

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

DYSON TECHNOLOGY LIMITED,
Patent Owner.

Case No. IPR2024-00219
U.S. Patent No. 11,589,660

REPLY TO PATENT OWNER'S RESPONSE

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PETITIONERS' EXHIBIT LIST

Exhibit No.	Description
1001	U.S. Patent No. 11,589,660
1002	File History for U.S. Patent No. 11,589,660
1003	Declaration of Dr. Nosenchuck
1004	U.S. Patent No. 4,943,182 (“Hoblingre”)
1005	Certified Translation of European Patent Application No. EP0791758 (“Mouhot”)
1006	European Patent Application No. EP0791758 (“Mouhot”)
1007	U.S. Patent Application Publication No. 2015/0265022 (“Maclaine”)
1008	U.S. Patent No. 6,161,244 (“Jeannet”)
1009	U.S. Patent No. 5,715,847 (“Rolf”)
1010	U.S. Patent No. 7,876,373 (“Ochi”)
1011	Redline of Proposed Corrections to Petition
1012	October 3, 2024 Deposition Transcript of Mr. Joel Delman
1013	Supplemental Declaration of Dr. Daniel M. Nosenchuck
1014	U.S. Patent Application Publication No. 2015/0297045 (“Marsh”)
1015	U.K. Patent Application No. GB2513561 (“Brook”)

TABLE OF AUTHORITIES

CASES

<i>Adapt Pharma Operations Ltd. v. Teva Pharms. USA, Inc.</i> , 25 F.4th 1354 (Fed. Cir. 2022).....	13, 16
<i>Allergan, Inc. v. Sandoz Inc.</i> , 726 F.3d 1286 (Fed. Cir. 2013).....	13, 16
<i>Allied Erecting & Dismantling Co. v. Genesis Attachments, LLC</i> , 825 F.3d 1373 (Fed. Cir. 2016)	passim
<i>Alza Corp. v. Mylan Labs., Inc.</i> , 464 F.3d 1286 (Fed. Cir. 2006)	13, 16
<i>In re Etter</i> , 756 F.2d 852, 859 (Fed. Cir. 1985).....	12, 16
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<i>PAR Pharm., Inc. v. TWI Pharms., Inc.</i> , 773 F.3d 1186 (Fed. Cir. 2014).....	13, 16, 23, 25
<i>Phillips v. AWH Corp.</i> , 415 F.3d 1303 (Fed. Cir. 2005)	5, 8
<i>Schwendimann v. Neenah, Inc.</i> , 82 F.4th 1371 (Fed. Cir. 2023).....	11, 22
<i>Superguide Corp. v. DirecTV Enterprises, Inc.</i> , 358 F.3d 870 (Fed. Cir. 2004)...	5, 7
<i>Teleflex, Inc. v. Ficosa N. Am. Corp.</i> , 299 F.3d 1313 (Fed. Cir. 2002).....	4, 7, 20
<i>Vitronics Corp. v. Conceptronic, Inc.</i> , 90 F.3d 1576 (Fed. Cir. 1996).....	6, 8, 21

TABLE OF ABBREVIATIONS

Abbreviation	Meaning
'660 patent	U.S. Patent No. 11,589,660
Challenged Claims	Claims 1-9, 15, 18, 24, and 30-34 of U.S. Patent No. 11,589,660
IPR	<i>inter partes</i> review
Board	Patent Trial and Appeal Board
Ex.	Exhibit
Fig.	Figure
Patent Owner	Dyson Technology Limited
Petitioners	SharkNinja, Inc., SharkNinja Operating LLC, SharkNinja Management LLC, and SharkNinja Sales Company
POSITA	Person[s] of ordinary skill in the art

I. INTRODUCTION

Patent Owner does not challenge Ground 1 with respect to any of claims 1, 7-9, 15, 23, 24, and 32 and thus concedes that those claims are invalid as anticipated by Hoblingre.

As the Petition demonstrated, Hoblingre and Mouhot disclose the claimed elements of an appliance having a body and an attachment, the body having an attachment mechanism including a slot that extends both radially around and axially along the body and a slidably movable actuator, and the attachment having a protrusion configured to engage with the slot. The Petition also demonstrates that other standard elements of the claimed appliance were also disclosed or obvious in view of those references, Maclaine, and Jeannet.

Although Patent Owner allegedly agrees that no claim constructions is necessary, it offers four previously unraised, claim constructions in a failed attempt to overcome the clear anticipation and obviousness grounds presented. Patent Owner fails to overcome any of the invalidity grounds and the overwhelming evidence presented in the Petition.

II. GROUND 1: HOBLINGRE ANTICIPATES CHALLENGED CLAIMS 1-9, 15, 23, 24, AND 32

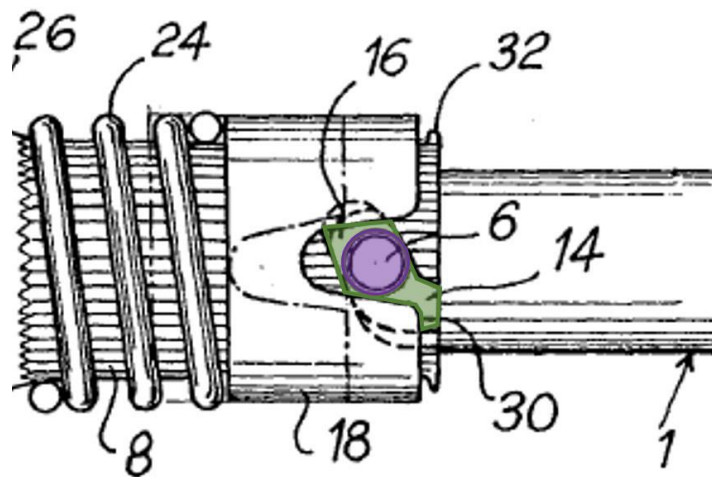
Patent Owner does not present evidence or argument to refute the showing in Ground 1 that claims 1, 7-9, 15, 23, 24, and 32 are anticipated by Hoblingre. POR 1, 9-19. The Board should thus find accordingly. Patent Owner also fails to rebut

the strong showing for the remaining claims (2-6) in Ground 1, instead relying only on unsupported claim constructions that are plainly wrong. POR, 2.

A. Hoblingre discloses “wherein in the first position the actuator at least partially obscures the first slot” as recited in Claim 2

As explained in the Petition, Hoblingre’s guiding and locking means constitutes an actuator, and one of helical slots 12 in socket 8 comprises the “first slot.” Pet., 25. More specifically, the guiding and locking means comprises at least ring 18 having an edge 30 and slots 28. As explained in the Petition, Hoblingre’s “pins 6 enter helical slots 12” and move “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’” by the edges of slots 12 and 28. Pet., 22 (citing Ex1004, 1:36-63, 2:58-3:36). Thus, the edges of slot 28 and 30 “partly close[],” or partially obscure, the entrances of slots 12 such that pins 6 cannot move toward the openings of slots 12 and disengage. Pet., 25-26 (citing Ex1004, 2:46-50).

Faced with that clear disclosure from Hoblingre, Patent Owner asserts that Hoblingre does not disclose that the actuator “at least partially obscures the first slot” based *entirely* on a newly asserted, incorrect, and unsupported argument regarding what the claim term “obscures” allegedly means. First, Patent Owner asserts that Petitioners “improperly conflate[] the term ‘partly closes’ in Hoblingre with the term ‘partially obscures’ recited in Challenged Claim 2.” POR, 10.



Pet., 21 (citing Ex1004, Fig. 2 (annotated)).

Patent Owner contends that the Petition's explanation for claim 2 only "relates to whether pin 6, can enter slot 12," and argues that in order for an actuator to "obscure the first slot' as claimed, some portion of the actuator must tangibly fill or otherwise fall within the confines of the first slot, otherwise the first slot remains unobscured because there is nothing within the slot." *Id.* But that is wrong for multiple reasons.

First, Patent Owner's reasoning that "the first slot remains unobscured" when "there is nothing within the slot" is flawed in that it assumes its conclusion is true—that the slot can only be obscured when there is something within the slot. POR, 11.

Second, there is no support in the specification or other intrinsic record to support limiting the requirement for a slot to be "obscured" to only structures that "tangibly fill or otherwise fall within the confines of the first slot." Patent Owner

cites passages from the '660 patent, but those do not support its conclusion. Patent Owner cites a passage where the '660 patent describes that when “the actuator is biased into a first position...the actuator 50 **obscures** the slot 232a.” Ex1001, 6:39-45.¹ The actuator 50 obscures the slot 232a by “**prevent[ing] the protrusion 30 from being removed** from the slot 232a.” *Id.*, 6:63-67. A user can “cause[] the actuator 50 to move...against the biasing force of the spring 214” until “slot 232a is no longer obscured by the actuator 50” when “the protrusion 30 can move along the slot 232a towards the slot opening 236.” *Id.*, 7:1-8. The '660 patent therefore directly relates (a) whether the actuator “obscures” a slot to (b) whether the protrusion can move within the slot. Patent Owner does not and cannot cite to any part of the specification disclosing that in order to “obscure” a slot, “some portion of the actuator must tangibly fill or otherwise fall within the confines of the first slot,” as it asserts. Even if the Board were to agree with Patent Owner that the specification suggests an example in which the actuator enters the first slot during operation, that alone would be insufficient to limit the claims to that one example. It is a “cardinal sin” of claim construction to import limitations from the specification into the claim. *Teleflex, Inc. v. Ficosa N. Am. Corp.*, 299 F.3d 1313, 1324 (Fed. Cir. 2002). “[A] particular embodiment appearing in the written description may not be read into a claim when

¹ Emphases added herein, unless otherwise noted.

the claim language is broader than the embodiment.” *Superguide Corp. v. DirecTV Enterprises, Inc.*, 358 F.3d 870, 875 (Fed. Cir. 2004).

Patent Owner next contends that the term “obscure” does not relate to “whether the viewer or user can see the slot,” POR, 10-14, but that is not what Petitioner argued. Rather, because the actuator partly blocks the slot, it thereby partially obscures the slot as well. Pet., 25-26.

Finally, Patent Owner states that “requir[ing] the actuator to tangibly fill or otherwise fall within the confines of the first slot” is “consistent with a POSITA’s general understanding of the word ‘obscures.’” POR, 11. But it provides no evidence of this alleged understanding of the word “obscures.” Its declarant, Mr. Delman, simply parrots the Response without any evidentiary support. Furthermore, claim construction focuses on the meaning of the word as used by the patentee, informed first by the intrinsic evidence. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1313-17 (Fed. Cir. 2005). Here, the meaning of “obscure” in the context of the ’660 patent is clear from the specification—the actuator “obscures” the slot by preventing the protrusion from being removed from the slot. Ex1001, 6:39-67. Extrinsic evidence such as expert testimony is relevant only when the intrinsic evidence does not resolve any ambiguity in the disputed term and cannot be used to contradict the intrinsic evidence. *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576 (Fed. Cir.

1996). Thus, Mr. Delman's opinion regarding a POSITA's general understanding of "obscure" is irrelevant in addition to being unsupported and conclusory.

Finally, Patent Owner does not show that Hoblingre fails to meet the "obscure" limitation under the meaning that Petitioners used in the Petition. Indeed, the Patent Owner Response concedes that Hoblingre "discloses the guiding and locking means partly closing the entrance of slot 12 to pin 6" and that "slot 28 in ring 18" "guides and influences movement of driving pin 6." POR, 14. Because Patent Owner's interpretation is wrong for the reasons discussed above, its Response to claim 2 necessarily fails.

B. Hoblingre discloses "wherein the surface is configured to at least partially define the first slot at or near the second position" as recited in Claim 4

Claim 4 depends from claim 3, which requires an actuator that has a surface which interacts with the first protrusion when the first protrusion engages with the first slot. As explained in the Petition, a portion of the actuator (the edge of one of the slots 28, illustrated in orange) of ring 18 comprises a surface that interacts with the first protrusion as it engages the first slot in the locked position as required by claim 3 and that surface also at least partially defines the first slot. Pet., 26-27.

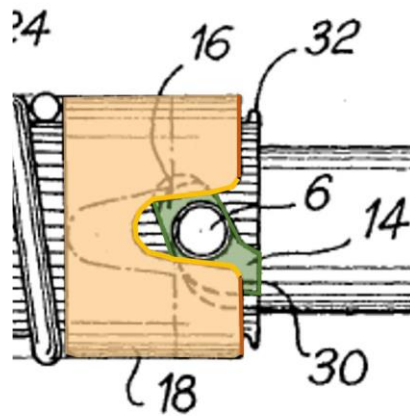
Patent Owner challenges this showing for claim 4 by first arguing that "defining the first slot" requires the surface to change the shape or size of slot 12." POR, 16. Like its argument with respect to dependent claim 2, Patent Owner's

argument here also depends entirely on an unsupported claim construction of the term “define.” And like its argument with respect to dependent claim 2, Patent Owner attempts to camouflage its arguments here as criticisms of Hoblingre’s disclosure to avoid alerting the Board to the claim construction issue it raises. Second, Patent Owner argues that the “surface” slot 28 identified in claim 4 does not meet the claim limitation because the “surface” in claim 4 is first recited in claim 3 and must “interact[] with the first protrusion when the first protrusion engages with the first slot.” POR, 18-19. In a footnote, Patent Owner asserts that, for this same reason, Petitioners’ challenge of dependent claims 3-6 fail. As explained below, both of Patent Owner’s arguments are wrong.

As to its first argument, Patent Owner’s proposed construction of “define” is not supported by the specification. Patent Owner does not and cannot cite to any part of the specification disclosing that “defin[ing]” a slot requires that a surface changes the shape or size of the slot as it asserts. At best, it is improperly inferring from a single figure (Fig. 1a) describing a specific embodiment that a surface of the actuator 50—which is described as “engag[ing]” the protrusion while the protrusion is within the slot—may effectively form a surface of the slot. *Teleflex*, 299 F.3d at 1324 (warning against importing limitations from the specification into the claim); *Superguide*, 358 F.3d at 875. Patent Owner cites portions of Mr. Delman’s declaration, but those portions are irrelevant as extrinsic evidence offered where the

intrinsic evidence resolves any ambiguity, unsupported by the portions of the specification it cites, and conclusory. *Phillips*, 415 F.3d at 1313-17; *Vitronics*, 90 F.3d at 1576.

Furthermore, Patent Owner concedes that Hoblingre's "slot 28 in ring 18 ... guides driving pin 6." POR, 15-16.



Pet., 28 (citing Ex1004, Fig. 2 (annotated)). As Petitioners explained, because Hoblingre's "pin 6 is trapped between edges of the slots 12 and 28," the "edge of one of the slots 28 **effectively forms the upper and lower walls of the first slot**" and therefore "at least partially defines the first slot," consistent with the '660 patent's disclosure. Pet., 27 (citing Ex. 1004, 3:5-8). Indeed, Hoblingre's disclosure renders claim 4 obvious even under Patent Owner's new construction of "define" because the "edge of one of the slots 28 **effectively forms the upper and lower walls of the first slot**," thereby changing the shape or size of slot 12. Patent Owner does not

argue that Hoblingre does not disclose the “define” limitation under the meaning that Petitioners used in the Petition.

As to Patent Owner’s second argument, its claim that Petitioners identified the “incorrect” surface is based on a misreading of the Petition. POR, 18-19. Petitioners explained that the identified “surface” recited in claim 3 (and upon which claims 4-6 depend for antecedent basis) is “the continuous upper surface of ring 18,” which “ha[s] at least two distinct sections (end edge 30 and the edges of slots 28).” Pet., 26. Thus, for claim 4, the Petition identified that the surface from claim 3 (specifically the edge of slot 28) then meets the requirements of claim 4.

Patent Owner argues that claim 3 (and thus claims 4-6, which depend on claim 3) “has a temporal component such that it is describing the surface of the actuator that interacts with the first protrusion as it is initially moved into the first slot” and that Hoblingre’s driving pin 6 “interacts with edge 30” as it “is first moved into contact with slot 12.” POR, 18-19. As discussed above, Patent Owner misreads the Petition, which identified “the continuous upper surface of ring 18,” including “edge 30” as the recited “surface.” Pet., 26.

Thus, Patent Owner’s Response to claim 4 (and claims 3, 5, and 6) fails.

**III. GROUND 2: THE HOBLINGRE/MACLAINE COMBINATION
RENDERS OBVIOUS CHALLENGED CLAIMS 1-9, 15, 18, 23, 24,
AND 30-32**

The Petition clearly established that Ground 2 renders all challenged claims unpatentable as obvious and in response, Patent Owner reasserts the same arguments for claims 2-6. Patent Owner's arguments that rely on its reasoning set forth with respect to Ground 1 fail for the same reasons. See Section II. In addition, Patent Owner challenges the motivation to combine Hoblingre and Maclaine, but that challenge also fails.

A. A POSITA would have been motivated to combine Hoblingre and Maclaine

Petitioners provided a detailed explanation for why a POSITA would have combined Hoblingre and Maclaine in the manner proposed with supporting evidence from an expert, Dr. Nosenchuck. Patent Owner's Response lobes a number of criticisms, but none has any merit.

Patent Owner claims that while Petitioners argued that "a POSITA would have found it obvious that Hoblingre's appliance could be a handheld appliance" in Ground 1, the "alleged motivations to combine" in Ground 2 "all relate to using Maclaine as the appliance with Hoblingre's attachment mechanism," which is "inconsistent with Petitioners' allegations" in Ground 1. POR, 20. Patent Owner contends that the Petition "improperly focus[ed] on incorporating Hoblingre's attachment mechanism into Maclaine when that is inconsistent with the proposed combination." POR, 21. Patent Owner also faults "[e]ach of Petitioners' alleged rationales" as "merely conclusory statements." POR, 20-21.

These criticisms ignore the detailed analysis of why a POSITA would have been motivated to combine the teachings of Hoblingre and Maclaine, how a POSITA would have combined the teachings of Hoblingre and Maclaine, and whether a POSITA would have had a reasonable expectation of success, set forth in the Petition and Dr. Nosenchuck's declaration. See Pet., 35-43; Ex1003, ¶¶51-53, 123-38. Patent Owner fails to cite any case that forbids the teachings of a primary reference from being incorporated into a general system as taught by a secondary reference. Indeed, the Federal Circuit has held that "where the relevant factual inquiries underlying an obviousness determination are otherwise clear, characterizing references as primary and secondary is merely a matter of presentation with no legal significance." *Schwendimann v. Neenah, Inc.*, 82 F.4th 1371, 1384 (Fed. Cir. 2023) (collecting cases) (cleaned up). Here, where Petitioners and their expert, Dr. Nosenchuck, have thoroughly discussed how and why a POSITA would have been motivated to combine the teachings of Hoblingre and Maclaine, the order of the references has no legal significance.

Patent Owner's accusation that Petitioners "lack" consideration of factors such as how "substituting [Hoblingre's] attachment mechanism with a myriad of hair catching elements for the collar enclosed attachment mechanism of Maclaine" is a red herring. POR, 23-24. "A person of ordinary skill is also a person of ordinary creativity, not an automaton." *KSR Intern. Co. v. Teleflex Inc.*, 550 U.S. 398, 421

(2007). Obviousness does not require “the features of a secondary reference [to] be bodily incorporated into the structure of the primary reference.” *Allied Erecting & Dismantling Co. v. Genesis Attachments, LLC*, 825 F.3d 1373, 1381 (Fed. Cir. 2016) (cleaned up). The question here is not how or why a POSITA would have combined Hoblingre’s attachment mechanism, exactly as depicted in its figures, with Maclaine’s hair care appliance, exactly as depicted in its figures: The relevant question is instead whether “a skilled artisan would have been motivated to combine the teachings of the prior art references to achieve the claimed invention[.]” *Id.* (collecting cases); *see also In re Etter*, 756 F.2d 852, 859 (Fed. Cir. 1985) (en banc) (explaining that whether one reference can be incorporated in another is “basically irrelevant” since the test for obviousness is “not whether the references could be physically combined but whether the claimed inventions are rendered obvious by the teachings of the prior art as a whole.”). Petitioners and Dr. Nosenchuck have answered this question in the affirmative and with significant detail. *See* Pet., 35-43, Ex1003, ¶¶51-53, 123-38.

Finally, Patent Owner complains that Petitioners have not shown how explicitly described advantages provided by Hoblingre’s improved bayonet fastener would motivate a POSITA to combine Hoblingre and Maclaine. POR, 25-27. Again, Petitioners and Dr. Nosenchuck have discussed the how, why, and advantages of such a combination at length. *See* Pet., 35-43, Ex1003, ¶¶51-53, 123-

38. Besides, the Federal Circuit's precedent does not require a proposed combination to be "the best option, only that it be a suitable option from which the prior art did not teach away." *PAR Pharm., Inc. v. TWI Pharms., Inc.*, 773 F.3d 1186, 1197-98 (Fed. Cir. 2014). This motivation analysis is not limited by the problem or need recognized by the inventors, *id.*, and motivation need not be expressly stated in the references at all, *Alza Corp. v. Mylan Labs., Inc.*, 464 F.3d 1286, 1291 (Fed. Cir. 2006), let alone originate from the reference to be modified. *See Allergan, Inc. v. Sandoz Inc.*, 726 F.3d 1286, 1292 (Fed. Cir. 2013) (motivation "may be found in many different places and forms."); *see also Adapt Pharma Operations Ltd. v. Teva Pharms. USA, Inc.*, 25 F.4th 1354, 1365 (Fed. Cir. 2022) (cleaned up) (A motivation "may be found explicitly or implicitly in market forces; design incentives; the interrelated teachings of multiple patents; any need or problem known in the field of endeavor at the time of invention and addressed by the patent; and the background knowledge, creativity, and common sense of the person of ordinary skill.").

Thus, Petitioners and Dr. Nosenchuck met their burden of showing that a POSITA would have been motivated to combine Hoblingre and Maclaine, would have had a reasonable expectation of success, and such a combination would have been obvious to implement.

B. The Hoblingre/Maclaine combination renders obvious claim 18

Petitioners established that Maclaine offers the recited “collar” from claim 18 and therefore, the proposed Hoblingre/Maclaine combination renders that claim obvious. Patent Owner faults the proposed combination for looking to Hoblingre’s disclosure for “the connection between body and attachment,” while allegedly “fail[ing] to provide any rationale for why it would have been obvious to modify the connection of Hoblingre to include the collar of Maclaine.” POR, 28. But the Petition did not propose a bodily incorporation of Hoblingre into Maclaine, instead proposing a teaching from Hoblingre’s attachment mechanism to be applied to Maclaine. Since Maclaine already provided a collar, Hoblingre’s teachings would be applied to Maclaine’s structure with the collar. Pet., 40-48. Patent Owner’s numerous arguments regarding potential problems that may arise from bodily incorporating Maclaine’s collar into Hoblingre’s mechanism, are irrelevant because the Petition is not proposing a bodily incorporation. *Allied*, 825 F.3d at 1381.

Further, obviousness is an “expansive and flexible approach” that “need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR*, 550 U.S. at 415, 418; *see also Janssen Pharms, Inc. v. Teva Pharms. USA, Inc.*, 97 F.4th 915 (Fed. Cir. 2024)

(warning against such a “siloe and inflexible approach” that could “inflat[e] the significance of minor variations between the prior art and the claims.”).

C. The Hoblingre/Maclaine combination renders obvious claims 30 and 31

Similarly, claims 30 and 31 recite that the appliance is a hair care/hot styling appliance, which Maclaine indisputably is. The Petition demonstrated a combination that applies the attachment teachings of Hoblingre to Maclaine’s hair care/hot styling tool—not a bodily incorporation of one into the other. Patent Owner’s arguments that “Petitioners provide no rationale for how Hoblingre could be used as a hair care appliance or hot styling appliance or why it would have been obvious to modify Hoblingre such that it could be used as a hair care appliance or hot styling appliance” (POR, 33) thus miss the mark because they relate to bodily incorporation issues. *Allied*, 825 F.3d at 1381. Moreover, Petitioners explained the allegedly missing details for the combination in the Petition (supported by Dr. Nosenchuck’s declaration). See Pet., 35-43, 48-49, Ex1003, ¶¶51-53, 60-86, 123-138. Patent Owner ignores the “expansive and flexible approach” required when assessing obviousness that “need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR*, 550 U.S. at 415, 418.

IV. GROUND 3: HOBLINGRE IN VIEW OF MACLAINE AND

JEANNET RENDERS OBVIOUS ALL CHALLENGED CLAIMS

Patent Owner's arguments that rely on its reasoning set forth with respect to Grounds 1 and 2 fail for the same reasons. Patent Owner once again asserts that the Petition makes "merely conclusory statements with no explanation for why Jeannet's unlocking button would make unlocking the bayonet coupling of Hoblingre simpler or easier to use." POR, 35-36. Both the Petition and Dr. Nosenchuck's declaration provide detailed analysis of why a POSITA would have been motivated to combine the disclosures of the Hoblingre/Maclaine combination and Jeannet, how a POSITA would have combined the disclosures of Hoblingre, Maclaine, and Jeannet, and whether a POSITA would have had a reasonable expectation of success. Pet., 49-53; Ex1003 ¶¶54-56, 124-127, 141-142. And Patent Owner's arguments focused on how Jeannet's unlocking button would physically be incorporated into the Hoblingre/Maclaine system are misplaced—obviousness does not require "the features of a secondary reference [to] be bodily incorporated into the structure of the primary reference." *Allied*, 825 F.3d at 1381; *KSR*, 550 U.S. at 421; *In re Etter*, 756 F.2d at 859. Its arguments concerning whether Jeannet's button would improve Hoblingre/Maclaine and whether a POSITA would have added a button to Hoblingre for ease of use when Hoblingre refers to its connection as "very easily dismantled" are unsupported as well. *PAR Pharm.*, 773 F.3d at 1197-98; *Alza*, 464 F.3d at 1291; *Allergan*, 726 F.3d at 1292; *Adapt*, 25 F.4th at 1365.

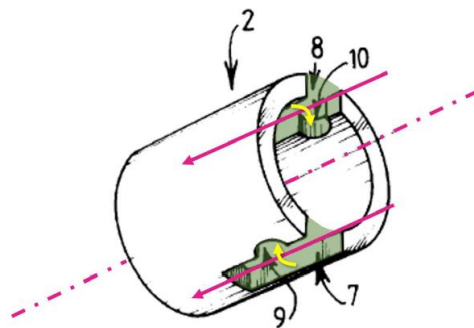
Thus, Petitioners and Dr. Nosenchuck met their burden of showing that a POSITA would have been motivated to combine Hoblingre, Maclaine, and Jeannet, would have had a reasonable expectation of success, and such a combination would have been obvious to implement.

V. GROUND 4: MOUHOT ANTICIPATES CHALLENGED CLAIMS 1-9, 15, 23, 24, AND 32

Patent Owner's Response for Ground 4 relies *entirely* on two claim constructions that it raises for the first time. POR, 37-44. As discussed below, both of those constructions are incorrect.

A. Mouhot discloses the claimed “the first slot extends . . . radially around . . . the body” present in all Challenged Claims

Patent Owner does not dispute that Mouhot includes a slot 7 that extends axially along socket 2 or that stop means 9 extends radially around socket 2. Patent Owner does not dispute that “stop means 9 is part of slot 7.” POR, 39-40. Instead, Patent Owner disputes only that slot 7, which has (a) an axially extending portion and (b) a radially extending portion, extends “both radially around and axially along.” *Id.*

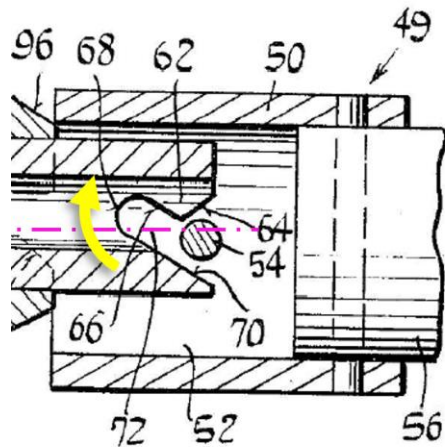


Ex1003, ¶183.

According to Patent Owner, even though stop means 9 extends radially around socket 2, it “does not change the direction of slot 7,” and that “slot 7 itself continues to extend axially along socket 2.” POR, 39. Patent Owner next alleges that the “specification and drawings of the '660 Patent and the prosecution history support the position that a slot proceeding in a single direct [sic] (axial or radial) that has a notch or protuberance that can change the direction of the protuberance passing through the slot, such as that disclosed in Mouhot, does not disclose the claimed” slot. POR, 40. Patent Owner identifies nothing in the specification, drawings, or prosecution history that supports such a position—indeed, Patent Owner cites to no figures or disclosure in the '660 patent. *Id.*, 38-42. And there is nothing in the cited portions of the prosecution history that states that “‘the first slot extends both radially around and axially along the body’ was added during prosecution of the '660 Patent in order to overcome U.S. Patent No. 3,280,439 (“McCarthy”),” as Patent Owner asserts. *Id.*, 40 (citing Ex1002 66, 81-92). Instead, the record merely reflects that claim 8, which included the “both radially around and axially along” limitation contained allowable subject matter, Ex1002, 106, and that “Applicant has amended claim 1 to incorporate the features of dependent claim 8” to “expedite prosecution,” *id.*, 90. These vague statements do not indicate that the Examiner “found that a

disclosure similar to Mouhot did not meet the limitation requiring ‘the first slot...extends both radially around and axially along the body.’” POR, 41.

Furthermore, Patent Owner’s claim that “McCarthy discloses a slot 72 that extends radially around the body,” and “in a similar manner, slot 7 of Mouhot extends only axially along the body and not radially around the body” makes no sense. First, as shown below in the annotated figure, McCarthy’s slot 72 extends both radially around and axially along its body.



Ex2009, Fig. 5 (excerpted, annotated). Second, “radially around” and “axially along” are not similar. And third, Mouhot’s slot 7 also extends both radially around and axially along its body.

B. Mouhot discloses the claimed “actuator” present in all Challenged Claims

Patent Owner asserts yet another previously undisclosed claim construction—here, it proclaims that “a POSITA would have interpreted the meaning of ‘actuator’

as allowing a user to apply force in order to both retain an attachment as well as remove an attachment.” POR, 42. It relies on a description of the function of the actuator to redefine the actuator itself. Patent Owner commits the cardinal sin of inferring that the specification’s description of an embodiment of the actuator means that the claims restrict the actuator to one that performs the exact function described in that embodiment. *Teleflex*, 299 F.3d at 1324. Neither the claims nor the specification or figures require that the actuator must “allow[] a user to apply force in order to both retain an attachment as well as remove an attachment” as Patent Owner asserts. Ex1001, 5:4-14.

The remainder of Patent Owner’s arguments criticize Mouhot for lacking a **number** of other features that Patent Owner apparently also believes is required by the claim language. POR, 43 (“there is no description of [Mouhot’s] locking means 4 transmitting force to another feature,” “rather than describe a release mechanism, locking means 4 merely blocks movement,” “Mouhot contains “no disclosure or suggestion” that “a user applies any force to ring 11 in order to disassemble shank 3 from socket 2 and locking means 4.”). Patent Owner identifies no support for importing these requirements into the claim term “actuator.” The Response cites to Mr. Delman’s declaration, but the declaration merely repeats the same conclusory statements made in the Response, and extrinsic evidence such as expert testimony is irrelevant here, where the meaning of “actuator” is unambiguous as used in the ’660

patent and conflicts with Mr. Delman's overly narrow construction. *Vitronics*, 90 F.3d at 1576.

**VI. GROUND 5: THE MOUHOT/MACLAINE COMBINATION
RENDERS OBVIOUS CHALLENGED CLAIMS 1-9, 15, 18, 23, 24, 30-32**

Patent Owner's arguments that rely on its reasoning set forth with respect to Ground 4 fail for the same reasons. *See* Section V.

A. A POSITA would have been motivated to combine Mouhot and Maclaine

Patent Owner's arguments that mirror its reasoning set forth with respect to Ground 2 fail for the same reasons. *See* Section III. Patent Owner claims that while Petitioners argued that "a POSITA would have found it obvious that Mouhot's appliance could be a handheld appliance" in Ground 4, the "alleged motivations to combine" in Ground 5 "all relate to using Maclaine as the appliance with Mouhot's attachment mechanism," which is "inconsistent with Petitioners' allegations" in Ground 1. POR, 44. It contends that Petition "improperly focus[ed] on incorporating Mouhot's attachment mechanism into Maclaine when that is inconsistent with the proposed combination." POR, 45-46. It also faults "[e]ach of Petitioners' alleged rationales" as "merely conclusory statements." POR, 46. These criticisms ignore the detailed analysis of why a POSITA would have been motivated to combine the disclosures of Mouhot and Maclaine, how a POSITA would have combined the disclosures of Mouhot and Maclaine, and whether a POSITA would

have had a reasonable expectation of success, set forth in the Petition and Dr. Nosenchuck's declaration. See Pet., 88-90, Ex1003, ¶¶51-53, 220-235. As discussed above with respect to Section III, Patent Owner does not cite to any cases that forbid the disclosure of a primary reference from being incorporated into a general system as taught by a secondary reference, and here, the order of the references has no legal significance because Petitioners and Dr. Nosenchuck have thoroughly discussed how and why a POSITA would have been motivated to combine the teachings of Mouhot and Maclaine. *Schwendimann*, 82 F.4th at 1384.

And Patent Owner's accusation that Petitioners "lack" consideration of factors such as how "substituting [Mouhot's] attachment mechanism with a myriad of hair catching elements for the collar enclosed attachment mechanism of Maclaine" is a red herring, because obviousness does not require bodily incorporation, and a POSITA would have been motivated to and been able to make modifications to and combine the disclosures of Mouhot and Maclaine to achieve the claimed invention. POR, 47-48. *KSR*, 550 U.S. at 421; *Allied*, 825 F.3d at 1381.

Finally, Patent Owner complains that Petitioners have not shown how explicitly described advantages provided by Mouhot's coupling mechanism would motivate a POSITA to combine Mouhot and Maclaine. POR, 49. Again, Petitioners and Dr. Nosenchuck discussed the how, why, and advantages of such a combination at length. See Pet., 88-90, Ex1003, ¶¶51-53, 220-235. Besides, the Federal Circuit's

precedent does not require a proposed combination to be “the best option, only that it be a suitable option from which the prior art did not teach away.” *PAR Pharm.*, 773 F.3d at 1197-98.

Thus, Petitioners and Dr. Nosenchuck met their burden of showing that a POSITA would have been motivated to combine Mouhot and Maclaine, would have had a reasonable expectation of success, and such a combination would have been obvious to implement.

B. The Mouhot/Maclaine combination renders obvious claim 18

Patent Owner's arguments that mirror its reasoning set forth with respect to Grounds 2 and 4 fail for the same reasons. POR, 51-57; *see* Sections III, V. Patent Owner faults the proposed combination for looking to Mouhot's disclosure for “the connection between body and attachment,” while allegedly “fail[ing] to provide any rationale for why it would have been obvious to modify the connection of Mouhot to include the collar of Maclaine.” POR, 51-52. But obviousness is assessed based on an “expansive and flexible approach” that “need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR*, 550 U.S. at 415, 418. And Patent Owner's numerous arguments regarding potential problems that may arise from bodily incorporating

Maclaine's collar into Mouhot's mechanism focus on an inquiry not relevant to this obviousness analysis. *Allied*, 825 F.3d at 1381.

C. The Mouhot/Maclaine combination renders obvious claims 30 and 31

Patent Owner's arguments that mirror its reasoning set forth with respect to Grounds 2 and 4 fail for the same reasons. POR, 56-57; see Sections III, V. Petitioners explained how "Mouhot could be used as a hair care appliance or hot styling appliance or why it would have been obvious to modify Mouhot such that it could be used as a hair care appliance or hot styling appliance" in the Petition (supported by Dr. Nosenchuck's declaration). See Pet., 93-94, Ex1003, ¶¶162-184, 233-234. Patent Owner improperly seeks to ignore the "expansive and flexible approach" the law provides. *KSR*, 550 U.S. at 415, 418; *Allied*, 825 F.3d at 1381.

VII. GROUND 6: THE MOUHOT/MACLAINE/JEANNET COMBINATION RENDERS OBVIOUS ALL CHALLENGED CLAIMS

Patent Owner's arguments that mirror its reasoning set forth with respect to Ground 3 fail for the same reasons. See Section IV. Patent Owner once again asserts that the Petition makes "merely conclusory statements with no explanation for why Jeannet's unlocking button would make unlocking the bayonet coupling of Mouhot simpler or easier to use." POR, 58-59. Both the Petition and Dr. Nosenchuck's declaration provide detailed analysis of why a POSITA would have been motivated to combine the disclosures of the Mouhot/Maclaine combination and Jeannet, how

a POSITA would have combined the disclosures of Mouhot, Maclaine, and Jeannet, and whether a POSITA would have had a reasonable expectation of success. Pet., 94-100; Ex1003 ¶¶236-257. And Patent Owner's arguments focused on how Jeannet's unlocking button would physically be incorporated into the Mouhot/Maclaine system are misplaced—obviousness does not require bodily incorporation. *Allied*, 825 F.3d at 1381; *KSR*, 550 U.S. at 421. Its arguments concerning whether Jeannet's button would improve Mouhot/Maclaine and whether a POSITA would have added a button to Mouhot for ease of use when Mouhot refers to its connection as “very easily dismantled” are unsupported as well. *PAR Pharm.*, 773 F.3d at 1197-98.

Thus, Petitioners and Dr. Nosenchuck met their burden of showing that a POSITA would have been motivated to combine Mouhot, Maclaine, and Jeannet, would have had a reasonable expectation of success, and such a combination would have been obvious to implement.

VIII. CONCLUSION

All Challenged Claims of the '660 patent are unpatentable and should be cancelled.

DATED: November 21, 2024

Respectfully Submitted,

/Brian M. Buroker/

Brian M. Buroker (Reg. No. 39,125)
GIBSON, DUNN & CRUTCHER LLP
1700 M Street, N.W.
Washington, DC 20036
Phone: (202) 955-8500
Fax: (202) 467-0539
Email: bburoker@gibsondunn.com

*Attorney for Petitioners SharkNinja
Inc., SharkNinja Operating LLC,
SharkNinja Management LLC, and
SharkNinja Sales Company*

CERTIFICATE OF SERVICE

The undersigned certifies service pursuant to 37 C.F.R. § 42.120 of a copy of this Reply to Patent Owner's Response upon Patent Owner by email on November 21, 2024, to the following email addresses of record:

christopher.bruejjes@faegredrinker.com

john.smith@faegredrinker.com

brianna.silverstein@faegredrinker.com

DATED: November 21, 2024

By: /Brian M. Buroker/

Brian M. Buroker (Reg. No. 39,125)
GIBSON, DUNN & CRUTCHER LLP
1700 M Street, N.W.
Washington, DC 20036
Phone: (202) 955-8500
Fax: (202) 467-0539
Email: bburoker@gibsondunn.com

Attorney for Petitioners

Certification of Type-Volume Limitations

The Reply complies with the type-volume limitation of 37 C.F.R. § 42.24.
The Reply contains 5,585 words, excluding the parts of the Reply exempted by 37 C.F.R. § 42.24(a).

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By: /Brian M. Buroker/

Brian M. Buroker (Reg. No. 39,125)
GIBSON, DUNN & CRUTCHER LLP
1700 M Street, N.W.
Washington, DC 20036
Phone: (202) 955-8500
Fax: (202) 467-0539
Email: bburoker@gibsondunn.com

Attorney for Petitioners