

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FLUIDMASTER, INC.

Petitioner

v.

DANCO, INC.
Patent Owner

Case IPR2024-00635
Patent 10,934,698 B1

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

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Petitioner submits this Reply to the Patent Owner's Preliminary Response ("POPR", Paper 13) pursuant to the Board's Order (Paper 16).

I. GUOXIN, HO, AND BROWN ARE DIFFERENT FROM AND MORE MATERIAL THAN DEMARCO

Patent Owner ("PO") argues that, "Guoxin and Ho are the same or substantially the same as the art previously presented to and considered by the Office." *See* Paper 13 at 3-4 and 27. However, as explained here and in the Petition (Paper 1), these references are different from and more material than DeMarco.

Guoxin (EX1015-EX1016) and Ho (EX1022) were not considered during prosecution of the '698 patent. Petition at 21 and 23. Yet, PO argues that "Petitioner merely substitutes the primary reference cited during prosecution, DeMarco, with two different references, Guoxin and Ho, that are not materially different from DeMarco with respect to the manner in which DeMarco was cited during prosecution." Paper 13 at 4. Further, PO argues that "Guoxin and Ho, like DeMarco, do not show or suggest the above-mentioned protrusion, recess, and snap fit, and is not a more material reference than DeMarco, despite allegations of so by Petitioner." Paper 13 at 27. That is false as the references do in fact disclose these features. *See*, e.g., Petition at 21-22, 33-34, 36-37, 46, 51-52.

Moreover, another significant difference between DeMarco and the references concerns the connections between the bowl fill valves and extended portions. During prosecution, PO argued that the claimed connection differed from that which is

disclosed in DeMarco. EX1002 at 85-87. Specifically, PO argued that reseal tube 22 in DeMarco “does not include a recess into which a protrusion may be inserted” and that “the configuration recited by DeMarco will result in a pressure head within the hose 22 that will ultimately work the hose 22 off of the ‘tubular stem 44’...” *Id.* at 87. However, Guoxin and Ho do not use DeMarco’s manner of connection but rather show the claimed connection as explained in the Petition and the Cameron Declaration (EX1004). *See, e.g.,* Petition at 21-27, 36-42, 46, 51-52; EX1004, ¶¶ 97-105, 116-117, 128-135, 152, 168, 179-180, 198.

PO’s arguments that the references are the same or substantially the same are untenable and should be rejected.

II. THE PETITION IS NOT DEFICIENT AND THE OMITTED ANNOTATIONS DO NOT RENDER IT AMBIGUOUS

PO argues that the Petition is deficient on its face because annotations on certain figures were inadvertently omitted from the Petition. *See* Paper 13 at 20-23. PO’s argument should be rejected. The Petition as a whole and the discussion of the references within it are complete and unambiguous standing alone. Moreover, the Petition must be read alongside the Cameron Declaration, which Petitioner relies upon and cites throughout the Petition. The Cameron Declaration includes complete versions of the figures at issue, including the omitted annotations, thus clearing up any feigned ambiguity PO falsely asserts to be present in the Petition. Indeed, PO was aware, and acknowledges in its POPR, that the corresponding annotated figures

are present in the Cameron Declaration (*see* Paper 13 at 23, fn. 5) and, thus, there is also no surprise or prejudice stemming from the omission of certain limited annotations from the figures in the body of the Petition.

The Petition includes a number of annotated figures with labels added to highlight the structures in the prior art that are relevant to Petitioner's arguments and aid in the understanding of the reference. However, during the conversion process of turning the Microsoft Word version of the Petition into an Adobe PDF version, the labels for several figures were inadvertently omitted in whole or in part. Specifically, there are five annotated figures in the Petition where the labels were affected by the conversion process. *See* Petition at 28, 29, 32, 34, and 55. However, these annotations were provided for convenience and their omission does not otherwise render the Petition vague or incomplete.

For example, the figure on page 28 of the Petition has partially omitted annotations pointing out the "toilet fill valve," "toilet fill body," "tank water outlet," and "extended portion." *See* Petition at 28. However, the remaining labels provide context for the labeled parts (e.g., "Bowl fill valve attached directly to the extended portion of the toilet fill valve" and "Tube attached directly to bowl fill valve outlet port of bowl fill valve") and the relevant structures are discussed with respect to each limitation in the Petition as well. *See*, e.g., Petition at 30-34. The same is true for the omitted annotations of the other figures. *See*, e.g., Petition at 29 and 34 (Figs. 2 & 5

from Ho) compared to Petition at 30, 33-34, 51-52 (discussing the toilet fill valve, extended portion, and protrusion of Ho and providing more detailed figures regarding the same); Petition at 32 (Fig. 2 of Guoxin showing water inlet and outlet) compared to Petition at 30-32, 35 (discussing the same); Petition at 55 (Fig. 1 of Guoxin) compared to Petition at 54 (discussing the same and also showing Fig. 6 of Ho, where the missing label is clear from the context and the complete labels shown with respect to Ho). As such, it is clear that the Petition standing alone, even with the omitted annotations, do not render Petitioner's arguments vague or incomplete.

Further, the annotated figures cited by PO are also part of the Cameron Declaration (EX1004), which is relied upon by Petitioner and cited throughout the Petition. Indeed, for most of the images at issue, the image in the Petition is preceded or followed by a direct cite to the portion of the Cameron Declaration containing the same image. *See, e.g.,* Petition at 31 (citing EX1004, ¶112); Petition at 34 (citing EX004, ¶117; and Petition at 55 (citing EX1004, ¶187). Importantly, the labels for the corresponding annotated figures in the Cameron Declaration were not affected by the conversion process and retained all respective labels. *Cf.* Petition at 28-29 and EX1004, ¶107; Petition at 32 and EX1004, ¶112; Petition at 34 and EX004, ¶117; and Petition at 55, EX1004, ¶187. *See also* EX1035 (Petition figures side-by-side with Cameron Declaration figures with the labels at issue identified by boxes in green).

This is not an instance where a petitioner seeks to import arguments from one document into another. The arguments in the Petition are complete. Here, as is common practice, Petitioner relies upon an expert declaration as evidence to support the arguments in its Petition. To that end, the Cameron Declaration is structured to generally follow the same organization and order as the Petition in order to aid in its usefulness as a supporting document. For example, Petition §VIII.A.1 (“Independent claim 1 is obvious over Guoxin in view of Ho and further in view of the Quick Connection Art”) corresponds to Cameron Declaration §VIII.B.1 (“Independent claim 1 is obvious over Guoxin in view of Ho and further in view of the Quick Connection Art”). As another example, Petition §VIII.A.5 (“Dependent claims 2-7, 9, 11, and 13-14 are obvious”) corresponds to Cameron Declaration §VIII.B.4 (“Dependent claims 2-7, 9, 11, and 13-14 are obvious”). In each case, with the Cameron Declaration containing the corresponding images without the errors at issue. *See* EX1004, ¶107 and ¶187, respectively. As such, it is clear that Petitioner is not attempting to incorporate by reference arguments that are not already in the Petition.

PO cannot toss aside the corresponding figures in the Cameron Declaration, and the citations to same in the Petition, to manufacture its “gotcha” argument about clerical errors leading to inadvertent omissions in certain figures in the Petition.

III. CONCLUSION

Based on the foregoing and the Petition, Petitioner requests institution of an *inter partes* review to cancel all of the challenged claims.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on July 8, 2024, a true copy of the foregoing **PETITIONER'S REPLY TO PATENT OWNER'S PRELIMINARY RESPONSE** and all exhibits/attachments thereto (EX. 1035) were served in their entirety via electronic mail on the following attorneys of record:

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