

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOA

RD

FLUIDMASTER, INC.,
Petitioner,

v.

DANCO, INC.,
Patent Owner.

IPR2024-00634
Patent 9,103,105 B2

Before MEREDITH C. PETRAVICK, JAMES A. TARTAL, and
ROBERT J. SILVERMAN, *Administrative Patent Judges*.

PETRAVICK, *Administrative Patent Judge*.

DECISION

Denying Patent Owner's Request for Rehearing
of Final Written Decision
37 C.F.R. § 42.71(d)(2)

INTRODUCTION

Danco, Inc. (“Patent Owner”) filed a Request for Rehearing (Paper 49, “Request” or “Req. Reh’g”) of the Final Written Decision (Paper 47, “Decision” or “Dec.”). Patent Owner requests reconsideration of our determination that Petitioner has shown by a preponderance of the evidence that claims 1, 9, 15, and 24 are unpatentable over Brown and Ho.

For the reasons discussed below, Patent Owner’s request for rehearing is *denied*.

STANDARD

When rehearing a decision, the Board reviews the decision for an abuse of discretion. 37 C.F.R. § 42.71(c). An abuse of discretion may arise if the decision is based on an erroneous interpretation of law, if a factual finding is not supported by substantial evidence, or if an unreasonable judgment is made in weighing relevant factors. *Star Fruits S.N.C. v. United States*, 393 F.3d 1277, 1281 (Fed. Cir. 2005); *Arnold P’ship v. Dudas*, 362 F.3d 1338, 1340 (Fed. Cir. 2004); *In re Gartside*, 203 F.3d 1305, 1315–16 (Fed. Cir. 2000).

The burdens and requirements of a request for rehearing are stated in 37 C.F.R. § 42.71(d):

The burden of showing a decision should be modified lies with the party challenging the decision. 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, or a reply or a sur-reply.

A request for rehearing is not an opportunity to present new arguments or evidence or merely to disagree with the panel’s assessment of the arguments

or weighing of the evidence. Mere disagreement with the Board's conclusion is not a proper basis for rehearing. It is not an abuse of discretion to have made a conclusion with which a party disagrees.

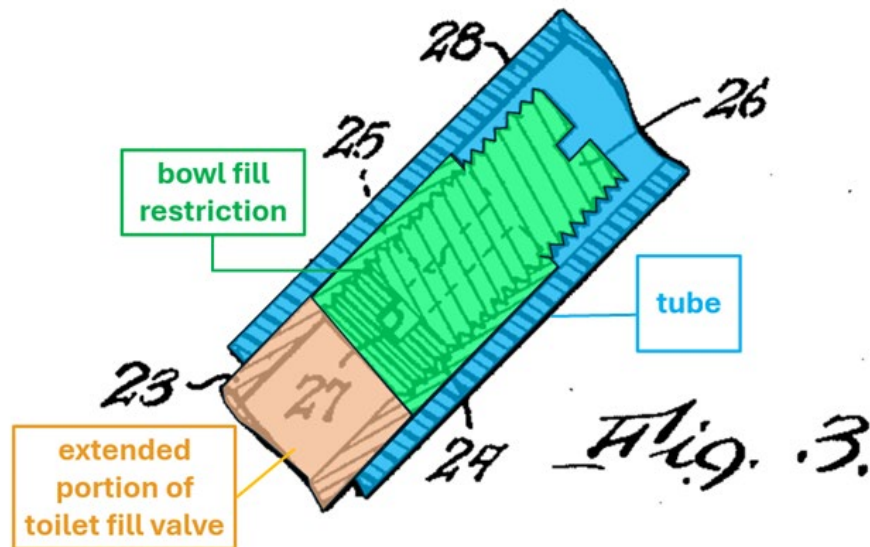
DISCUSSION

Patent Owner contends that we erred in determining that Brown's (Ex. 1021) adjustable metering valve meets Limitation 1E¹ because the Decision's alleged mapping of Brown to Limitation 1E is inconsistent with the Petition's mapping of Limitations 1D1 and 1D2. Req. Reh'g 1–11.

We have considered Patent Owner's arguments in the Request and are not persuaded to modify our Decision. Patent Owner's argument is misplaced because it does not address the mapping as set forth in the Petition, which is the basis of our Decision's analysis.

Patent Owner alleges our Decision maps Limitation 1E to Brown's adjustable metering valve, as shown by Patent Owner's annotations to Brown's Figure 3. Req. Reh'g 10. Patent Owner's Annotated Figure 3 is reproduced below.

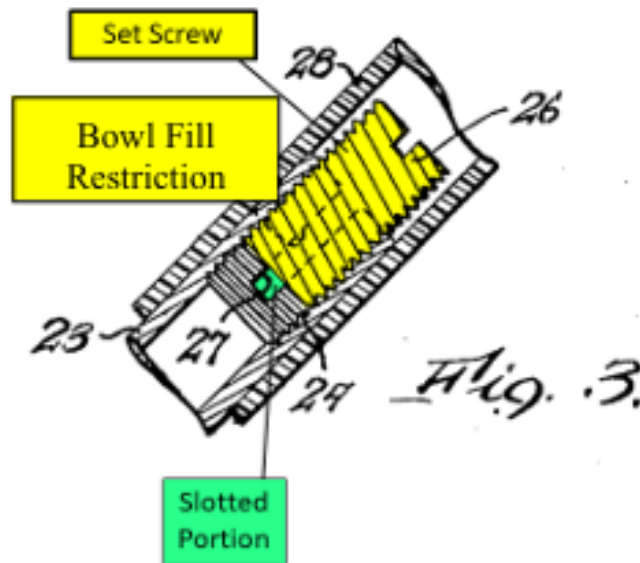
¹ We refer to the limitation labels set forth on pages 5 to 6 of the Final Written Decision.



Patent Owner's Annotated Figure 3 depicts the claimed bowl fill restriction in green, the claimed extended portion in tan/beige, and the claimed tube in blue. As can be seen by the green coloring of Patent Owner's Annotated Figure 3, Patent Owner maps the bowl fill restriction to not only the slotted portion² of adapter tube 23 but to the entirety of the threaded portion of adapter tube 23.

The Petition maps the claimed bowl fill restriction to Brown's set screw 26 in combination with the slotted portion of adapter tube 23. This is shown by Petitioner's First Annotated Figure 3, reproduced below.

² We note that Brown uses number 24 to refer to both the "internally threaded portion" of adapter tube 23 and "the slotted portion" of adapter tube 23. See Ex. 1021, 3:45–56. For clarity, we refrain from using the number 24 to identify the slotted portion in this decision.

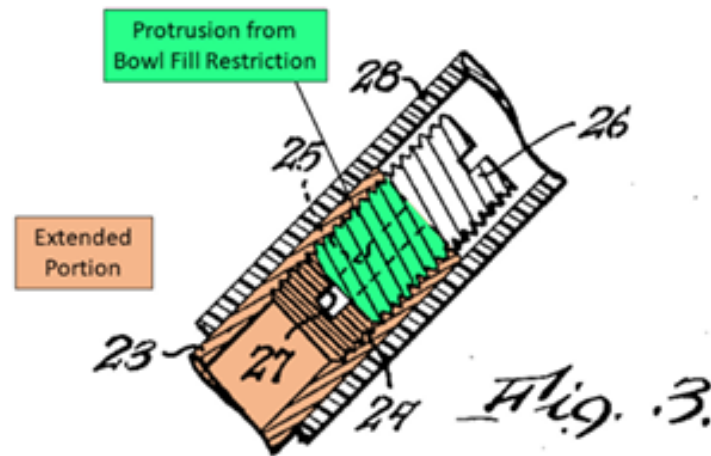


Paper 1, 66; *see also* Dec. 23 (reproducing Petitioner’s First Annotated Figure 3). Petitioner’s First Annotated Figure 3 shows set screw 26 colored yellow and slotted portion of adaptor tube 23 colored green. Unlike Patent Owner’s mapping, not all of the threaded portion of the adaptor tube is colored green.

Limitation 1D1 recites: “a bowl fill restriction configured to attach directly to the extended portion of the body.” Petitioner maps the extended portion of the body to Brown’s adaptor tube 23. Paper 1, 66–67. As can be seen from Petitioner’s First Annotated Figure 3, the slotted portion is attached to the extended portion and set screw 26 is configured to threadedly attach to the portion of the adaptor tube 23 outside of the slotted portion.

Limitation 1D2 recites: “wherein the bowl fill restriction comprises a protrusion that is configured to insert into a recess in the toilet fill valve to lock the bowl fill restriction to the extended portion of the body.” Petitioner again annotated Brown’s Figure 3 to illustrate how Brown met Limitation

1D2. Paper 1, 66–67. Petitioner’s Second Annotated Figure 3 is reproduced below.



Id. at 67. Petitioner’s Second Annotated Figure 3 shows a portion of set screw 26 colored green and a portion of adaptor tube 23 colored tan/beige. Unlike Patent Owner’s Annotated Figure 3, the slotted portion of adaptor tube 23, behind set screw 26, is not colored tan/beige and certain threaded portions of adaptor tube 23 are colored tan/beige.

Limitation 1E recites “a tube that is configured to attach directly to the bowl fill restriction.” The Petition states: “Brown discloses a tube attached directly to the portion of the adaptor tube 23 that forms the metering valve and houses set screw 26.” Paper 1, 69. Petitioner maps the claimed tube to Brown’s tube 28. *Id.* Brown discloses that long flexible tube 28 “is adapted to slide snugly over the slotted portion 24 of adapter tube 23.” Ex. 1021, 3:56–64. As depicted in Petitioner’s Second Annotated Figure 3, tube 28 attaches directly to the slotted portion of adaptor tube 23, which includes slots 25 shown in broken line behind set screw 26.

For these reasons, Patent Owner does not persuade us to modify our Decision.

CONCLUSION

For the foregoing reasons, Patent Owner's Request for Rehearing is *denied*. In summary:

Outcome of Decision on Rehearing:

Claim(s)	35 U.S.C §	Reference(s)/Basis	Denied	Granted
1, 8, 14	103	Brown and Ho	1, 9, 15, 24	
Overall Outcome			1, 9, 15, 24	

Final Outcome after Rehearing:

Claim(s)	35 U.S.C. §	Reference(s)/Basis	Claim(s) Shown Unpatentable	Claim(s) Not Shown Unpatentable
1–3, 6, 8–15, 20–24	103	Guoxin and Ho		1–3, 6, 8–15, 20–24
4, 5, 7, 16–19	103	Guoxin, Ho, and Quick Connection Art		4, 5, 7, 16–19
1–3, 6, 8–15, 20–24	103	Brown and Ho	1, 3, 8–13, 15, 20–24	2, 6, 14
4, 5, 7, 16–19	103	Brown, Ho, and Quick Connection Art	16, 19	4, 5, 7, 17, 18
1–24	102	Schuster		1–24
Overall Outcome			1, 3, 8–13, 15, 16, 19–24	2, 4–7, 14, 17, 18

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ORDER

Accordingly, it is:

ORDERED that Patent Owner's Request for Rehearing is *denied*.

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