “appliance” is one with “a particular purpose or use,” it “must contain some structural feature that enables a particular purpose or use, such as a motor or electronic component,” such

that it “is structurally distinctive from generic objects, such as generic connectors, containing no structural feature.” *Id.* at 8. Patent Owner argues that extrinsic evidence, in the form of dictionary definitions, supports such an understanding. *Id.* at 7–8.

At this stage of the proceeding, we decline to adopt Patent Owner’s proposed construction for the term “appliance.” The term “appliance,” as Petitioner notes (*see* Pet. 13), is a generic term, and does not, in and of itself, connote any particular structure. The proposed interpretation that the “appliance” be one “with a particular purpose or use” only begs the question as to what purpose or use the “appliance” may be directed. Claims 1 and 33 include no specific language as to a particular purpose or use, aside from the modifier “handheld,” which, as discussed above, does not impart any specific structural features for which to assign patentable weight.

Patent Owner’s reliance on the Specification (*see* Prelim. Resp. 7) is unavailing in persuading us to accept the proposed construction. While “the specification is ‘always highly relevant to the claim construction analysis,’” *Phillips*, 415 F.3d at 1315 (citing *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996)), we do not import limitations from the Specification into the claim. *See id.* at 1323 (noting “the danger of reading limitations from the specification into the claim”). At the outset, we find Patent Owner’s reference to the subject matter of claims 30 and 31, i.e., that the “appliance” be a “hair care appliance” or, more specifically, a “hot styling appliance” (Prelim. Resp. 7), emphasizes that the “appliance” recited by claims 1 and 33 is, in fact, broader. Moreover, the description of a “hot styling appliance” as an exemplary embodiment in the Specification does not require us to read features associated with this embodiment into claims

that capture the invention in broader terms. *See Phillips*, 415 F.3d at 1323 (“[A]lthough the specification often describes very specific embodiments of the invention, we have repeatedly warned against confining the claims to those embodiments.”); *cf.* Ex. 1001, 9:12–15 (“The invention has been described in detail with respect to a hot styling device however, it is applicable to any appliance that draws in a fluid and directs the outflow of that fluid from the appliance.”).

We need not, at this stage, provide a precise construction for the term “appliance,” as it suffices for purposes of instituting an *inter partes* review to determine that the term “appliance” does not require any particular structure, other than that defined by the limitations appearing in the claims. Claims 1 and 33 in particular do not, for example (*see* Prelim Resp. 8), require a “motor or electronic component,” and we decline to read such limitations into the claims.

3. “Attachment”

According to Patent Owner, the plain and ordinary meaning of the term “attachment” should be understood to mean “part of an appliance that is attachable to a body to tailor the use of the appliance.” Prelim. Resp. 8. Patent Owner explains that the Specification of the ’660 patent “describes that ‘[i]n order to enable a user to create different styles and to give the appliance multi functionality, the attachment 20 is removable and can be replaced with an alternative attachment,’ and so the claimed ‘attachment’ must ‘tailor the use of the appliance, which is a device having a particular use.’” *Id.* at 9 (quoting Ex. 1001, 4:8–11). Patent Owner refers to embodiments of attachments in the Specification pertaining to “fluid input and outputs that are arranged in a manner that enable particular hair styling

using the hair styling device.” *Id.* In addition, Patent Owner argues that extrinsic evidence, in the form of dictionary definitions, supports the proposed construction. *Id.* at 10. Patent Owner further reasons that the “attachment” “is structurally distinctive from a generic component attached to another component” because it “must contain a structural feature that enables a tailored use of the handheld application.” *Id.* at 9.

At this stage of the proceeding, we decline to adopt Patent Owner’s proposed construction for the term “attachment.” Instead, we find “attachment,” as it appears in the claims, is a generic term that does not in and of itself specify any particular structure. The proposed construction that the “attachment” be “attachable to a body to tailor the use of the appliance” only begs the question as to what purpose or use the “appliance” is tailored for. And in any case, an intended use does not serve to limit the claims, as noted above.

Patent Owner’s reliance on the Specification and dictionary definitions (*see* Prelim. Resp. 9) fail to persuade us otherwise. Even if the claims required a removable attachment, as Patent Owner suggests, Patent Owner has not persuaded us this would impart any particular structural limitations to the claims related to a tailored use of the “appliance” conferred by virtue of the claimed “attachment.” *See id.* Thus, we need not, at this stage, provide a precise construction for the term “attachment,” as it suffices for purposes of instituting an *inter partes* review to determine that the term “attachment” does not require any particular structure, other than that defined by the other limitations appearing in the claims.

We determine that no other terms require explicit construction to reach a decision on institution. *See Nidec Motor Corp. v. Zhongshan Broad*

Ocean Motor Co., 868 F.3d 1013, 1017 (Fed. Cir. 2017) (per curiam) (claim terms need to be construed “only to the extent necessary to resolve the controversy” (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))).

D. Summary of Asserted Prior Art References

1. Overview of Hoblingre (Ex. 1004)

Hoblingre describes the mechanical assembly of two elements through the use of a bayonet-type coupling, which employs “on one of the elements a projecting pin, and on the end of the other element a socket having a slot for receiving and locking the pin.” Ex. 1004, 1:6–12. Hoblingre explains that one drawback of this type of coupling, however, is that they are generally “reserved for the connection of elements intended to remain stationary,” and “can only ensure with difficulty the reliable transmission of a torque.” *Id.* at 1:13–17. To address this drawback, Hoblingre provides a bayonet-type coupling for, among other things, “the transmission of even large torques.” *Id.* at 1:28–35. Hoblingre describes a bayonet-type coupling, referred to as a “rapid fastener,” that comprises “a female socket having at least one helical slot” and “a male stem carrying at least one laterally projecting pin capable of being disposed in the slot of the socket,” along with “guiding and locking means carried by the socket and elastically biasing the pin into the bottom of the helical slot and locking the pin in this position.” *Id.* at 1:36–44.

An exploded perspective view of Hoblingre’s rapid fastener is depicted in Figure 1, reproduced below.

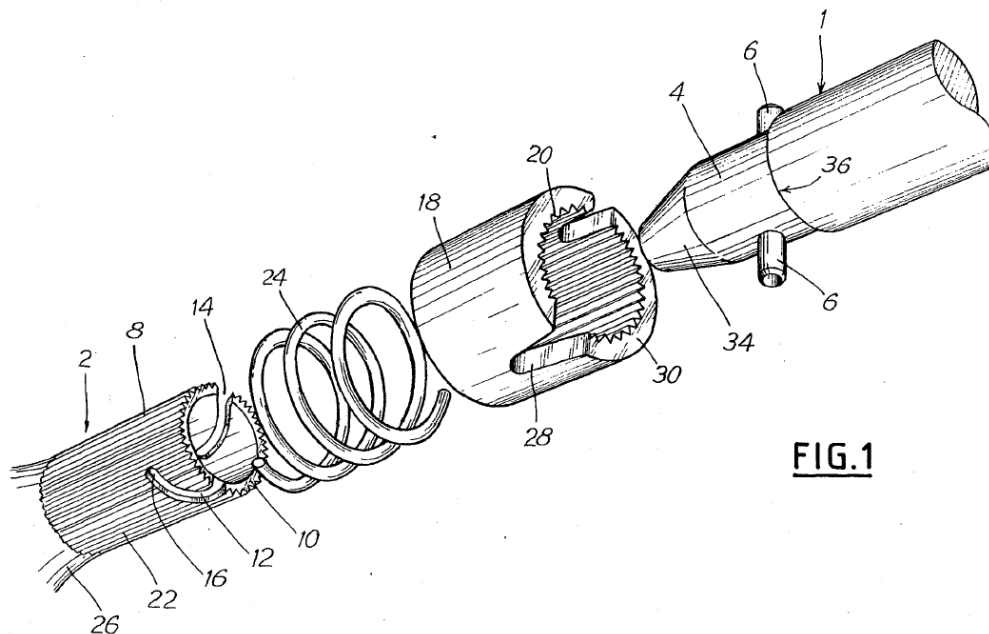
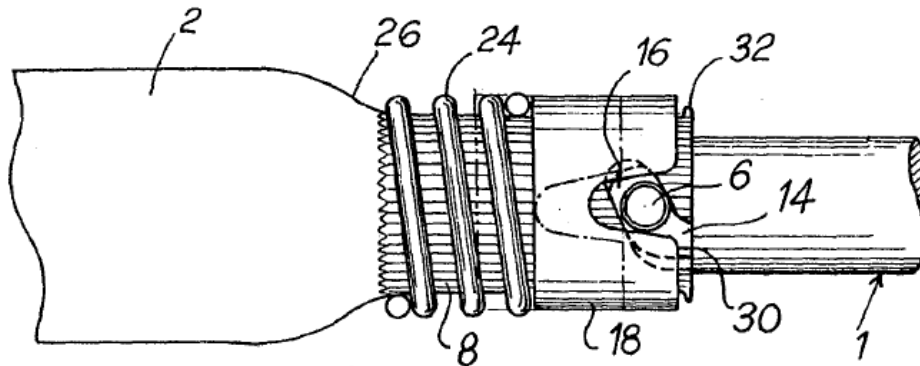


FIG.1

The rapid fastener shown in Figure 1 interconnects shafts 1 and 2, where shaft 1 includes elongated stem 4 with driving pins 6, and shaft 2 includes hollow socket 8 with slots 12 for receiving pins 6. Ex. 1004, 2:14–23. In particular, slots 12 each have a curved shape so as to include “a substantially axial entrance portion 14, [and] a substantially helical portion 16.” *Id.* at 2:24–26. Ring 18 includes slots 28 with sufficient width to permit entry of pins 6 on shaft 1, and is slidably mounted on socket 8, with longitudinal splines 20 on its inner surface “cooperating with complementary splines 22 on the outer surface of the socket 8.” *Id.* at 2:27–32. Coil 24 mounted around socket 8 bears, at one end, on a shoulder of shaft 2, and at the other end, on the edge of ring 18. *Id.* at 2:32–36. According to Hoblingre, this “tends to bias the ring 18 outwardly, i.e. in the direction toward the open end 10 of the socket 8.” *Id.* at 2:36–38.

An elevational view of an assembled version of Hoblingre’s rapid fastener is depicted in Figure 2, reproduced below.

FIG. 2



As shown in Figure 2, for connecting shafts 1 and 2, “it is sufficient to introduce the elongated stem 4 inside the socket 8 in placing each of the pins 6 in front of the entrance 14 of one of the slots 12,” and then using an axial force on either shaft 1 or 2 “to urge back the edge 30 of the ring 18 against the action of the spring 24 and thus to enter the slot.” Ex. 1004, 2:58–65. As pins 6 are angularly displaced relative to the entrance of slots 12, ring 18 resumes its position and pins 6 become “trapped between edges of the slots 12 and 28 so that at any moment the return movement thereof is precluded.” *Id.* at 2:65–3:8.

2. Overview of Maclaine (Ex. 1007)

Maclaine is directed to “an attachment for a hand held appliance, in particular a hair care appliance such as a hot styling brush.” Ex. 1007 ¶ 2. An exemplary embodiment of an appliance is depicted in Maclaine’s Figure 1a, reproduced below.

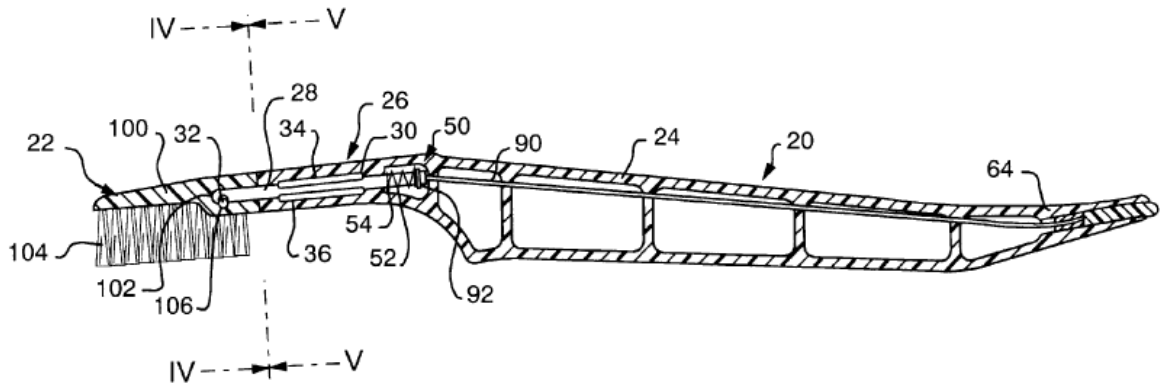


FIG. 1

As shown in Figure 1, brush head 22 is locked into brush handle 24 of the toothbrush 20 via bayonet catch 26. *Id.* at 2:46–47. Bayonet catch 26 “comprises a locking pin 28 which is mounted in a sliding bearing 30 in the forward handle neck 46 of the brush handle 24 in such a way that it is displaceable axially to a limited extent but is non-rotatable and which protrudes with its front end out of the front end of the handle neck.” *Id.* at 2:48–53. Locking pin 28 includes, at its free end, radially projecting bayonet stud 32. *Id.* at 2:53–55. Rear shank end 40 of locking pin 28 carries prestressing device 50, which may be helical compression spring 52. *Id.* 2:66–3:3. Locking pin 28 is resiliently prestressed in the direction away from brush head 22 and, “[a]t its end protruding freely out of the brush handle,” bayonet stud 32 provides for “engagement in the locking groove of the brush head.” *Id.* at 1:50–57.

Figure 10 of Jeannet depicts a vertical section along a longitudinal center line of an unlocking device for a toothbrush. Ex. 1008, 2:41–42.

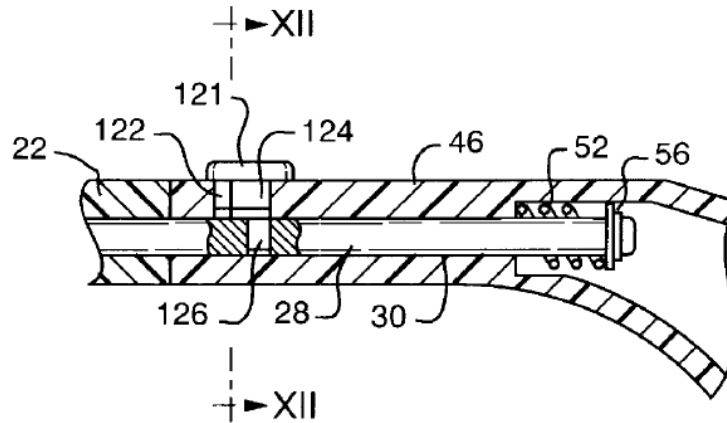
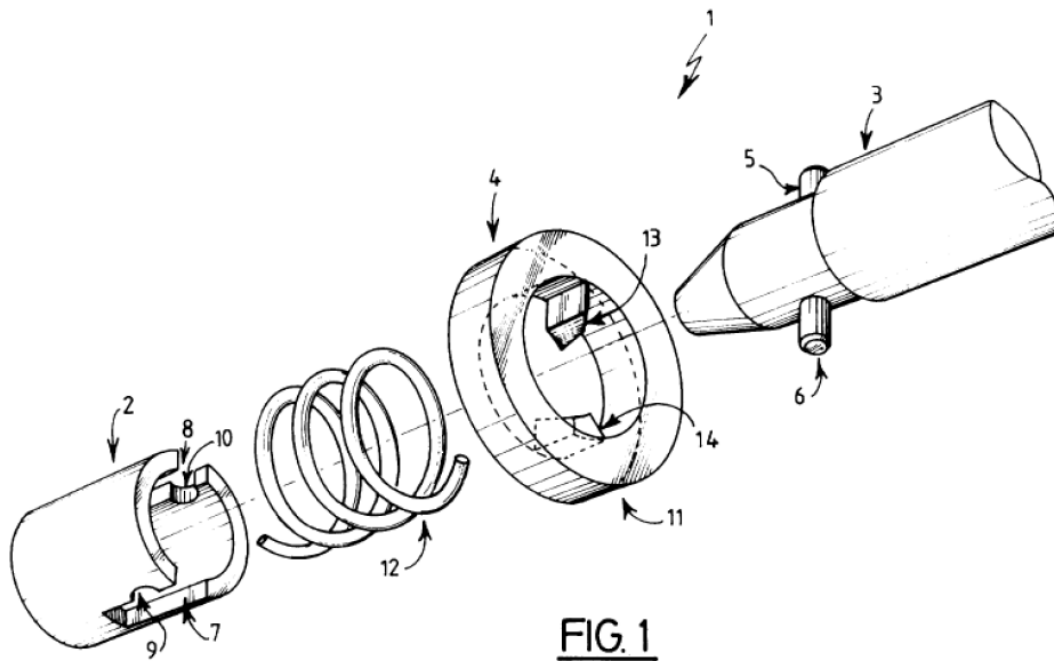


FIG. 10

As shown in Figure 10, “unlocking device 120 comprises an unlocking button 121, which is guided by means of a connecting pin 124 in an elongated slot 122 on the rear side of the handle neck 46, the said pin being secured on the underside of the unlocking button 120 and being firmly connected to the locking pin 28 by means of a locking peg 126.” *Id.* at 4:7–13.

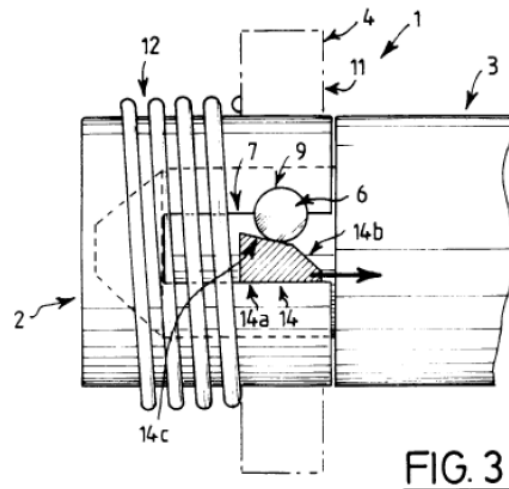
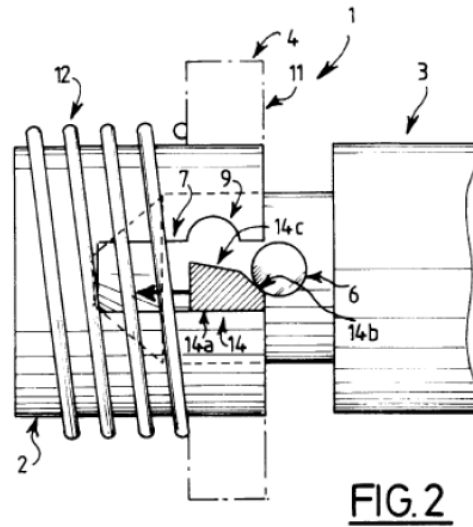
4. Overview of Mouhot (Ex. 1005)

Mouhot is directed to “a bayonet-type quick coupler for connecting two steering members, especially for a motor vehicle.” Ex. 1005, 2. Figure 1 of Mouhot depicts an exploded perspective view of a quick coupler, and is reproduced below.



As shown in Figure 1, one steering member comprises socket 2 with slots 7 and 8 for receiving lateral protruding parts 5 and 6 of shank 3 of the other steering member. *Id.* at 2–3. Slots 7 and 8 are axial slots, and at least one of the slots includes “stop means that delimit at least one position for locking the corresponding lateral protruding part of the shank inside this socket.” *Id.* at 3. Locking means 4 comprises a ring arranged around socket 2 and includes wedge-shaped means that “prevent the corresponding lateral protruding part of the shank from disengaging from the stop means of the corresponding slot of the socket.” *Id.* When combined with coil spring 12, locking means 4 may be urged axially toward a locking position. *Id.*

Figures 2 and 3 depict the operation of Mouhot’s quick coupler, and are reproduced below.



As shown in Figure 2, in operation, “each lateral protruding part 6 of the shank is guided by the first sloped surface 14b of the corresponding wedge-shaped means, in the direction of the corresponding stop means consisting, for example, of recess 9 of the slot of the socket.” *Id.* When part 6 is positioned in recess 9, “resilient means 12 push the ring and the wedge-shaped means so that the second sloped surface 14c of these wedge-shaped means comes to bear against the corresponding lateral protruding part 6 of the shank,” so that “the shank is locked in position inside the socket” and prevented from “disengaging from the stop means of the socket.” *Id.* at 4.

E. Alleged Anticipation by Hoblingre (Ground 1)

Petitioner asserts that claims 1–9, 15, 23, 24, and 32 are anticipated by Hoblingre. Pet. 10–35. Petitioner also relies on the testimony of Dr. Nosenchuck to support its arguments. *Id.* (citing Ex. 1003). Patent Owner presents arguments disputing Petitioner’s contentions based on Hoblingre. *See* Prelim. Resp. 17–20.

1. Analysis of Claim 1

Petitioner asserts claim 1 is anticipated by Hoblingre. Pet. 12–25 (citing Exs. 1003, 1004). We use Petitioner’s notations to identify the claim elements.

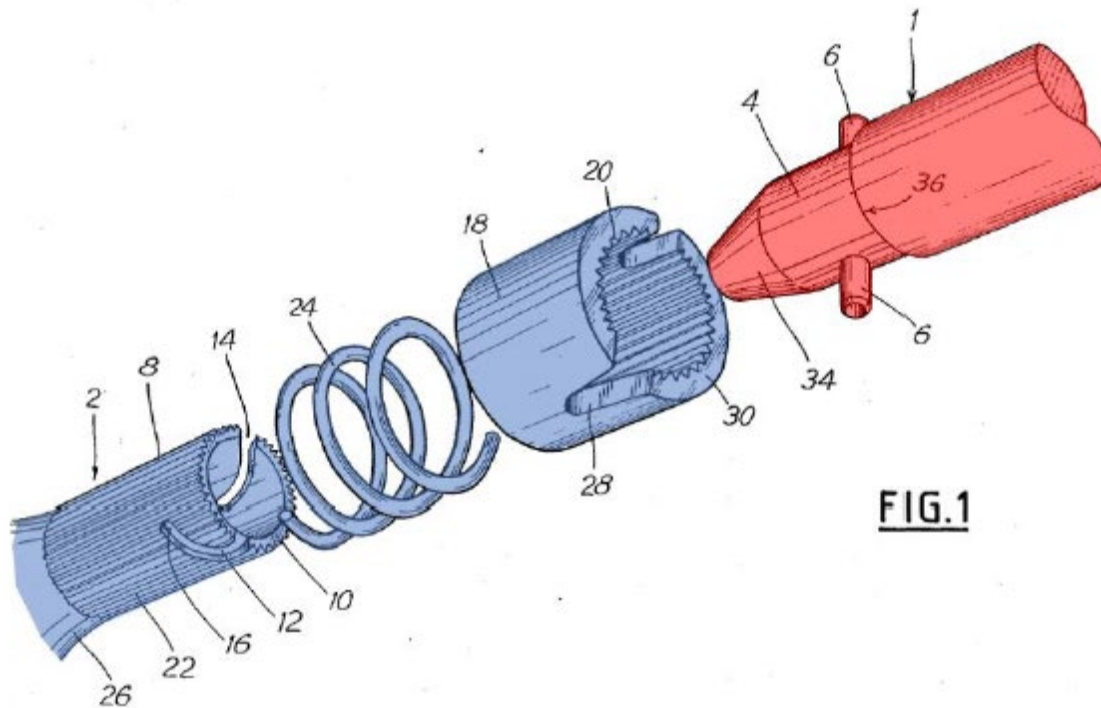
a) 1[pre] A handheld appliance

Petitioner argues that the preamble is not limiting (Pet. 12–13), but asserts that if the preamble is limiting,⁹ “Hoblingre discloses an improved ‘rapid fastener’ of the ‘bayonet type’ that establishes a connection between ‘two coaxial shafts,’ i.e., an appliance.” *Id.* at 14 (citing Ex. 1003 ¶¶ 61–65; Ex. 1004, 2:14–19).

b) 1[a] having a body and an attachment

Petitioner asserts that Hoblingre discloses this limitation. Pet. 14–16 (citing Ex. 1003 ¶¶ 66–71). Petitioner provides the following annotated copy of Figure 1 of Hoblingre. *Id.* at 15.

⁹ According to Petitioner, “absence of the phrase ‘handheld’ in the dependent claims indicates that the drafter of the Challenged Claims clearly did not intend the preamble phrase ‘handheld’ to be limiting of the structure of the claimed invention.” Pet. 13. Petitioner argues, however, that if the term “handheld,” as it appears in the preamble, was limiting, “[i]t would have been obvious to use the attachment system of Hoblingre in a handheld appliance,” as set forth in Grounds 2 and 3. *Id.* at 14 n. 3.



The rapid fastener shown in Figure 1 depicts shafts 1 (red) and 2 (blue), where shaft 1 includes elongated stem 4 with driving pins 6, and shaft 2 includes hollow socket 8 with slots 12 for receiving pins 6. Ex. 1004, 2:14–23. According to Petitioner,

Hoblingre’s rapid fastener is “adapted to interconnect two elements”: (1) a first shaft 1 comprising a “male stem carrying at least one laterally projecting pin,” illustrated below in red, and (2) a second shaft 2 comprising a “female socket having at least one helical slot” for receiving the pin and “guiding and locking means carried by the socket” that “elastically bias[] the pin into the bottom of the helical slot” to “lock[] the pin” in position, illustrated . . . in red.

Pet. 14–15 (citing Ex. 1004, 1:36–44, Fig. 1). And, relying on the declaration testimony of Dr. Nosenchuck, Petitioner contends that

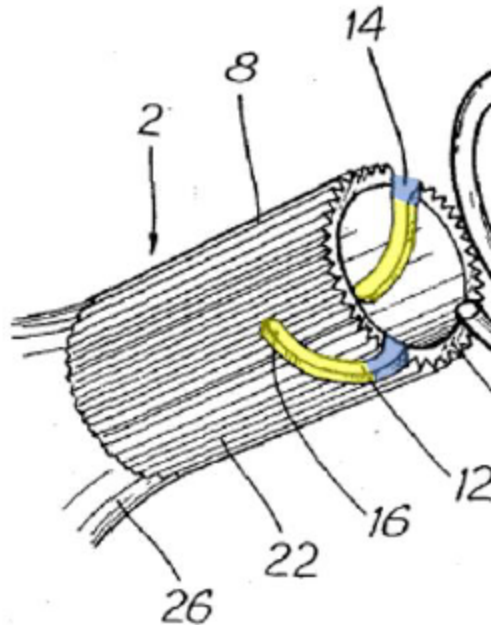
Hoblingre’s second shaft 2 comprising (1) socket 8, for receiving elongated stem 4, and (2) guiding and locking means comprising ring 18 and coil spring 24 (referred to herein as “guiding and locking means”), for guiding and locking elongated stem 4 in place, discloses a body. Hoblingre’s first shaft 1

comprising elongated stem 4, which is inserted into and then locked in position within socket 8 by guiding and locking means, discloses an attachment.

Id. at 16 (citing Ex. 1003 ¶¶66–71).

c) *1[b] the body comprising an attachment mechanism having a first slot and an actuator*

Petitioner asserts that Hoblingre discloses this limitation. Pet. 17–19 (citing Ex. 1003 ¶¶ 72–76). More particularly, Petitioner asserts that “Hoblingre’s second shaft 2 comprising socket 8 and the guiding and locking means together disclose a body. Socket 8 and the guiding and locking means comprising ring 18 and coil spring 24 together disclose an attachment mechanism having a first slot and an actuator.” *Id.* at 17 (citing Ex. 1003 ¶ 72–76). Petitioner provides the following annotated copy of Figure 1 of Hoblingre. *Id.*



Socket 8 depicted in Figure 1 “includes two slots 12 that are each ‘curved’ in shape and have a ‘substantially axial entrance portion 14,’ illustrated [above] in blue, and a ‘substantially helical portion 16,’ illustrated [above] in

yellow.” *Id.* at 17 (citing Ex. 1004, 2:24–26). Relying on the declaration testimony of Dr. Nosenchuck, Petitioner asserts that “[e]ither of the slots 12 constitutes a single ‘first slot’” and the other “slots 12 constitutes a single ‘second slot.’” Pet. 18 (citing Ex. 1003 ¶ 75).

Petitioner provides an annotated copy of Figure 2 of Hoblingre.

FIG. 2

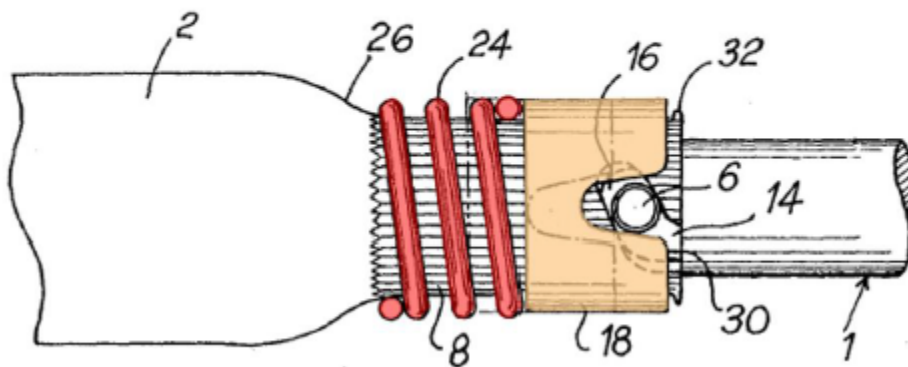


Figure 2 depicts Hoblingre’s ring 18 (red) and coil spring 24 (orange). Pet. 18 (citing Ex. 1004, 2:27–45, Fig. 2). Relying on the declaration testimony of Dr. Nosenchuck, Petitioner asserts that Hoblingre’s “guiding and locking means comprising ring 18 and coil spring 24 constitutes an actuator.” *Id.* at 19 (citing Ex. 1003 ¶¶ 72–76).

d) 1[c] the attachment comprising a first protrusion configured to engage with the first slot

Petitioner asserts that Hoblingre discloses this limitation. Pet. 19–21 (citing Ex. 1003 ¶¶ 77–80). More particularly, Petitioner asserts that Hoblingre’s first shaft 1 including elongated stem 4 constitutes “an attachment” and “either of Hoblingre’s pins 6 constitutes a first protrusion configured to engage with the first slot.” *Id.* (citing Ex. 1004, 2:14–19; Ex.

1003 ¶¶ 72–80). Petitioner provides an annotated copy of Figure 2 of Hoblingre. *Id.* at 21.

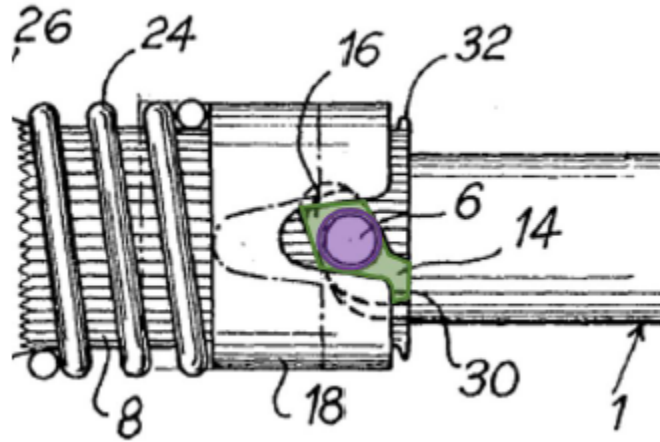


Figure 2 depicts a side view of Hoblingre’s appliance wherein one pin 6 (purple) engages with one slot 12 (green).

- e) *1[d] wherein the actuator has a first position and a second position and the actuator is slidably moved from the first position towards the second position in a longitudinal direction of the body as the first protrusion engages with the first slot*

Petitioner asserts that Hoblingre discloses this limitation. Pet. 21–24 (citing Ex. 1003 ¶¶ 77–83). As discussed above, Petitioner contends that Hoblingre’s guiding and locking means (ring 18, coil spring 24) constitutes “an actuator.” Pet. 22; *see also id.* at 18 (citing Ex. 1004, 2:27–45) (Hoblingre’s guiding and locking means comprises ring 18 and coil spring 24.). Petitioner asserts that Hoblingre discloses that its “ring 18 is ‘axially slidable along the socket’ 8 . . . and ‘biased toward the open end of the [socket]’ 8 by ‘spring 24.’” *Id.* at 22 (citing Ex. 1004, 1:45–46, 2:27–48). Petitioner explains that “to enter a locking position, pins 6 enter helical slots 12 and are ‘angularly displaced’ relative to entrances 14 of slots 12 until pins 6 are ‘trapped between edges of the slots 12 and 28 so that at any moment

the return movement thereof is precluded.” *Id.* (citing Ex. 1004, 1:36–63, 2:58–3:36).

Petitioner provides an annotated copy of Figure 2 of Hoblingre.

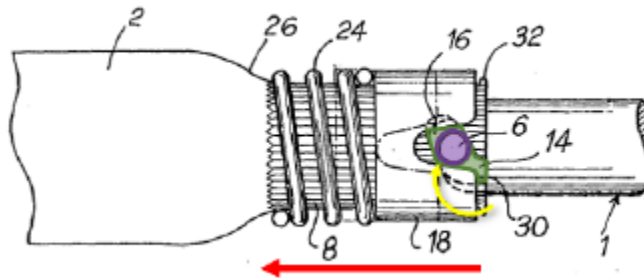


Figure 2 depicts a side view of Hoblingre’s appliance wherein one pin 6 (purple) engages with one slot 12 (green). According to Petitioner,

[w]hen Hoblingre’s actuator moves from the first position, in which coil spring 24 is uncompressed and ring 18 is toward the open end 10 of socket 8, to the second locked position, in which ring 18 slides along a longitudinal “axial” direction of socket 8 (illustrated above by the red arrow) away from the open end 10 of socket 8 and compresses coil spring 24. Ex. 1003, ¶83. As ring 18 compresses coil spring 24 and continues sliding along the longitudinal direction, the first protrusion, into the second position, one of pins 6 (illustrated above in purple) enters the first slot, one of slots 12 (illustrated above in green).

Pet. 23–24.

f) 1[e] wherein the body extends along a longitudinal axis and the first slot extends both radially around and axially along the body.

Petitioner asserts that Hoblingre discloses this limitation. Pet. 24–25 (citing Ex. 1003 ¶¶ 84–89). As discussed above, Petitioner contends that “Hoblingre’s socket 8 and the guiding and locking means constitute a body.” Pet. 24; *see also id.* at 16 (“Hoblingre’s second shaft 2 comprising (1) socket 8, for receiving elongated stem 4, and (2) guiding and locking means comprising ring 18 and coil spring 24 . . . for guiding and locking elongated

stem 4 in place, discloses a body.”). Petitioner provides a copy of Figure 1 of Hoblingre annotated to show a longitudinal axis. *Id.* at 24.

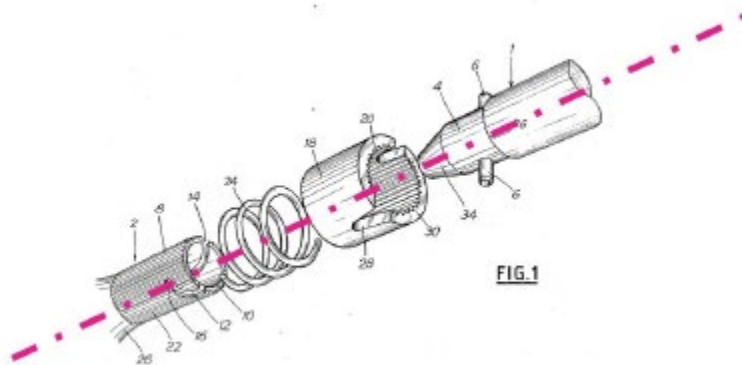


Figure 1 depicts “socket 8, ring 18, and coil spring 24 each extends along a longitudinal axis illustrated in pink.” *Id.* (citing Ex. 1004, 2:14–23).

Petitioner provides an annotated copy of Figure 2 of Hoblingre.
Pet. 25.

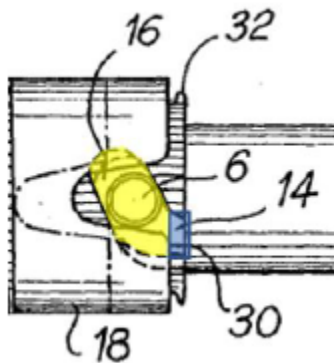


Figure 2 depicts a side view of Hoblingre’s appliance wherein one pin 6 engages with one of slots 12 that both extend axially (yellow). *Id.* With reference to annotated Figure 2, Petitioner asserts that “[s]lots 12 each include a ‘substantially axial entrance portion 14,’ illustrated [above] in blue, that extends axially along socket 8, and a ‘substantially helical portion 16,’ illustrated [above] in yellow, that extends radially around socket 8.” *Id.* (citing Ex. 1004, 2:24–26).

2. Patent Owner's Contentions Regarding Claim 1

Patent Owner contends that Petitioner's ground of unpatentability based on Hoblingre is deficient. *See* Prelim. Resp. 17–20. More particularly, Patent Owner argues that, when properly construed, Hoblingre fails to disclose a “handheld appliance” or an “attachment,” as recited in claim 1. *Id.* at 18–20.

3. Discussion of Claim 1

Having considered the conflicting positions of the parties, we conclude that, at this stage of the proceeding, Petitioner has shown a reasonable likelihood that it would prevail in challenging the patentability of independent claim 1. In our view, Petitioner's analysis, on this record, adequately identifies where all the elements of claim 1 are found in Hoblingre.

Patent Owner contends that Hoblingre fails to disclose the claimed “handheld appliance.” Prelim. Resp. 18. More particularly, Patent Owner argues that the term “handheld appliance,” as it appears in the preamble of claim 1, requires “an apparatus with a particular purpose or use” and “structural features enabling use of the object while being held in [the] hands of the user.” *Id.* at 18–19. Patent Owner asserts that while Hoblingre “discloses connecting two torque-transmitting shafts,” “[t]he Petition fails to point to any structural feature in Hoblingre that would enable the torque-transmitting shafts to be held in [the] hands of a user during operation” or “that would render the torque-transmitting shafts to be an apparatus having a particular purpose or use.” *Id.*

At this stage of the proceeding, we find Patent Owner's arguments to be misplaced because they are based on reading the term “handheld

appliance” of the preamble of claim 1 into the body of claim 1 as a limitation of claim 1. However, for the reasons discussed above in Section II.C.1., we conclude on the current record for purposes of this Decision that the preamble of claim 1, setting forth a “handheld appliance,” is not limiting. *See Catalina*, 289 F.3d at 809 (“[P]reambles describing the use of an invention generally do not limit the claims because the patentability of apparatus or composition claims depends on the claimed structure, not on the use or purpose of that structure.”). Based on the current record, and consistent with this understanding, we find Petitioner has shown sufficiently that Hoblingre’s disclosure of an “improved ‘rapid fastener’ of the ‘bayonet type’ that establishes a connection between ‘two coaxial shafts’” constitutes an apparatus or “appliance,” as required by claim 1. Pet. 14 (citing Ex. 1003 ¶¶ 61–65; Ex. 1004, 2:14–19). And, even if the preamble were entitled to patentable weight, at this stage of the proceeding, Patent Owner has not adequately shown that Hoblingre’s rapid fastener that “interconnect[s] two elements” does not constitute a “handheld appliance.” *See, e.g.*, Ex. 1004, 2:14–19.

Patent Owner further contends that Hoblingre fails to disclose “the claimed ‘attachment’ that is ‘part of an appliance that is attachable to a body to tailor the use of the appliance.’” Prelim. Resp. 19. More particularly, Patent Owner argues

the Petition fails to point to any structural feature of elongated stem 4 (the alleged claimed “attachment”) in Hoblingre that would tailor the use of the rapid fastener (the alleged claimed “appliance”). The elongated stem 4 in Hoblingre is merely one of two objects connected by the rapid fastener. The use of rapid fastener is not changed in any form by the elongated stem 4, and thus elongated stem 4 fails to tailor the fastening use of the rapid fastener.

Id. at 20.

Patent Owner’s assertion is again misplaced because, on the current record, it is based on an overly restrictive construction of the term “attachment.” As set forth above, we do not construe the term at this stage of the proceeding as requiring that an “attachment” mean “part of an appliance that is attachable to a body to tailor the use of the appliance.” *See* Section II.C.3. Instead, based on the current record, and consistent with this understanding, we find Petitioner has shown sufficiently that Hoblingre’s first shaft 1 including elongated stem 4 constitutes “an attachment.” Pet. 14–15 (citing Ex. 1004, 2:14–19, Fig. 1).

We find Petitioner’s arguments and evidence in support thereof sufficient at this stage of the proceeding for the reasons explained by Petitioner. *See* Pet. 12–25. Accordingly, based on the arguments and evidence on the record before us, we determine, for purposes of this Decision, Petitioner has established a reasonable likelihood that independent claim 1 is anticipated by Hoblingre.

4. *Claims 2–9, 15, 23, 24, and 32*

Claims 2–9, 15, 23, 24, and 32 depend directly or indirectly from claim 1. Petitioner provides a clause-by-clause analysis of where each element in dependent claims 2–9, 15, 23, 24 and 32 is disclosed in Hoblingre. Pet. 25–35. Throughout Petitioner’s analysis, Petitioner cites and relies on the testimony of Dr. Nosenchuck for evidentiary support. *Id.* (citing Ex. 1002 ¶¶ 87–122).

Patent Owner does not specifically address any of the dependent claims. *See* Prelim. Resp. 17–20.

We find Petitioner's arguments and evidence in support thereof sufficient at this stage of the proceeding for the reasons explained by Petitioner. *See* Pet. 10–35. Accordingly, based on the arguments and evidence on the record before us, we determine, for purposes of this Decision, Petitioner has established a reasonable likelihood of prevailing on dependent claims 2–9, 15, 23, 24 and 32.

5. Conclusion for Ground 1

After considering the information presented in the Petition and the Preliminary Response, we determine that Petitioner has shown that it is reasonably likely to prevail in establishing that at least one of claims 1–9, 15, 23, 24 and 32 is anticipated by Hoblingre.

F. Additional Grounds 2–6

Petitioner additionally contends that claims 1–9, 15, 18, 23, 24, and 30–32 are unpatentable as obvious over Hoblingre and Maclaine (Ground 2) and claims 1–9, 15, 18, 23, 24, and 30–34 are unpatentable as obvious over Hoblingre, Maclaine, and Jeannet (Ground 3). Pet. 35–59. Petitioner alternatively contends that claims 1–9, 15, 23, 24, and 32 would have been anticipated by Mouhot (Ground 4), claims 1–9, 15, 18, 23, 24, and 30–32 would have been obvious over Mouhot and Maclaine (Ground 5), and claims 1–9, 15, 18, 23, 24, and 30–34 would have been obvious over Mouhot, Maclaine, and Jeannet (Ground 6). Pet. 59–100. Patent Owner disputes Petitioner's contentions as to these additional grounds. *See* Prelim. Resp. 20–45. Because we have determined above that, at this stage of the proceeding and on the present record, the information presented in the Petition and Preliminary Response shows that there is a reasonable likelihood that Petitioner will prevail with respect to at least one claim based

on the alleged anticipation by Hoblingre, we need not address Petitioner's additional challenges at this time. *See* 35 U.S.C. § 314(a).

With respect to Grounds 2 and 3, we note that Patent Owner's arguments regarding inconsistencies between Petitioner's motivations to combine and its mapping to the prior art appear to have some merit. *See, e.g.,* Prelim. Resp. 21 (citing Pet. 35) ("Petitioners' alleged motivations to combine all relate to using ***Maclaine*** as the appliance with Hoblingre's attachment mechanism," but "Petitioners rely solely on Hoblingre for each of the limitations in independent Claim 1, including the 'appliance,' 'body,' and 'attachment,' except for the preamble's requirement that the appliance be 'handheld.'"); *see also id.* at 27–28. We encourage the parties to further develop this argument and their positions at trial.

Patent Owner's arguments in opposition to Ground 4 substantially mirror the arguments raised by Patent Owner with respect to Ground 1, i.e., that Mouhot fails to disclose a "handheld appliance" or an "attachment," as recited in claim 1. Prelim. Resp. 29–31. We find that these arguments are not sufficiently supported and not persuasive for substantially the same reasons addressed above in regard to the alleged anticipation by Hoblingre based on our determination that, at this stage of the proceeding, the term "handheld," as it appears in the preamble, fails to further limit the subject matter recited in the body of claims 1 and 33, and our construction of the terms "appliance" and "attachment." *See* §§ II.C.1–3.

With respect to Petitioner's Grounds that rely on Mouhot in combination with Maclaine (Ground 5) and Mouhot in combination with Maclaine and Jeannet (Ground 6), we note that Patent Owner's arguments in opposition to Grounds 5 and 6 substantially mirror the arguments raised by

Patent Owner with respect to Grounds 2 and 3, respectively. Thus, Patent Owner's arguments with respect to Grounds 5 and 6 turn primarily on whether Petitioner has met its burden of showing that one of ordinary skill in the art would have been motivated to combine the art to result in Petitioner's proposed combination. Prelim. Resp. 35–40, 41.

Because Petitioner demonstrates that at least one claim of the '660 patent meets the threshold for institution, we institute *inter partes* review on all challenges. *SAS Inst.*, 138 S. Ct. at 1359–60; *see also PGS Geophysical AS v. Iancu*, 891 F.3d 1354, 1360 (Fed. Cir. 2018) (interpreting the statute to require “a simple yes-or-no institution choice respecting a petition, embracing all challenges included in the petition”).

III. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that *inter partes* review of claims 1–9, 15, 18, 23, 24, and 30–34 of the '660 patent is instituted on the grounds asserted in the Petition; and

FURTHER ORDERED that pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial; the trial will commence on the entry date of this decision.

IPR2024-00219
Patent 11,589,660 B2

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