

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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PROVISUR TECHNOLOGIES, INC.,  
Petitioner,

v.

TEXTOR MASCHINENBAU GMBH,  
Patent Owner.

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Case IPR2024-00224  
Patent No. 9,457,487

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**PETITIONER'S OPPOSITION TO PATENT OWNER'S MOTION TO  
AMEND**

## TABLE OF CONTENTS

|       |                                                                                       |    |
|-------|---------------------------------------------------------------------------------------|----|
| I.    | INTRODUCTION .....                                                                    | 1  |
| II.   | SUMMARY OF THE GROUNDS (IN VIEW OF THE MTA).....                                      | 3  |
| III.  | NEW PRIOR ART REFERENCES AND STATE OF THE ART .....                                   | 3  |
| IV.   | GROUNDS 1-4 RENDER CLAIMS 25-34 UNPATENTABLE. ....                                    | 6  |
| V.    | GROUND 5: MCLAUGHLIN IN COMBINATION WITH<br>HERMAN RENDERS OBVIOUS CLAIMS 25-34. .... | 8  |
| A.    | Claim 25 .....                                                                        | 9  |
| B.    | Dependent Claims 26-33.....                                                           | 12 |
| C.    | Independent Claim 34 .....                                                            | 15 |
| VI.   | GROUND 6: KONISHI IN COMBINATION WITH MATHUES<br>RENDERS OBVIOUS CLAIMS 25-34.....    | 17 |
| A.    | Claim 25 .....                                                                        | 17 |
| B.    | Dependent Claim 26-33 .....                                                           | 21 |
| C.    | Independent Claim 34 .....                                                            | 23 |
| VII.  | TEXTOR’S SECONDARY CONSIDERATIONS FAIL.....                                           | 25 |
| VIII. | DISTRICT COURT UPDATE.....                                                            | 25 |
| IX.   | CONCLUSION.....                                                                       | 25 |

**TABLE OF AUTHORITIES**

**Page(s)**

**Cases**

|                                                                                                                       |    |
|-----------------------------------------------------------------------------------------------------------------------|----|
| <i>Nike, Inc. v. Adidas AG</i> ,<br>955 F.3d 45 (Fed. Cir. 2020) .....                                                | 25 |
| <i>Powers-Kennedy Contracting Corp. v. Concrete Mixing &amp; Conveying<br/>Co.</i> ,<br>282 U.S. 175, 185 (1930)..... | 22 |

**Statutes**

|                          |   |
|--------------------------|---|
| 35 U.S.C. § 102(a) ..... | 3 |
| 35 U.S.C. § 102(b) ..... | 3 |
| 35 U.S.C. § 102(e) ..... | 3 |
| 35 U.S.C. § 103(a) ..... | 3 |

**Other Authorities**

|                                |               |
|--------------------------------|---------------|
| 37 C.F.R. § 42.121(b) .....    | 3             |
| M.P.E.P. §2144.04(VI)(C) ..... | <i>passim</i> |

**PETITIONER EXHIBIT LIST**

| <b>EX</b> | <b>Description</b>                                                                                                                  |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------|
| 1001      | U.S. Patent No. 9,457,487 B2                                                                                                        |
| 1002      | File Wrapper for U.S. Patent No. 9,457,487 B2                                                                                       |
| 1003      | Expert Declaration of Dr. John M. Collins, Ph.D. in Support of Petition for <i>Inter Partes</i> Review of U.S. Patent No. 9,457,487 |
| 1004      | JPH 06 117905 (“Konishi”)                                                                                                           |
| 1005      | WO 03/065786 (“Lindee”)                                                                                                             |
| 1006      | U.S. Patent No. 9,296,120 B2 (“McLaughlin”)                                                                                         |
| 1007      | U.S. Patent Publication No. 2009/0188358 (“Hansen”)                                                                                 |
| 1008      | U.S. Patent No. 5,499,719 (“719Lindee”)                                                                                             |
| 1009      | U.S. Patent Publication No. 2006/0196328 (“Pryor”)                                                                                  |
| 1010      | U.S. Patent No. 4,570,729 (“Rosso”)                                                                                                 |
| 1011      | U.K. Patent Application No. GB 2 352 675 (“Doe”)                                                                                    |
| 1012      | U.S. Patent Publication No. 2010/0275789 (“Lee”)                                                                                    |
| 1013      | U.S. Patent Publication No. 2005/0279228 A1 (“Julian”)                                                                              |
| 1014      | U.S. Patent Publication No. 2007/0214969 (“Mueller”)                                                                                |
| 1015      | U.S. Patent No. 6,640,681 (“Weber”)                                                                                                 |
| 1016      | U.S. Patent No. 6,201,218 (“Chandler”)                                                                                              |
| 1017      | U.S. Patent No. 5,704,265 (“Johnson”)                                                                                               |
| 1018      | U.S. Patent No. 8,408,109 (“Lindee109”)                                                                                             |

| EX   | Description                                                                      |
|------|----------------------------------------------------------------------------------|
| 1019 | Provisur Patents Webpage                                                         |
| 1020 | <i>Provisur v. Weber III</i> , Sept. 5, 2-23 Hearing Tr., 5                      |
| 1021 | U.S. Patent No. 7,605,940 (“Silverbrooke”)                                       |
| 1022 | Canadian Patent CA2499480 (“Haan”)                                               |
| 1023 | WO 2011/056602A1 (“McLaughlin602”)                                               |
| 1024 | U.S. Patent No. 6,578,705 (“Lunghi”)                                             |
| 1025 | U.S. Patent No. 4,570,729 (“Del Rosso”)                                          |
| 1026 | EP0713753B1 (“Lindee753”)                                                        |
| 1027 | WO2003103906A1 (“Pryor906”)                                                      |
| 1028 | U.S. Patent No. 7,603,936 (“Pryor936”)                                           |
| 1029 | U.S. Patent No. 5,628,237 (“Lindee237”)                                          |
| 1030 | PoweMax3000 Slicer Operating Manual                                              |
| 1031 | PowerMax4000 Slicer Operating Manual                                             |
| 1032 | Dr. Collins CV                                                                   |
| 1033 | U.S. Patent No. 8,549,966 (“Hansen966”)                                          |
| 1034 | Automation in the Food Industry                                                  |
| 1035 | Declaration of Keaton A. Sheeler in Support of Motion for Pro Hac Vice Admission |
| 1036 | U.S. Patent No. 3,517,605 (“Hursch”)                                             |
| 1037 | U.S. Patent Application No. 20080016999A1 (“Mathues”)                            |

| <b>EX</b> | <b>Description</b>                                                              |
|-----------|---------------------------------------------------------------------------------|
| 1038      | U.S. Patent Application No. 20080289619A1 (“Schjerven”)                         |
| 1039      | U.S. Patent No. 3,162,226A (“Toby” )                                            |
| 1040      | Reply Declaration of John M. Collins, Ph.D. regarding U.S. Patent No. 9,457,487 |
| 1041      | U.S. Patent No. 6,755,149 (“Herman”)                                            |
| 1042      | U.S. Patent No. 3,601,901 (“Rader”)                                             |
| 1043      | EP1729875B1 (“Gerber”)                                                          |
| 1044      | EP2401564B1 (“Candeo”)                                                          |
| 1045      | Deposition Transcript of Dr. Reinholtz (08/23/2024)                             |
| 1046      | U.S. Patent No. 4,195,867 (“Baillie”)                                           |
| 1047      | 2024.09.13 IPR Deposition Tr. of Dr. Kindler (EX2008’s declarant)               |
| 1048      | U.S. Patent No. 9,400,456 (“Iwakoshi”)                                          |
| 1049      | U.S. Patent No. 9,702,168 (“Jadallah”)                                          |
| 1050      | Counsel Emails regarding Depositions                                            |
| 1051      | U.S. Patent No. 9,963,919 (“Sugiura”)                                           |
| 1052      | U.S. Patent No. 7,621,109 (“Momich”)                                            |
| 1053      | 2024.09.18 IPR Deposition Tr. of Dr. Meyer (EX2007’s declarant)                 |
| 1054      | 2024.09.18 IPR Deposition Tr. of Jarrod McCarroll                               |
| 1055      | 2024.03.05 District Court Deposition Tr. of Jarrod McCarroll                    |
| 1056      | 2024.09.19 IPR Deposition Tr. of Steffen Boss                                   |
| 1057      | 2024.02.09 District Court Deposition Tr. of Kevin Duesterhaus                   |

| <b>EX</b> | <b>Description</b>                                                                         |
|-----------|--------------------------------------------------------------------------------------------|
| 1058      | 2022.01.04 District Court Deposition Tr. of Kevin Duesterhaus                              |
| 1059      | Dr. Kindler notes (WEBER3A-00207143)                                                       |
| 1060      | 2024.02.27 District Court Deposition Tr. of Joerg Schmeiser                                |
| 1061      | 2024.09.26 IPR Deposition Rough Tr. of Mr. Leathers (EX2011's declarant)                   |
| 1062      | Weber Patent Marking Webpage (WEBER3-1446499)                                              |
| 1063      | 2024.01.26 District Court Deposition Tr. of Josef Mayer                                    |
| 1064      | Case No. 5:21-cv-06113-SRB District Court Doc. #485 (Defs' Opp to Mtn to Exclude Leathers) |
| 1065      | 2024.06.11 District Court Deposition Tr. of Mr. Leathers (EX2011's declarant)              |
| 1066      | Case No. 5:21-cv-06113-SRB District Court Doc. #466 (Notice of Jury Trial Date)            |
| 1067      | Engineering Toolbox Webpage                                                                |
| 1068      | 2024.09.26 Leathers Deposition Exhibit 1                                                   |
| 1069      | 2024.09.26 Leathers Deposition Exhibit 2                                                   |
| 1070      | 2024.09.26 Leathers Deposition Exhibit 3                                                   |
| 1071      | 2024.09.26 Leathers Deposition Exhibit 4                                                   |

## **I. INTRODUCTION**

Textor's Motion to Amend ("Mot." or "MTA") should be denied because original claim 22 and proposed claims 25-34 are anticipated or rendered obvious by the prior art. Original Ground 1 anticipates proposed claims 25, 29, 30, and 33; original Grounds 2-4 render obvious proposed claims 25-34; new Grounds 5-6 render obvious proposed claims 25-34.

As the Board found in the Institution Decision, Provisur's Petition presented "compelling, if not conclusive, evidence" of unpatentability of at least independent claims 1 and 22 of the '487 removable conveyor patent. (Paper 8, 2, 11.) The MTA alleges patentability based on only one rudimentary claim feature added to each original challenged claim: a conveyor belt unit that could be removed "without tools."

Textor's amendment does not overcome the overwhelming evidence of unpatentability, including that "a POSA would have been aware of other prior art that discuss toolless conveyor removal," such as Lee stating "[n]o tools are required to remove conveyor assemblies." (Pet., 42.) Further, "[t]he types of components and principles required to accomplish [toolless removal] (detent fits, snap fits, latches, drive belts, conveyor belts, etc.) would have been the type of components a person would learn about at the undergraduate level," as shown with the Petition.

(EX1003, ¶232.) Textor’s own expert conceded under cross examination that these kinds of toolless removal options were well-known and conventional. (*See, e.g.*, EX1045, 139-145.)

This opposition includes new prior art and new grounds that further show how conventional it was to remove a conveyor unit without tools. For example, Mathues teaches hooks that hold a removable conveyor “in its installed position, thereby preventing unintentional removal.” (EX1037, ¶49.) Schjerven teaches a removable conveyor frame that uses “securing pins” to engage conveyor frames. (EX1038, ¶¶76, 78.) Schjerven’s conveyor is “easily removable to facilitate cleaning” of the conveyor. (*Id.*, ¶78.) Herman teaches that its “latch 90 includes a handle 100 that permits...removal of the conveyor as a unit from the machine.” (EX1041, 7:35-41.) In addition, Chandler, submitted with the Petition, discloses a “quick connect/disconnect feature that allows quick removal of one of the [conveyor] assemblies for cleaning, maintenance and/or belt replacement.” (EX1016, Abstract, 2:43-46.) Lee, also submitted with the petition, teaches that its removable conveyor can be held in place “solely by the weight of the conveyor assemblies” or by “barrel bolt latches.” (EX1012, ¶47.) The proposed claims do not distinguish over the long record of on point prior art.

## II. SUMMARY OF THE GROUNDS (IN VIEW OF THE MTA)

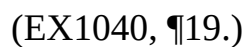
| Ground | Claims Challenged                                    | 35 U.S.C. § | Reference(s)        |
|--------|------------------------------------------------------|-------------|---------------------|
| 1      | Original: 1, 6, 9, 15-16<br>Proposed: 25, 29, 30, 33 | 102         | Konishi             |
| 2      | Original: 1-4, 6, 9-10, 14-16, 22<br>Proposed: 25-34 | 103(a)      | Konishi, Lindee     |
| 3      | Original: 1-4, 6, 9-10, 14-16, 22<br>Proposed: 25-34 | 103(a)      | McLaughlin          |
| 4      | Original: 1-4, 6, 9-10, 14-16, 22<br>Proposed: 25-34 | 103(a)      | McLaughlin, Konishi |
| 5      | Proposed 25-34                                       | 103(a)      | McLaughlin, Herman  |
| 6      | Proposed 25-34                                       | 103(a)      | Konishi, Mathues    |

McLaughlin is prior art under at least pre-AIA § 102(e) and post-AIA § 102(a) because McLaughlin is a U.S. Patent that claimed the benefit of an international application filed on October 26, 2010 (after November 29, 2000), designating the U.S. and published under PCT Article 21(2) in English. Konishi, Mathues, and Herman are prior art under at least pre-AIA § 102(b) and post-AIA § 102(a) because they published more than one year before the '487 patent's earliest possible priority date (previously December 3, 2012; June 26, 2014, for the proposed claims due to Textor's MTA). *See* 37 C.F.R. § 42.121(b); TPG, 69.

## III. NEW PRIOR ART REFERENCES AND STATE OF THE ART

As described in the introduction, the prior art includes multiple references that show conveyors that are removed without tools. Such conveyors are locked into place and removable in various ways, such as using pins, latches, knobs, or hooks.

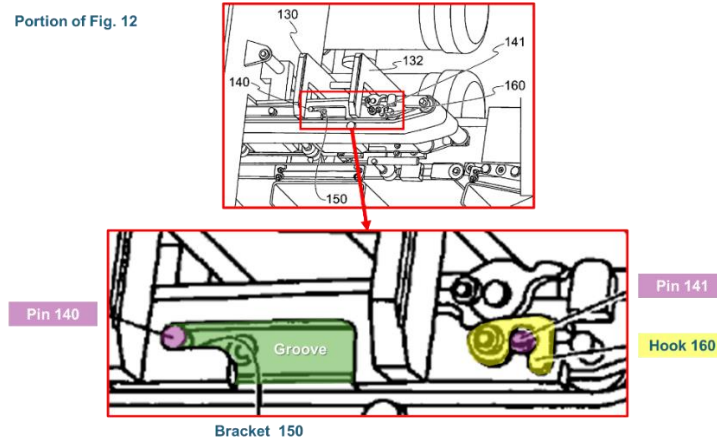
For instance, Herman (EX1041) teaches a conventional latched removable conveyor belt unit. (EX1041, Abstract.) Figures 1 and 6 show conveyors (32 and 58) that are mounted to allow them to slide into place. (*Id.*, Figs. 1, 6.) The conveyors are supported by rods (30). (*Id.*, 2:39-41.) The conveyors have latches (90) that rotate down into slots (98) on the rod to hold the conveyor in place. (*Id.*, 7:31-38.) The latch has a handle (100) that allows the latch to be used without tools. (*Id.*)



4

“significant non-productive time” spent by workers on “require[d] daily cleanings.” (*Id.*, 1:25-27, 3:61-64, 8:25-27.)

Mathues (EX1037) teaches another conventional removable conveyor belt unit held in place by pins to facilitate easy cleaning. (EX1037, ¶¶14, 68.) Figure 12 shows pin (160 and 161) and groove arrangement. (*Id.*, Fig. 12.) Hooks (160 and 162) hold the conveyor in place and prevent unintentional removal. (*Id.*, ¶49.) The hooks do not require tools to operate. (*Id.*)



(EX1040, ¶16.)

The Petition provided a further summary of the state of the art. (Pet., 2-5, 11-15.) As the Petition showed, many forms of removable conveyors were known by 2012. (EX1004, Summary; EX1005, 10; EX1006, 3:34-65; EX1037, Abstract; EX1038, Abstract; EX1041, Abstract; EX1042, Abstract.) Before 2012, some removable conveyors were locked into machines using toolless devices such as latches (EX1041, 7:35-41; EX1012), quick disconnects (EX1016, Abstract), hooks

(EX1037, ¶0046), and pins (EX1038, ¶0076). By 2014, a POSA would have been aware of more toolless locking mechanisms, such as spring latches. (EX1049, Abstract; EX1051, Abstract.) These common mechanical connections would have been obvious.

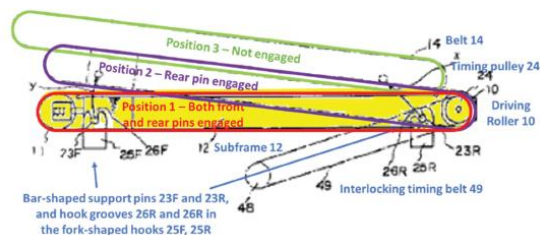
#### IV. GROUNDS 1-4 RENDER CLAIMS 25-34 UNPATENTABLE.

The Petition's Grounds 1-4 show unpatentability of the proposed claims. The additional requirement that the proposed claims all require toolless removal does not distinguish the claims. In response to the motion to amend, Dr. Collins reviewed the original grounds and determined that the original grounds show unpatentability. (See, e.g., EX1040, ¶46.) Below, Petitioner provides cites to the Petition, opening expert declaration, and reply declaration that show that the proposed claims are unpatentable.

**Original Ground 1** shows Konishi discloses all of the elements of and anticipates proposed claims 25, 29, 30, and 33. (Pet., 19-29 (citing EX1003, ¶¶72-116); EX1040, ¶¶44-48; see also EX1040, ¶¶49-57.) Below is a high level summary chart comparing the claim elements to Konishi.

| Claim Element                        | Konishi Exemplary Disclosures                                        |
|--------------------------------------|----------------------------------------------------------------------|
| removable conveyor belt unit         | conveyor belt 14, subframe 12, and rollers 10-11, timing pulley 24   |
| base                                 | subframe 12                                                          |
| substructure                         | frame 9                                                              |
| mount                                | hooks 25R, 25F                                                       |
| drive                                | drive motor 32                                                       |
| drive belt                           | timing belt 49, timing pulley 48, conveyor belt 14, timing pulley 24 |
| relaxing/tautening/relative movement | [0033]–[0041]; Figs. 8-9                                             |

Figure 8

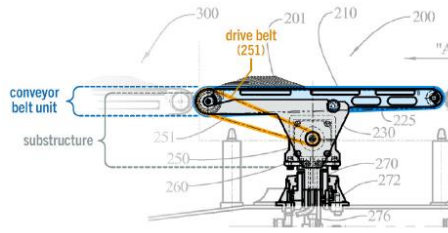


(EX1003 ¶¶71, 89.)

In connection with this opposition, Dr. Collins opined that the addition of toolless removal does not change his opinion that Konishi anticipates the subject matter as a whole of claims 25, 29, 30, and 33. (EX1040, ¶¶44-57.)

**Original Ground 2** shows the straightforward combination of Konishi and Lindee renders obvious proposed claims 25-34. (Pet., 29-49; (citing EX1003, ¶¶118-183); EX1040, ¶¶49-67; *see also* EX1040, ¶¶68-95.) Claims 25, 29, 30, and 33 are obvious for the reasons discussed regarding Ground 1. A POSA would have been further motivated to combine Konishi and Lindee with a reasonable likelihood of success, such as to improve maintenance, cleanliness, and efficiency. (Pet., 30-32.) In connection with this opposition, Dr. Collins opined that the addition of toolless removal does not change his opinion that the combination of Konishi and Lindee in light of the knowledge of a POSA renders obvious the subject matter as a whole of claims 25-34. (EX1040, ¶¶49-95.)

**Original Ground 3** shows McLaughlin renders obvious proposed claims 25-34. (Pet., 50-75 (citing EX1003, ¶¶184-246); EX1040, ¶¶96-104; *see also* EX1040, ¶¶105-128.) Below is a high level summary chart comparing the claim elements to McLaughlin.



| Claim                                | McLaughlin Exemplary Disclosures                               |
|--------------------------------------|----------------------------------------------------------------|
| removable conveyor belt unit         | conveying surface 210 and support frame 225 of check scale 200 |
| base                                 | support frame 225                                              |
| substructure                         | sidewalls 230, horizontal plate 260, and motor 250             |
| mount                                | first and second attachment points                             |
| drive                                | motor 250                                                      |
| drive belt                           | belt 251                                                       |
| relaxing/tautening/relative movement | FIG2                                                           |

(EX1040, ¶96.)

A POSA would have found it obvious to modify McLaughlin to meet any of the proposed claims' requirements. (Pet., 59-60, 74-75.) In connection with this opposition, Dr. Collins opined that the addition of toolless removal does not change his opinion that McLaughlin in light of the knowledge of a POSA renders obvious the subject matter as a whole of claims 25-34. (EX1040, ¶¶96-128.)

**Original Ground 4** shows McLaughlin renders obvious proposed claims 25-34. (Pet., 75-79 (citing EX1003, ¶¶249-268); EX1040, ¶¶129-135.) A POSA would have been motivated to combine Konishi and McLaughlin based on Konishi's teachings to improve maintenance, cleanliness, and efficiency. (Pet., 75-77.)

## V. **GROUND 5: MCLAUGHLIN IN COMBINATION WITH HERMAN RENDERS OBVIOUS CLAIMS 25-34.**

McLaughlin renders obvious claims 25-34 in combination with Herman and in light of a POSA's knowledge of the prior art. Herman adds yet another example of the well-known toolless latch in the art used to secure a removable conveyor.

**A. Claim 25**

McLaughlin renders obvious the elements of claim 25 that appeared in cancelled claim 1, as explained in above Section IV. (*See also* Pet., 50-60.) McLaughlin also renders obvious claim 25 as a whole, as explained in the Reply. In addition, McLaughlin in combination with Herman in light of a POSA's knowledge renders obvious claim 25, including the toolless limitation. (EX1040, ¶¶137-141.)

Herman discloses a removable conveyor belt unit used in the food processing industry. (EX1041, Abstract; EX1040, ¶¶142-44.) Herman teaches that "retention of the conveyor units 32 and 58 on the support rods 30 is facilitated by the use of a latch 90 shown in FIGS. 5-7[.]" (EX1041, 7:17-20.) Herman's latch includes a handle that "permit[s] manual disengagement of the latch from the groove," thus disclosing a toolless removal. (EX1041, 3:38-41; EX1040, ¶144.)

It would have been obvious to a POSA at the time of the '487 patent to implement the concept of Herman's toolless latch on McLaughlin's removable conveyor belt unit to provide the benefit of locking McLaughlin's conveyor in place. (EX1040, ¶¶145-47.) It was well known in the art that a removable conveyor belt unit, such as McLaughlin's, could be knocked out of place during use. (EX1040, ¶148.) For example, Lee attempts to address this problem by using a "common barrel-bolt latch[]...prevent[s] the conveyor assemblies from being accidentally

lifted out of position.” (EX1012, ¶0047.) Mathues also teaches that its toolless system “prevent[s] unintentional removal” of the conveyor. (EX1037, ¶0049.) This knowledge would have motivated a POSA at the time of the ’487 patent to install a toolless mount on McLaughlin’s removable conveyor to more effectively secure it in place. (*Id.*; EX1040, ¶¶146, 148.)

It was also well-known that forces exerted on the conveyor belt units during normal operation could result in removable conveyor belt units becoming dislodged. (EX1012, ¶47; EX1037, ¶49; EX1040, ¶149.) For example, Lee teaches that “barrel bolt latches...reduce the likelihood that a conveyor assembly...might lift itself up and off the mounting pins...due to the reactive force” the conveyor sees during operation. (EX1012, ¶47.) Thus, a POSA would have been further motivated to add a toolless mount to secure McLaughlin’s removable conveyor. (EX1040, ¶149.)

There are many reasons why a POSA would have been motivated to use a removable conveyor belt unit in a food slicing machine. As an example, a POSA would have recognized the benefits that removable conveyors provide that simplify the assembly/disassembly process. (EX1040, ¶150.) As another example, a POSA would have recognized that removable conveyors allow for easier maintenance. (*Id.*, ¶¶151, 153.) The benefit of easier cleaning is another motivation that is particularly important in the food processing space where safety is paramount. (*Id.*, ¶152.)

A POSA would have had a reasonable expectation of success in combining McLaughlin and Herman as claimed. (EX1040, ¶153.) Removable conveyors were common, well-known arrangements for improving cleanliness and maintenance that engineers used in many industries, including food processing and slicing. (*Id.*) The record contains multiple examples of removable conveyors. (EX1003, ¶39; *see also* EX1004, Summary; EX1012, Abstract; EX1007, Abstract; EX1016, Abstract, Abstract; EX1048, 5:62-64 (“[T]he belt conveyor unit is removable from the image forming apparatus.”).) A POSA would have known how to apply conveyor technology in a food slicing machine, such as McLaughlin, using routine mechanical components and techniques such as off the shelf shafts, gears, pulleys, and belts. (EX1040, ¶153.)

A POSA would have also been aware of many common toolless mounts that could be used to lock the removable conveyor in place. (EX1040, ¶¶13-20; EX1045, 139:3-21, 143:20-44:16, 147:14-149:1, 150:18-151:21, 183:22-184:21, 194:21-195:20.) Implementing the idea of Herman’s latch with McLaughlin’s removable conveyor belt unit would be nothing more than the use of well-known components in a familiar manner that yields predictable results. (EX1040, ¶¶154-56, 158-59.) Dr. Collins provides many examples regarding how the teachings of EX1037, EX1038, EX1039, EX1041, EX1048, EX1049, and EX1051 would have been

implemented by a POSA in/on McLaughlin's removable conveyor. (EX1040, ¶¶26-33.) As an example, Dr. Collins explains how a spring biased hook (such as in EX1051) could have been used to lock McLaughlin's conveyor belt unit in place. (EX1040, ¶32.) Dr. Collins describes these latches and pins as conventional and obvious design options. (*Id.*, ¶26)

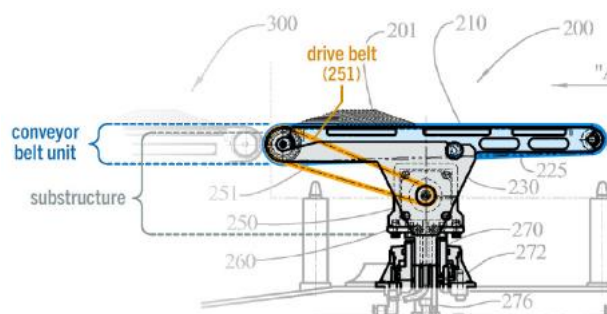
### **B. Dependent Claims 26-33**

**Dependent Claims 26/27:** Arranging McLaughlin's removable conveyor belt unit with the concept of Herman's latch or similar before or after the slicing blade would have been obvious to a POSA at the time of the invention. (EX1040, ¶¶161-62.) A POSA would have been motivated to make such an arrangement because the known hygienic benefits of removable conveyors would provide a benefit both before and after the slicing blade. (EX1040, ¶163.) A POSA would have had a reasonable expectation of success because it would have only required a rearrangement of well-known parts used for their intended purpose. (EX1040, ¶¶163-64).

**Dependent Claims 28/32:** A POSA would have found it obvious to modify McLaughlin's conveyor belt (with the concept of Herman's latch or similar) to a size that falls within the claimed ranges. (EX1040, ¶¶165-66.) A POSA would have been motivated to make such an arrangement because the claimed dimensions are

common and practical for a typical removable conveyor. (*Id.*, ¶¶167-69.) Herman teaches that its conveyor units should be “sized to be easily handled by one person.” (EX1041, 3:61-64.) A POSA would have had a reasonable expectation of success when making such an arrangement because it would have only required a simple structural rearrangement involving resizing conveyors that would not change the conveyor’s function or create any unexpected results. (EX1040, ¶¶170-72.)

**Dependent Claim 29:** McLaughlin discloses a “directly coupled” arrangement with the motor arranged beneath the conveyor belt unit, as claimed. (EX1040, ¶¶173-75.) Further, slight differences in motor placement in this scenario would have been an obvious design choice. (Pet., 64-65.) A POSA would have been motivated to make such an arrangement because it saves floorspace. (EX1040, ¶176.) A POSA would have had a reasonable likelihood of success because the prior art already discloses such an arrangement and it would only require the simple rearrangement of parts. (*Id.*, ¶177.)



(EX1040, ¶96.)

**Dependent Claim 30:** Claim 25's obviousness analysis equally applies here, as the same relative motion to install/remove McLaughlin's conveyor belt unit varies the space between the drive motor axle and conveyor axles. (EX1040, ¶¶180-82.)

**Dependent Claim 31:** Claim 25's obviousness analysis equally applies here, as the concept of Herman's latch in combination with McLaughlin's conveyor belt unit uses a latch configured to be cancelled to remove the conveyor and established to install the conveyor. (EX1040, ¶¶185-88.) The claimed mount is shown in McLaughlin as, for example, the first and second attachment points. (*Id.*, ¶185.)

**Dependent Claim 33:** A POSA would have found it obvious to modify McLaughlin's conveyor belt (with the concept of Herman's latch or similar) to include a continuous band or plurality of straps. (EX1040, ¶¶189-90.) These two arrangements are explicitly disclosed in McLaughlin and Lindee. McLaughlin states "[t]he conveying surface can be one continuous surface or a series of belts arranged longitudinally along the direction of travel, as shown in FIG.1, or other conveying arrangements commonly known." (EX1006, 4:29-32.) Further, Lindee states that "[t]he conveying surface 216 is shown schematically as a wide belt, but could also be a plurality of spaced apart ribbons." (EX1005, 6.) A POSA would have had a reasonable expectation of success because this would have required nothing more

than a simple substitution of one known element for another to obtain a predictable result, again, using common mechanical components. (EX1040, ¶¶191-92.)

### **C. Independent Claim 34**

The above analysis and evidence for claim 25 renders obvious claim 34's requirements. (EX1040, ¶¶193-94.) The only relevant limitations that claim 34 adds are the requirements for "a second drive" and the "coupling" between the first and second "drives and the conveyor belt unit (13) is configured to be simultaneously cancelled and established for at least one of the first drive and the second drive." McLaughlin in combination with Herman renders obvious these requirements. (EX1040, ¶¶195-98.)

As shown herein, McLaughlin already contemplates a second drive (EX1040, ¶¶198-99). Adding McLaughlin's second drive to a single removable conveyor belt unit would result in the obvious arrangement of a two-lane removable conveyor belt unit. (*Id.*, ¶200.) This combination would have only required a simple rearrangement of parts. (*Id.*) Further, arranging the second drive such that it was cancelled/established at the same time as the first conveyor would have been obvious. (*Id.*, ¶¶201-203.)

A POSA would have been motivated to add a second lane to a removable conveyor to gain the known benefits of two lanes, such as increases in production

and throughput. (*Id.*, ¶¶204-205.) It would have been obvious to design the conveyor such that the coupling between both drives and the conveyor would be simultaneously cancelled/established. This would have only required mirroring McLaughlin's drive components across the single conveyor and splitting the conveyor unit into two independently driven lanes. (*Id.*, ¶¶206-207; *see also* EX1063, 206:11-207:9 (“It’s a mirrored -- exactly mirrored version of a standard one lane execution of such a removable conveyor system.”).) A POSA would have configured the both drives to be simultaneously cancelled/established to simplify the installation/removal process. (EX1040, ¶¶206-207.)

A POSA would have also been motivated to simplify the installation/removal process to reduce the down time required for maintenance and cleaning. (*Id.*) Given a two-lane conveyor unit, designing the conveyor to simultaneously cancel both drives would have been an obvious structural rearrangement of parts. (*Id.*, ¶207; *see also* M.P.E.P. §2144.04(VI)(C).) The '487 patent does not identify any critical, unexpected, or otherwise beneficial results caused by cancelling/establishing both drives at the same time.

A POSA would have found it obvious to implement the concept of Herman's toolless latch or similar on a two-lane version of McLaughlin's removable conveyor to provide the benefit of more effectively locking the conveyor in place. (EX1040,

¶208.) Installing Herman’s latch, or other similar locking mechanisms, on a two lane conveyor would require only similar routine principles and skills. (*Id.*) As discussed above regarding claim 25, this combination would have used conventional parts with very predictable results. (*Id.*, ¶209.) Also as discussed regarding claim 25, a POSA would have had a reasonable expectation of success when adding the concept of Herman’s toolless latch for similar reasons. (*Id.*, ¶¶210-11.)

**VI. GROUND 6: KONISHI IN COMBINATION WITH MATHUES  
RENDERS OBVIOUS CLAIMS 25-34.**

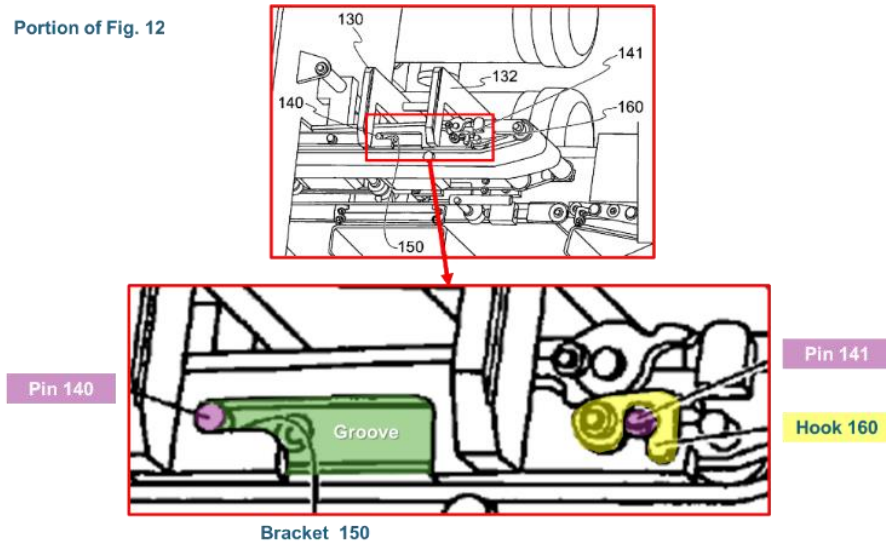
Konishi renders obvious claims 25-34 in combination with Mathues and in light of a POSA’s knowledge of the prior art. Mathues is another example of the well-known ways to secure, install, and remove a removable conveyor without tools.

**A. Claim 25**

As explained above in Section IV, Konishi renders obvious the elements of claim 25 that appeared in cancelled claim 1. (*See also* Pet., 19-25.) Konishi in combination with Mathues in light of the knowledge of a POSA further renders obvious the toolless limitation. (EX1040, ¶¶212-14.)

Mathues discloses a removable conveyor belt unit used in a food article slicing machine. (EX1037, Abstract, [0014] (“the upper conveyor can be removed”); EX1040, ¶219). Mathues’ conveyor can be removed “by simply unhooking the

hooks..., sliding the conveyor 30 in the upstream direction and dropping it downwardly for removal.” (EX1037, ¶0049.)



(EX1040, ¶219.)

A POSA would understand the above description of the removal process to not require tools. (EX1040, ¶219.)

It would have been obvious to a POSA at the time of the '487 patent to implement the concept of Mathues' toolless hooks or similar on Konishi's removable conveyor belt unit to provide the benefit of locking Konishi's conveyor in place. (EX1040, ¶¶220-23.) It was well known in the art that a removable conveyor belt unit, such as Konishi's, could be knocked out of place during use. (EX1040, ¶224.) Mathues teaches that its hooks "prevent unintentional removal" of the conveyor. (EX1037, ¶0049.) As another example, Lee teaches that using a latch

“prevent[s] the conveyor assemblies from being accidentally lifted out of position.” (EX1012, ¶0047.) It was further known that removable conveyor belt units might be dislodged due to reactive forces during normal use. (EX1040, ¶223.) For example, Lee teaches that “barrel bolt latches...reduce the likelihood that a conveyor assembly...might lift itself up and off the mounting pins...due to the reactive force” the conveyor sees during normal operation. (*Id.*) In light of these teachings, a POSA would have been motivated to add a toolless mount to Konishi’s conveyor for the known benefit of added security. (EX1040, ¶224.)

A POSA would have had a reasonable expectation of success in combining Konishi and Mathues. (EX1040, ¶¶231-32.) Removable conveyors were common, well-known arrangements for improve cleanliness and maintenance that engineers used in many industries, including food processing and slicing. (EX1040, ¶¶225; *see also* EX1016, 2:43-46 (“conveyor belt assembly that is easily and quickly removable for cleaning and/or maintenance purposes.”).) The record contains many examples of removable conveyors. (EX1003, ¶39; *see also* EX1004, Summary; EX1012, Abstract; EX1016, Abstract; EX1007, Abstract.) A POSA would have known how to apply conveyor technology in a food machine, such as Konishi, using routine mechanical components and techniques such as shafts, gears, pulleys, and belts. (EX1040, ¶¶234-35.) A POSA would have also been aware of many toolless

mounts that could be used to lock the removable conveyor in place. (EX1040, ¶¶26-33, 231; EX1045, 139:3-21, 143:20-44:16, 147:14-149:1, 150:18-151:21, 183:22-184:21, 194:21-195:20.)

A POSA would have had a reasonable expectation of success in implementing a toolless mount, like Mathues' hooks, for example, because of the extensive disclosures in the prior art. (EX1040, ¶¶224-25, 231-32, 234.) Dr. Collins explains how a POSA could mount a hook to Konishi's frame, use that hook to secure the pins on Konishi's conveyor, and design the pivot point to be located such that the hook prevents the pin from being lifted. (*Id.*, ¶31.) Dr. Reinholtz admitted that an engineering student would "have the skill to implement a latch." (EX1045, 183:22-184:21.) Implementing Mathues' hooks with Konishi's removable conveyor belt unit would be nothing more than the use of well-known components in a familiar manner that yields predictable results. (EX1040, ¶234.)

Dr. Collins provided multiple examples of how the teachings of EX1037, EX1038, EX1039, EX1041, EX1048, EX1049, and EX1051 could have been implemented in/on Konishi's removable conveyor. (EX1040, ¶¶26-33.) As one example, Dr. Collins explains how a spring biased latch similar to a conventional door latch (such as in EX1049) could have been used to lock Konishi's conveyor

belt unit in place. (EX1040, ¶30.) Dr. Collins describes these latches and other toolless mounts as conventional design options. (*Id.*, ¶26.)

**B. Dependent Claim 26-33**

**Dependent Claims 26/27:** Arranging Konishi's removable conveyor belt unit with the concept of Mathues' hooks before or after the slicing blade would have been obvious to a POSA at the time of the invention. (EX1040, ¶240.) A POSA would have been motivated to make such an arrangement because the known hygienic benefits of removable conveyors would provide a benefit both before and after the slicing blade. (*Id.*) A POSA would have had a reasonable expectation of success when making such an arrangement that only required a rearrangement of well-known parts used for their intended purpose. (EX1040, ¶¶242-43.)

**Dependent Claims 28/32:** A POSA would have found it obvious at the time of the invention to modify Konishi's conveyor belt (with Mathues' latch) to a size that falls within the claimed ranges. (EX1040, ¶¶246-47.) A POSA would have been motivated to make such an arrangement because the claimed dimensions are practically sized for a removable conveyor. (EX1040, ¶¶248-51.) A POSA would have had a reasonable expectation of success when making such an arrangement because it would have only required a simple structural rearrangement involving resizing conveyors that would not change the conveyor's function or create any

unexpected results. (EX1040, ¶¶253-54); *Powers-Kennedy Contracting Corp. v. Concrete Mixing & Conveying Co.*, 282 U.S. 175, 185 (1930).

**Dependent Claim 29:** Konishi discloses a “directly coupled” arrangement with the motor arranged beneath the conveyor belt unit. (EX1040, ¶258.) Further, motor placement is an obvious design choice. (M.P.E.P. §2144.04(VI)(C).) A POSA would have had a motivation to make this arrangement because it saves floorspace. (EX1040, ¶¶258-59.) A POSA would have had a reasonable likelihood of success because the prior art already discloses such an arrangement and it would only require the simple rearrangement of parts. (*Id.*, ¶¶260, 262-63.)

**Dependent Claim 30:** Claim 25’s obviousness analysis equally applies here, as the same relative motion to install/remove Konishi’s conveyor belt unit varies the space between the drive motor axle and conveyor axles. (EX1040, ¶¶266-270.)

**Dependent Claim 31:** The obviousness analysis for claim 25 equally applies here, as Mathues’ hooks in combination with Konishi’s conveyor belt uses a latch configured to be cancelled to remove the conveyor and established to install the conveyor. (EX1040, ¶¶273-76.) A POSA would understand Mathues’ hooks to be a form of a latch. (*Id.*, ¶¶277-78.) The claimed mount is shown in Konishi as, for example, the first and second attachment points. (*Id.*, ¶185.)

**Dependent Claim 33:** A POSA would have found it obvious at the time of the invention to modify Konishi's conveyor belt (with Mathues' latch) to include a continuous band or plurality of straps. (EX1040, ¶¶281-82.) A POSA would be motivated to make such an arrangement because the two arrangements are explicitly disclosed in Konishi and Lindee. (*Id.*) Konishi depicts one continuous belt. (EX1004, Fig. 10.) Lindee states that "[t]he conveying surface 216 is shown schematically as a wide belt, but could also be a plurality of spaced apart ribbons." (EX1005, 6.) A POSA would have had a reasonable expectation of success because this would have required nothing more than a simple substitution of one known element for another to obtain a predictable result. (EX1040, ¶¶283, 286.)

**C. Independent Claim 34**

The above analysis and evidence for claim 25 renders obvious claim 34's requirements. The only relevant limitations that claim 34 adds are the requirements for "a second drive" and the "coupling" between the first and second "drives and the conveyor belt unit (13) is configured to be simultaneously cancelled and established for at least one of the first drive and the second drive." Konishi in combination with Mathues renders obvious these requirements.

As above, it would have been obvious to design the conveyor such that the coupling between both drives and the conveyor could be simultaneously

cancelled/established. (EX1040, ¶¶296, 299.) This would have only required mirroring Konishi's drive components, using two conveyor belts instead of one, and splitting the conveyor unit into two independently driven lanes. (*Id.*, ¶¶299-300; *see also* EX1063, 206:11-207:9 (“It’s a mirrored -- exactly mirrored version of a standard one lane execution of such a removable conveyor system.”).) Again, a POSA would have found it obvious to configure the coupling between both drives to be simultaneously cancelled/established to simplify the installation/removal process. (*Id.*)

A POSA would have also been motivated to simplify the installation/removal process to reduce the down time required for maintenance and cleaning. (*Id.*) Given a two-lane conveyor unit, designing the conveyor to simultaneously cancel both drives would have been an obvious structural rearrangement of parts. (*Id.*, ¶¶300-303; *see also* M.P.E.P. §2144.04(VI)(C).) The '487 patent does not identify any critical, unexpected, or otherwise beneficial results caused by cancelling/establishing both drives at the same time. (EX1040, ¶300.) To design such a conveyor belt unit, a POSA would have only needed to align the conveyor unit drive pulleys in the same axis so that a relative movement of the conveyor belt unit would relax/establish the belts. (*Id.*, ¶299.)

## **VII. TEXTOR'S SECONDARY CONSIDERATIONS FAIL.**

As outlined in the Petitioner Reply, Textor's secondary considerations fail. Textor has failed to establish a nexus. (Reply, 18-20.) Textor's copying witness admitted that he is not a POSA qualified to opine on validity issues. (Reply, 17.) Textor fails to show the Provisur copied the aspect of Textor's machines that embody the '487 patent. (Reply, 20.) Mr. Leathers [REDACTED] [REDACTED] to show that Provisur copied the '487 patent's features. (EX1065, 47:3-18.) Textor fails to show commercial success, as Textor offered no evidence that the alleged commercial success is tied to the toolless aspect of the removable conveyor. (Reply, 21-22.) And Textor fails to show that there was a long-felt but unsolved need that the toolless limitation addressed. (Reply, 22-23.) *See Nike, Inc. v. Adidas AG*, 955 F.3d 45, 55 (Fed. Cir. 2020) ("Substantial evidence supports the Board's finding that other methods of [solving the alleged long-felt need]...had existed before the date of invention.").

## **VIII. DISTRICT COURT UPDATE**

The Reply's Section II includes an update on the district court proceedings.

## **IX. CONCLUSION**

Provisur requests denial of Textor's motion to amend the '487 patent.

Respectfully submitted,

Dated: September 27, 2024

/Michael G. Babbitt/

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**CERTIFICATE OF COMPLIANCE**

The undersigned certifies that this brief complies with the applicable type-volume limitations of 37 C.F.R. § 42.24. Exclusive of the portions exempted by 37 C.F.R. § 42.24(a), this brief is 25 pages or less as counted by the word processing program used for its preparation (Microsoft Word 2013).

Respectfully submitted,

Dated: September 27, 2024

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 27, 2024, I caused a true and correct copy  
of the foregoing materials:

- **PETITIONER’S OPPOSITION TO PATENT OWNER’S MOTION  
TO AMEND**

to be served via electronic mail to the Patent Owner of Record.

Respectfully submitted,

Dated: September 27, 2024

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