

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RAVIN CROSSBOWS, LLC,
Petitioner

v.

MCP IP, LLC,
Patent Owner

Case IPR2024-00524
Patent No. 9,909,831

**PATENT OWNER'S SUR-REPLY TO PETITIONER'S REPLY TO
PATENT OWNER'S PRELIMINARY RESPONSE**

In its reply to MCP's Preliminary Patent Owner's Response (Paper 7, "Reply"), Petitioner argues against MCP's prior reduction to practice. Yet, Petitioner selectively ignores the evidence of record to make its outlandish assertions. The evidence plainly shows the claimed bow was actually reduced to practice.

I. MISSION MENACE AND MONSTER BOWS EMBODIED THE CLAIMS OF THE '831 PATENT

The question of an actual reduction to practice is a question of law that may be decided prior to institution. *In re Steed*, 802 F.3d 1311, 1316 (Fed. Cir. 2015); *Roofr, Inc. v. Eagle View Tech., Inc.*, No. IPR2023-00437, Paper 14 at 9 (P.T.A.B. August 1, 2023) (Denying institution where Patent Owner "provide[d] evidence and argument to support its claim of an actual reduction to practice."). The inventor's bow that was produced, sold and shipped, and reviewed by *Inside Archery* "met all the limitations of the claim." *In re Steed*, 802 F.3d 1311, 1318 (Fed. Cir. 2015). As a matter of law, the Board is able to evaluate the evidence of record and apply a "'rule of reason analysis', under which **all pertinent evidence is examined** when determining the credibility of an inventor's testimony." See, e.g., *Nintendo Am., Inc. v. iLife Techs., Inc.*, No. IPR2015-00112, Paper 39 at 31 (P.T.A.B. Apr. 29, 2016) (quoting *Medichem, S.A. v. Rolabo, S.L.*, 437 F.3d 1157, 1170 (Fed. Cir. 2006)) (emphasis added); EX2006, ¶9 and ¶16.

The two magazine articles provided by MCP were written by an independent non-inventor reviewing actual production bows manufactured by Mr. McPherson's

company prior to Darlington's filing date and fully corroborate Mr. McPherson's prior actual reduction to practice. EX2002, EX2003. When taken with the further context provided by Mr. McPherson and MCP's expert, Dr. Reinholtz, the evidence of record demonstrates that Mr. McPherson's bows embodied all claim limitations of the '831 Patent. *See* POPR at 8-40; EX2006, ¶¶8-23; EX2007, ¶¶38-71, 74-75.

A. The Mission Menace and Monster Bow articles depict strung bows

Petitioner asserts that "images in Ex. 2002 show an unstrung bow that is not in the 'brace condition' at all." Reply at 3 (emphasis in original), *see also* 5. This is untrue and disingenuous. Both articles include a photograph of a full, strung bow in the brace condition. EX2002, 2 (reproduced at right); EX2003, 2. These photographs are reproduced multiple times in the POPR. *See* POPR at 16, 20, 25, 33, 37.



EX2002, 2.

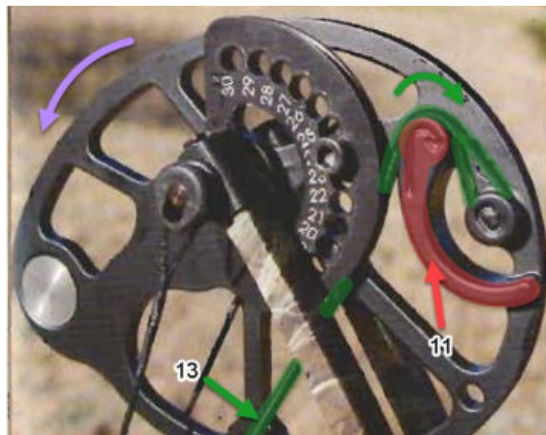
Petitioner's assertion that the cam is unstrung in a close-up photograph from the Menace article is baseless. EX2002, 2; *see also* Reply at 4 (reproducing an annotated version from POPR at 16). The article clearly shows the bow was strung and in the brace condition. EX2002. The reviewer describes shooting the bow, which requires it to be strung. The photograph reproduced by Petitioner shows the power cables under tension, and the bow's limbs flexed (the power cables would be slack

and limbs unflexed if unstrung). There is no reason the reviewer would remove only the drawstring (and not the power cables) for the purpose of taking a close-up photograph of the cam. Removing the drawstring is not easy. It is the job of a technician, requiring special skills and expensive, specialized equipment (*e.g.*, a bow press). Petitioner’s argument that the reviewer had the ability, motivation and did unstring the bow to take an image of the cam defies evidence and reason.

Notwithstanding, it does not matter. In the close-up photograph, the cam is clearly shown in the same orientation as it is in the full, strung bow photograph - which is in the brace condition. So, in view of the evidence as a whole, the relationship of all cam components to each other, to the other aspects of the bow, and to the drawstring with the bow in a brace condition is clear.

B. MCP has provided evidence showing how the Mission Menace cam rotated when drawn from the brace condition

Petitioner asserts “PO provides nothing to show how the cam and its elements will move when ‘drawn from the brace condition.’” Reply at 3, *see also* 4-5 (emphasis added). Petitioner not only ignores Mr. McPherson’s explanation, but also Dr. Reinholtz’s testimony on the operation of the cam and its elements. EX2006, ¶¶6, 14, 22; EX2007, ¶¶ 43, 45-46, 56-57, 65; *see also* POPR at 17-18, 25-26, 29-31, 34-35. As Dr.



Reinholtz explains, “[a] POSITA would have understood that when the [Mission Menace] bow is drawn from the brace condition [shown in the photograph of the full bow], that the cam would rotate in the [direction of the purple arrow below] because the force exerted by the drawstring on the cam when the bow is drawn would be directed along the drawstring, tangential to the cam, in a counterclockwise direction for the cam orientation shown in the image.” *Id.*, ¶ 43; POPR at 18.

Petitioner does not dispute the substance of Dr. Reinholtz’s explanation, but simply ignores it. Indeed, the cam rotation between the brace and drawn conditions is easily observable to one with even an elementary understanding of mechanics and geometry. EX2007, ¶45 (explaining basic cam rotation); POPR at 29-31.

Furthermore, the POPR shows that the cams of the actual bows are “nearly identical” to those depicted in the figures of the ’831 Patent. POPR at 11-12, 13-14; EX2007, ¶¶35, 37. That is, each of the relevant components (*e.g.*, drawstring, capstan, power cables, and terminals) of the Menace and Monster bows were arranged on the cam in the same configuration as shown in the ’831 Patent figures. *Id.* Dr. Reinholtz explains how a POSITA would understand from this likeness that the cams of the Menace and Monster bows rotated like those shown in FIGS. 2-3 and 5-6 of the ’831 Patent itself. EX2007, ¶45; POPR at 29-31.

C. Petitioner's other arguments are simply wrong

For instance, Petitioner argues that in reference to limitation 1(f) “PO makes no attempt to show how the power [cable] [*sic*] extends toward the second limb because no second limb is shown at all.” Reply at 3 (citing POPR at 17-18). Both bow limbs and power cables are clearly shown in the full bow photograph annotated on the preceding page of the POPR. POPR at 16.

Petitioner argues that MCP does not show limitation 11(f) was reduced to practice because the annotated photograph on page 20 of the POPR is “too blurry” and MCP did not cite to expert testimony. Reply at 4. This is nonsense. The claim features are clearly visible in the annotated photograph, and expert assistance is not needed to find them. However, Dr. Reinholtz explains this annotated photograph at paragraph 49 of EX2007.

Petitioner argues that limitation 11(g) is not shown to be embodied by the Monster Bow article (EX2003) but does not contest that this feature is embodied by the Menace bow. Reply at 38.¹ MCP does not concede the point, but only one bow embodying the claim is needed to show reduction to practice.

II. CONCLUSION

For at least the reasons discussed above and those presented in the POPR, MCP requests that the Board deny the Petition.

¹ Petitioner's other arguments related to claim 11 are directed at the Menace bow.

Respectfully submitted,

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/Joshua A. Griswold/

Joshua A. Griswold, Reg. No. 46,310

Matthew A. Colvin, Reg. No. 66,843

Kenneth J. Hoover, Reg. No. 68,116

Kenneth Langley, Reg. No. 80,549

Fish & Richardson P.C.

60 South Sixth Street, Suite 3200

Minneapolis, MN 55402

T: 214-747-5070

F: 877-769-7945

Attorneys for Patent Owner

CERTIFICATE OF SERVICE

Pursuant to 37 CFR § 42.6(e)(4) and 42.205(b), the undersigned certifies that on July 25, 2024, a complete and entire copy of Patent Owner's Sur-Reply to Petitioner's Reply to Patent Owner's Preliminary Response was provided by email, to the Petitioner, by serving the email correspondence address of record as follows:

Adam P. Seitz, Reg. No. 52,206
Adam M. Sandwell, Reg. No. 72,484
Chris R. Schmidt, Reg. No. 63,982
Erise IP, P.A.
Adam.Seitz@eriseip.com
Adam.Sandwell@eriseip.com
Chris.Schmidt@eriseip.com
PTAB@eriseip.com

/Anastasia Renard/

Anastasia Renard
Fish & Richardson P.C.
60 South Sixth Street, Suite 3200
Minneapolis, MN 55402
renard@fr.com