

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DELTA POWER EQUIPMENT CORPORATION,
LOWE'S HOME CENTERS, LLC, and
HOME DEPOT U.S.A., INC.,
Petitioner,

v.

P & F BROTHER INDUSTRIAL CORPORATION,
Patent Owner.

IPR2024-00347
Patent 7,475,622 B1

Before KEN B. BARRETT, BENJAMIN D. M. WOOD, and
CARL M. DEFRANCO, *Administrative Patent Judges*.

WOOD, *Administrative Patent Judge*.

DECISION
Denying Petitioner's Request for Rehearing of
Decision Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.71(d)

I. INTRODUCTION

Delta Power Equipment Corporation, Lowe’s Home Centers, LLC, and Home Depot U.S.A., Inc. (collectively, “Petitioner”) requests rehearing of our Decision Denying Institution of *Inter Partes* Review (Paper 9, “Decision” or “Dec.”). Paper 10 (“Rehearing Request” or “Reh’g Req.”). In the Decision we determined that Petitioner did not demonstrate a reasonable likelihood that claims 1, 2, 5, and 9 of U.S. Patent No. 7,475,622 B1 (Ex. 1001, “the ’622 patent”) are unpatentable. Dec. 19. For the reasons set forth below, we deny the Rehearing Request.

II. STANDARD OF REVIEW

“A party dissatisfied with a decision may file a single request for rehearing without prior authorization from the Board.” 37 C.F.R. § 42.71(d). The request must “specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed in a motion, an opposition, a reply, or a sur-reply.” *Id.* “When rehearing a decision on petition, a panel will review the decision for an abuse of discretion.” 37 C.F.R. § 42.71(c).

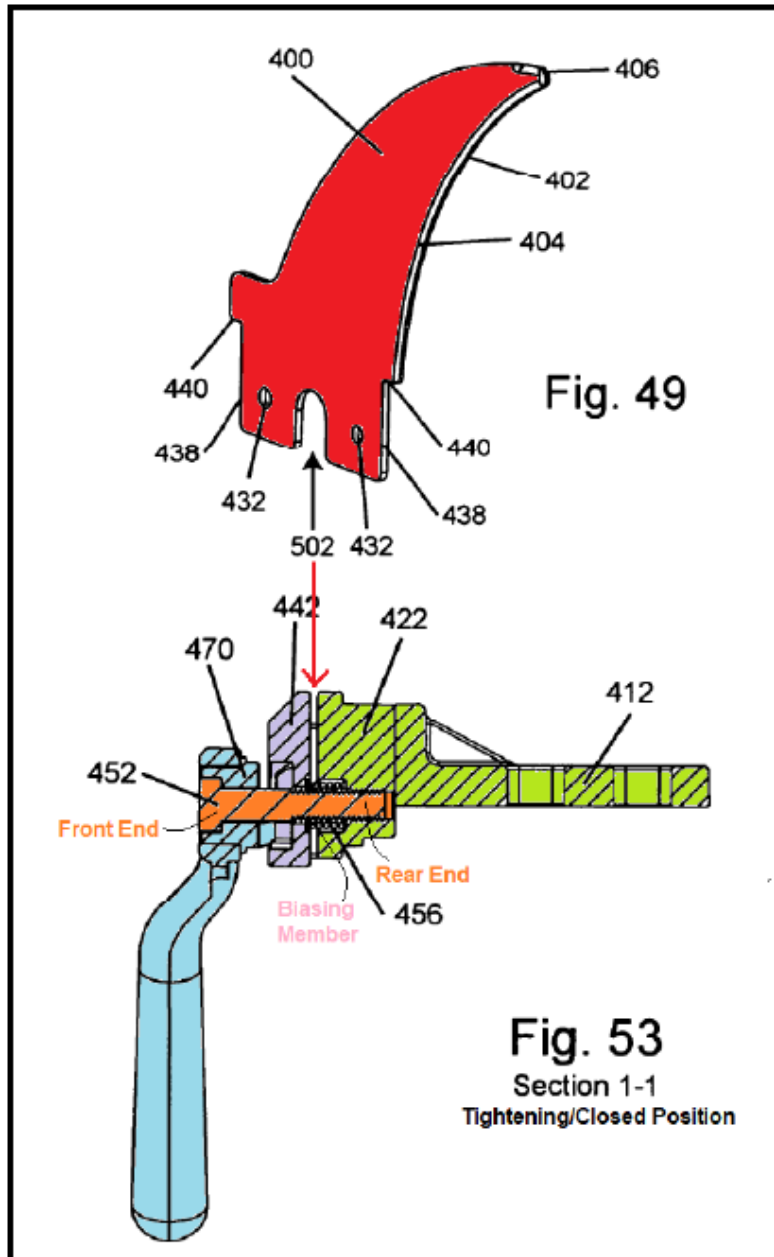
III. ANALYSIS

Petitioner requests rehearing of the Board’s determination that Petitioner failed to establish a reasonable likelihood that claims 1, 2, 5, and 9 would have been obvious over Gass¹ and AAPA.² For convenience,

¹ U.S. Patent No. 7,827,890 B2 (issued Nov. 9, 2010) (Ex. 1003).

² See Pet. 7 (citing as AAPA Ex. 1001, 1:13–2:2, Figs. 1, 2).

Petitioner's composite figure containing annotated versions of Figures 49 and 53 of Gass ("Composite Figure"), reproduced in both the Decision (Dec. 17) and Rehearing Request (Reh'g Req. 5), is reproduced again below:



Annotated Figs. 49 & 53 of Gass

Petitioner's Composite Figure depicts mounting system 410 comprising mounting plate 412 (green), positioning plate 422 (green) bolted

to mounting plate 412, and clamping plate 442 (purple), which “works with positioning plate 422 to clamp and hold the riving knife [400, red] in position” when handle 490, attached to cam bushing 470, moves from an open position to a closed position. Ex. 1003, 20:40–41, 21:46–55, 22:32–41, Figs. 50, 51, 71, 72. Bolt 452 (orange) passes through cam bushing 470 (blue) and clamping plate 442, and is threaded into hole 454 in positioning plate 422. *Id.* at 20:51–55, 21:26–28, Figs. 56, 57. Spring 456 surrounds bolt 452 and is at least partially contained in a first circular recess in positioning plate 422 and in a second circular recess in clamping plate 442. *Id.*, Figs. 57, 59.

In the Decision we stated that we were not persuaded that Gass teaches limitation [1.13] of sole independent claim 1. Dec. 18–19. This limitation recites:

[1.13] as a result of displacement of said actuating body to the tightening position, said biasing member acquires an increment of a biasing force which biases said front end of said shank towards said supporting frame so as to counteract the axial frictional force to thereby keep said actuating body in the tightening position.

Ex. 1001, claim 1. In the Petition, Petitioner contended that cam bushing 470 corresponds to the claimed “actuating body,” spring 456 corresponds to the claimed “biasing member,” the front end of bolt 452 corresponds to the claimed “front end of said shank,” and riving knife 400 corresponds to the claimed “supporting frame.” Pet. 18–21, 29–30, 35–37. We noted in the Decision that neither Petitioner nor Petitioner’s Declarant explained how Gass’ spring 456 biases the front of the shank of bolt 452 towards riving knife 400 in light of: (1) Gass’ teaching that spring 456 applies force to clamping plate 452 to push it away from positioning plate 422; and

(2) clamping plate 442 transfers this force to the front end of the shank of bolt 452 via the bolt head and cam bushing 470. Dec. 18. We reasoned that “[b]ecause positioning plate 442 holds riving knife 400 in the mounting system ([Ex. 1003] at 20:25–38), pushing clamping plate 442 away from positioning plate 422 effectively biases front end of bolt 452 away from riving knife 400, which is the opposite of what claim 1 requires.” *Id.* at 18–19.

The Rehearing Request asserts that “the Board’s decision misapprehended and/or overlooked Gass’s actual disclosure.” Reh’g Req. 1. Petitioner contends that “the Board misapprehended and/or overlooked that the second end of the compressed Gass spring 456 . . . biases positioning plate 422 away from clamping plate 442, to the right from the perspective of the ‘Composite Figure.’” *Id.* at 8. Petitioner notes that “bolt 452 is threaded into positioning plate 422,” such that the combination of positioning plate 422 and bolt 452 “acts as a unified body.” *Id.* at 9. Petitioner thus reasons, correctly, that “[i]n whatever direction either may move, so too in that same direction must the other move.” *Id.* But Petitioner then asserts, incorrectly, that “in whatever direction either is *biased*, so too in that same direction the other must also be *biased*.” *Id.* at 9–10 (emphasis added). In other words, Petitioner incorrectly concludes that because the entire bolt/positioning plate structure may move as a unified body, the front end of the bolt and rear end of the bolt must be *biased* in the same direction. *See, e.g., id.* at 10 (“to bias positioning plate 422 away from Gass’s riving knife 400 necessarily requires biasing the front end of Gass’s bolt 452 toward Gass’s riving knife 400.”).

We deny Petitioner’s Rehearing Request for two reasons. First, the Rehearing Request belatedly provides what was missing from the Petition:

Petitioner's understanding of why Gass teaches limitation [1.13]. The Petition's discussion, a single sentence, merely reproduced the claim language and added reference numbers and colors used in Petitioner's annotated version of Gass's Figure 53. Pet. 36. In the Rehearing Request, however, Petitioner's seven-page analysis focuses on: (1) Gass's spring 456 biasing positioning plate 422 away from the riving knife; and (2) bolt 452 being threaded into positioning plate 422; and adds Petitioner's inferences and conclusions based on these two facts. Reh'g Req. 7–14. A Rehearing Request is not an opportunity to present new arguments that were not first raised in the Petition. See 37 C.F.R. § 41.71(d) (requiring a rehearing request to specifically identify where in the previous submission an allegedly misapprehended or overlooked matter was addressed).

Second, and more importantly, Petitioner's Rehearing-Request analysis is incorrect. It is true that the rear (threaded) end (the "right" end from the perspective of Petitioner's Composite Figure) of bolt 452 would move in the same direction as the front ("left") end of bolt 452.³ It is also true that when the rear end is threaded into positioning plate 422, the positioning plate and bolt would move in the same direction. But it does not follow that the front end of bolt 452 must be *biased* in the same direction (to the right, as Petitioner contends) as the rear end of bolt 452/positioning plate 422. As Petitioner notes (Reh'g Req. 8), as the right end of compressed spring 456 biases positioning plate 422 to the right, the *left* end of spring 456 biases clamping plate 442 to the *left*, away from positioning plate 422. Further, as Petitioner does not appear to dispute, clamping plate transfers

³ For convenience, we adopt Petitioner's practice of using "left" and "right" to refer to the perspective of a reader observing the Composite Figure.

that leftward biasing force to the front end of bolt 452 via cam bushing 470. Dec. 18 (citing Ex. 1003, 22:11–13, Fig. 53). The result is that the front end of bolt 452 is biased away from riving knife 400.⁴

Stated another way, the front end of bolt 452, via cam bushing 470 and clamping plate 442, applies a rightward compressive force to spring 456;⁵ positioning plate 422 (threaded onto the rear end of bolt 452) likewise applies a leftward compressive force to spring 456. See Composite Figure. To compensate, i.e., to achieve a net zero force, spring 456 applies an equal but oppositely directed *leftward* tension force to clamping plate 442 (and thus to the front end of bolt 452), and a *rightward* tension force to positioning plate 422 (and thus the rear end of bolt 452). Because riving knife 400 is clamped between clamping plate 442 and positioning plate 422, and the front end of bolt 452 is to the left of riving knife 400, biasing the front end of bolt 452 to the left biases it away from the riving knife, contrary

⁴ A simple analogy illustrates the difference between how an object may move and the biasing forces applied to the object. Two teams playing tug-of-war apply oppositely directed tension forces to a rope. If one team is stronger than the other, the whole rope will move in the direction of the stronger team. But that doesn't mean that the whole rope is "biased" in the same direction; the weaker team is still applying a force at one end of the rope in the direction opposite of the direction of movement. Likewise, that bolt 452 may move with positioning plate 442 because the parts are threaded together does not mean that front and rear ends of bolt 452 are necessarily biased in the same direction. As discussed above, that is not the case.

⁵ Petitioner suggests that because the front end of bolt 452 supplies a rightward force, it is "urged to move to the right." Pet. 13. This is exactly backwards. The front end of bolt 452 supplies a rightward force to compensate for the fact that it is being urged to move to the *left* by spring 456.

to limitation [1.13]’s requirement that the biasing member bias the front end of the bolt shank towards the supporting frame.

Petitioner also argues that institution is appropriate if there is a “genuine issue of fact” as to whether Gass teaches limitation [1.13]. Pet. 14. Even if there was a genuine issue of fact on this point (there is not), this is not the correct standard for institution. As noted in the Decision (Dec. 2), we cannot institute *inter partes* review unless the Petition demonstrates “a reasonable likelihood that petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). In our Decision we determined that the Petition did not demonstrate a reasonable likelihood that Gass teaches limitation [1.13] of sole independent claim 1, and therefore did not demonstrate a reasonable likelihood that it would prevail with respect to any of the challenged claims. Petitioner’s Rehearing Request does not apprise us of any matter we misapprehended or overlooked in making that determination.

IV. CONCLUSION

For the foregoing reasons, Petitioner’s Rehearing Request is denied.

V. ORDER

For the reasons given, it is

ORDERED that Petitioner’s Rehearing Request is granted/*denied*.

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