

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RJ MACHINE COMPANY, INC.,
Petitioner,

v.

ARMATURENFABRIK FRANZ
SCHNEIDER GMBH + CO. KG,
Patent Owner.

IPR2024-00851
Patent 9,851,030 B2

Before PATRICK R. SCANLON, ERIC C. JESCHKE, and
ARTHUR M. PESLAK, *Administrative Patent Judges*.

JESCHKE, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314

I. BACKGROUND

Petitioner RJ Machine Company, Inc. filed a Petition to institute *inter partes* review of claims 1–7 of U.S. Patent No. 9,851,030 B2 (Ex. 1001, “the challenged patent”). Paper 1 (“Pet.”). Patent Owner Armaturenfabrik Franz Schneider GmbH + Co. KG timely filed a Preliminary Response. Paper 7 (“Prelim. Resp.”). Petitioner requested additional pre-institution briefing, which we denied.¹ See Ex. 3001.

We have authority to determine whether to institute *inter partes* review. See 35 U.S.C. § 314 (2018); 37 C.F.R. § 42.4(a) (2023) (“The Board institutes the trial on behalf of the Director.”). *Inter partes* review may not be instituted “unless . . . the information presented in the petition . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314. Upon consideration of the evidence and arguments in the record, for the reasons below, we determine that the information presented does not show a reasonable likelihood that Petitioner would prevail with respect to at least one of challenged claims 1–7. We thus deny institution of *inter partes* review. See 37 C.F.R. § 42.108(b) (“At any

¹ Petitioner requested briefing to address two issues: (1) Patent Owner’s alleged “incomplete account of the claim construction proceedings in the parallel district court case” and (2) Patent Owner’s alleged mischaracterization and misapplication of “the Board’s case law and Trial Practice Guide as it relates to a Petitioner’s obligation to raise in its Petition a claim construction position, given the stage of the parallel district court claim construction proceedings.” Ex. 3001 at 3. Because neither the status of the claim construction proceedings in the parallel litigation nor Petitioner’s alleged obligation to raise its claim construction arguments from that litigation impacts the analysis here, we denied Petitioner’s request. *Id.* at 1.

time prior to a decision on institution of *inter partes* review, the Board may deny all grounds for unpatentability for all of the challenged claims. Denial of all grounds is a Board decision not to institute *inter partes* review.”).

A. Related Proceeding

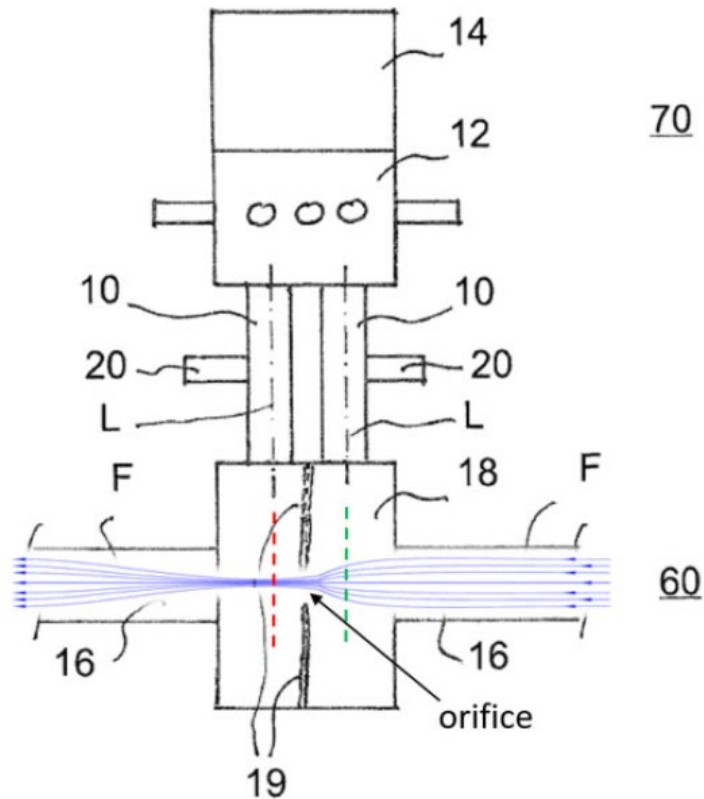
The parties identify a proceeding in the U.S. District Court for the Western District of Texas involving the challenged patent: *Armaturenfabrik Franz Schneider GmbH + Co. KG v. RJ Machine Company, Inc.*, No. 6:23-cv-00680 (W.D. Tex.), filed September 20, 2023. Pet. 1; Paper 3 (Patent Owner’s Mandatory Notices) at 1; Paper 6 (Patent Owner’s Updated Mandatory Notices) at 1.²

B. The Challenged Patent

The challenged patent relates to a connecting apparatus for connecting a gas pipeline with a pressure-measuring instrument and/or an associated valve (such as a 3-way or 5-way valve block). Ex. 1001, 1:12–38. According to the challenged patent, in order to measure the flowrate during continuous operation in a gas or other pipeline, a measuring instrument can take as inputs the pressures both before and after a metering orifice device installed in the pipeline and use the “differential pressure method” to

² Originally, Patent Owner identified Daniel D. Smith as lead counsel and Wasif Qureshi as backup counsel. See Paper 3 at 1. Then, *without requesting authorization*, Patent Owner withdrew Daniel D. Smith from the proceeding, identified Wasif Qureshi as lead counsel, and identified Blake T. Dietrick as backup counsel. See Paper 6 at 1. By filing its Updated Mandatory Notices (Paper 6) without authorization, Patent Owner failed to follow the relevant regulation. See 37 C.F.R. § 42.10(e) (“Counsel may not withdraw from a proceeding before the Board unless the Board authorizes such withdrawal.”). Although we waive that requirement on the facts here (see 37 C.F.R. § 42.5(b)), we implore counsel for Patent Owner to follow the proper procedure in the future.

calculate the flowrate. *See id.* at 1:28–43. A modified version of Figure 6 of the challenged patent, as annotated by Patent Owner, is reproduced below:



Prelim. Resp. 4. Figure 6 is a schematic side view of a measuring instrument (14) (connected to a 5-way valve block (12)) and a metering orifice device (18) inside a pipeline (16), with two connecting apparatuses (10, 10) spaced between the valve block and metering orifice device.

Ex. 1001, 4:64–5:4, 5:12–46. In the modified version of Figure 6 here, Patent Owner added (1) a series of blue lines indicating gas flow from right to left in pipeline 16 through orifice unit 19 (labelled “orifice”), (2) a vertical dashed green line in the right portion of metering orifice device 18 indicating a location of relatively higher pressure in pipeline 16, and (3) a vertical dashed red line in the left portion of metering orifice device 18 indicating a location of relatively lower pressure in pipeline 16. Prelim.

Resp. 3–4; Ex. 1001, 5:19–46 (discussing the operation of Figure 6). The different pressures at the two indicated locations are conveyed through each of connecting apparatuses 10, respectively, then through valve block 12 to measuring instrument 14, which calculates the flowrate in pipeline 16 based on the difference in the two pressures. *See* Ex. 1001, 5:28–41.

Figure 7 is reproduced below:

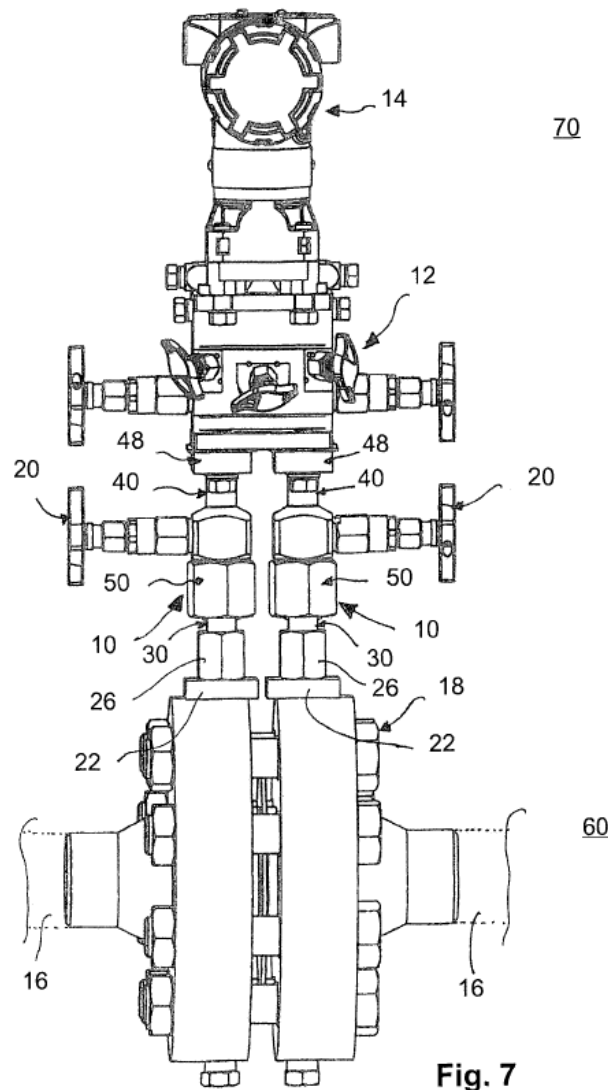
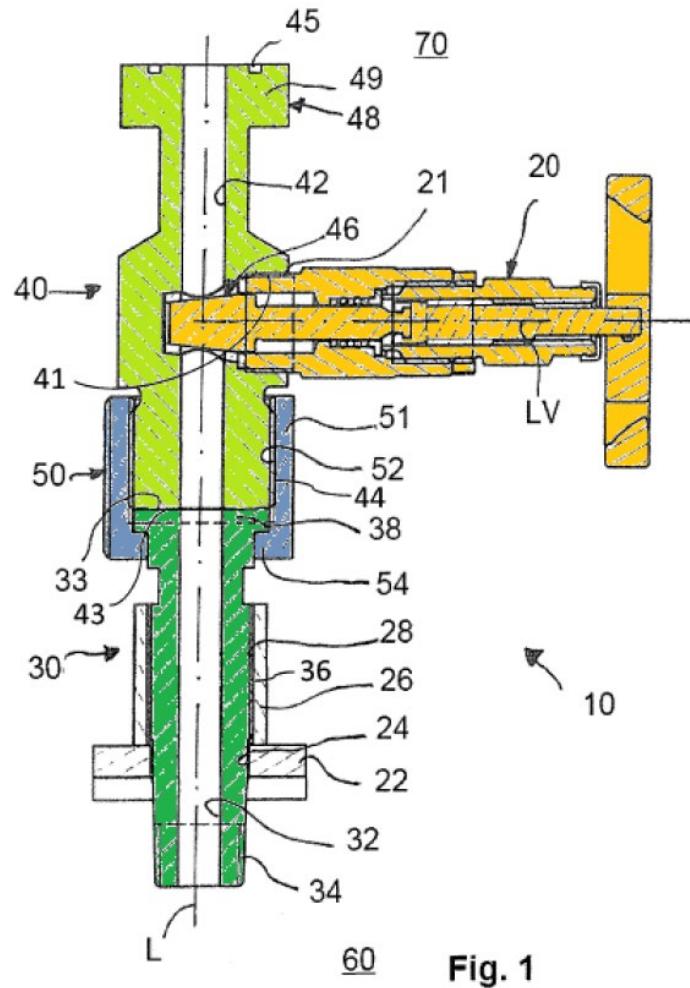


Figure 7 shows a “constructional exemplary embodiment” of the configuration of components shown in Figure 6 (with generally the same reference numerals).

A modified version of Figure 1, with shading added by Petitioner, is reproduced below:



Pet. 7. Figure 1 is a schematic cross-sectional view of one of the two connecting apparatus (10) shown in Figures 6 and 7 above, shown in the orientation of the rightmost connecting apparatus (i.e., with shutoff valve 20 extending to the right). Ex. 1001, 4:51–55, 5:52–60. In the modified version of Figure 1 here, Petitioner added (1) dark green overlay to identify first connecting device 30, (2) light green overlay to identify second connecting device 40, (3) orange overlay to identify shutoff valve 20, and (4) blue-gray overlay to identify connecting unit 50. Pet. 7; Ex. 1001, 5:64–

6:5. As shown in Figures 6 and 7, the lower part of first connecting device 30 connects to metering orifice device 18 and the upper portion of second connecting device 40 connects to valve block 12. *See id.* at 6:5–8. The challenged patent discloses that, “[i]n an embodiment variant, which is not shown, provision is made between the end-face sealing surface 43 and the end-face sealing surface 33 for sealing means which ensure a permanently reliable sealing function.” *Id.* at 7:46–49³; *see id.* at 3:63–4:5 (further discussing the “sealing means”).

C. The Challenged Claims

Petitioner challenges claims 1–7, of which only claim 1 is independent. Independent claim 1 is reproduced below, reformatted from the version provided in the challenged patent, with bracketed alphanumerical designations added to identify each clause, and with emphasis added to language relevant to the discussion below:

1. **[1[Preamble]]** A connecting apparatus comprising:

[1[a]] a first connecting device that is connectable to a pipeline or to a metering orifice device in a sealing manner, said first connecting device having a first through-opening in a longitudinal direction;

[1[b]] a second connecting device that provides a sealing connection to a measuring instrument or to a valve block/valve, said second connecting device having a second through-opening in a longitudinal direction; and

[1[c]] a connecting unit that provides a sealing connection to the first and second connecting devices, wherein

³ In this Decision, we omit emphasis on reference numerals in quotations from the challenged patent and prior art references.

[wherein clause (i)] the first and second connecting devices are interconnected with sealing effect,

[wherein clause (ii)] the connecting unit is designed so that the sealing connection can be created solely by rotation of the connecting unit without rotating the first and second connecting devices,

[wherein clause (iii)] an upper edge region of the first connecting device has an outwardly pointing outer flange and an end-face sealing surface,

[wherein clause (iv)] a lower edge region of the second connecting device has a male thread and an end-face sealing surface,

[wherein clause (v)] the connecting unit is designed as a nut unit with a female thread and an inwardly pointing inner flange which is arranged in the lower edge region,

[wherein clause (vi)] the outwardly pointing outer flange of the first connecting device fits behind the inner flange of the nut unit,

[wherein clause (vii)] the female thread of the nut unit is screwed onto the male thread of the second connecting device so that by means of the inner flange and the outer flange the end-face sealing surfaces are clamped together with sealing effect,

[1[d)] a shutoff valve is connected to the second connecting device, a longitudinal axis of which extends obliquely to a longitudinal axis of the apparatus,

[wherein clause (viii)] the outer flange and the inner flange are provided in an encompassing manner on the first connecting device or on the nut unit, and

[wherein clause (ix)] *sealing means are arranged between the end-face sealing surface of the first connecting device and the end-face sealing surface of the second connecting device.*

Ex. 1001, 8:46–9:18.⁴

D. Asserted Grounds of Unpatentability

Petitioner challenges claims 1–7 on the following six grounds:

Claim(s) Challenged	35 U.S.C. §⁵	Reference(s)/Basis
1, 2, 6, 7	102	Craig ⁶
1, 7	102	AS-Schneider 2008 Hook-Ups Catalog ⁷
1, 2, 6, 7	103	Craig, common knowledge ⁸
1, 2, 4–7	103	Parker-1 ⁹ , AS-Schneider 2012 Accessories Catalog ¹⁰ , common knowledge

⁴ We adopt and apply below Petitioner’s designations for the elements of the challenged claims. *See* Pet. v–vi (showing alphanumerical designations for the language in the challenged claims).

⁵ The Leahy-Smith America Invents Act (“AIA”) included revisions to 35 U.S.C. §§ 102, 103 that became effective on March 16, 2013. Pub. L. No. 112-29, §§ 3(b)–3(c), 3(n)(1), 125 Stat. 284, 285–87, 293 (2011). Because there is no dispute that the challenged claims have an effective filing date after March 16, 2013, we apply the AIA versions of the statutes.

⁶ US 2013/0187075 A1, published July 25, 2013 (Ex. 1005, “Craig”).

⁷ Armaturenfabrik Franz Schneider GmbH + Co. KG, *Instrument Valves and Manifolds — Hook-ups* (Ex. 1006, “AS-Schneider 2008 Hook-Ups Catalog”).

⁸ In this and subsequent grounds, Petitioner relies in part on the alleged common knowledge of a person of ordinary skill in the art. *See* Pet. 9–10.

⁹ Parker PGI, *AK-147 Direct Mount Duo — Stabilized Connector with Integral Block Valves: Installation, Operation & Maintenance (I.O.M.) Manual* (2013) (Ex. 1010, “Parker-1”).

¹⁰ Armaturenfabrik Franz Schneider GmbH + Co. KG, *Instrumentation Products Catalogue* (Ex. 1008, “AS-Schneider 2012 Accessories Catalog”).

Claim(s) Challenged	35 U.S.C. § ⁵	Reference(s)/Basis
1, 2, 4–7	103	Parker-2 ¹¹ , AS-Schneider 2012 Accessories Catalog, common knowledge
1–3, 6, 7	103	AS-Schneider 2008 Hook-Ups Catalog, AS-Schneider 2012 Accessories Catalog, common knowledge

Petitioner supports its challenges with a declaration from Dr. John P. Rodgers. Ex. 1002 (“the Rodgers Declaration” or “Rodgers Decl.”).

II. DISCUSSION

A. The Level of Ordinary Skill in the Art

The level of ordinary skill in the art is “a prism or lens” through which we view the prior art and the claimed invention. *Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001). The person of ordinary skill in the art is a hypothetical person presumed to have known the relevant prior art. *In re GPAC Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995). In determining the level of ordinary skill in the art, we may consider certain factors, including the “type of problems encountered in the art; prior art solutions to those problems; rapidity with which innovations are made; sophistication of the technology; and educational level of active workers in the field.” *Id.* (internal quotation marks and citation omitted).

Petitioner contends, with accompanying declaration testimony, that a person having ordinary skill in the art at the effective filing date of the

¹¹ Parker PGI, *Direct Mount Duo — Stabilized Connector with Integral Block Valves* (2013) (Ex. 1011, “Parker-2”).

claimed invention would have had either (1) “a trade school certificate in pipe fitting or equivalent training and experience, or a certificate in plumbing” or (2) “a mechanical or petroleum engineering degree.” Pet. 11 (citing Rodgers Decl. ¶ 51).

Patent Owner does not address Petitioner’s proposed definition of the level of ordinary skill in the art, which appears consistent with the record at this stage of the proceeding, including the prior art. *See GPAC Inc.*, 57 F.3d at 1579. For purposes of this Decision, we adopt the definition of the level of ordinary skill in the art proposed by Petitioner.

B. Claim Construction

1. The Applicable Standard

In *inter partes* reviews, the Board interprets claim language using the same claim construction standard that would be used in a civil action under 35 U.S.C. § 282(b), as described in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005) (en banc). *See* 37 C.F.R. § 42.100(b). Under that standard, we generally give claim terms their ordinary and customary meaning, as would be understood by a person of ordinary skill in the art at the time of the invention, in light of the language of the claims, the specification, and the prosecution history. *See Phillips*, 415 F.3d at 1313–14. Although extrinsic evidence, when available, may also be useful when construing claim terms under this standard, extrinsic evidence should be considered in the context of the intrinsic evidence. *See id.* at 1317–19.

2. “sealing means”

In wherein clause (ix) (as identified by Petitioner and in this Decision), sole independent claim 1 recites: “sealing means are arranged between the end-face sealing surface of the first connecting device and the

end-face sealing surface of the second connecting device.” Ex. 1001, 9:16–18 (the “sealing means” limitation). Petitioner “does not believe any claim term requires construction,” and thus, Petitioner does not address whether the “sealing means” limitation should be construed under 35 U.S.C. § 112(f). *See* Pet. 10 (claim construction), 38 (addressing wherein clause (ix) but not addressing § 112(f)), 53 (same), 80–81 (same), 101–102 (same). Patent Owner argues that the “sealing means” limitation should be construed under 35 U.S.C. § 112(f). *See* Prelim. Resp. 39–41.

The Federal Circuit has “stated that the use of the word ‘means’ in a claim element creates a rebuttable presumption that § 112[(f)] applies” and that “the failure to use the word ‘means’ also creates a rebuttable presumption—this time that § 112[(f)] does not apply.”¹² *Williamson v. Citrix Online, LLC*, 792 F.3d 1339, 1348 (Fed. Cir. 2015) (en banc in relevant part) (internal citations omitted). Because the “sealing means” limitation includes the word “means,” we start from the rebuttable presumption that § 112(f) applies. Petitioner does not address the applicability of § 112(f) and does not rebut the presumption. We continue the analysis, however, and, for the reasons below, we agree with Patent Owner that § 112(f) applies to the “sealing means” limitation.

In assessing whether claim language invokes § 112(f), “the essential inquiry is not merely the presence or absence of the word ‘means’ but

¹² Section 4(c) of the AIA re-designated pre-AIA 35 U.S.C. § 112 ¶ 6 as 35 U.S.C. § 112(f). The Federal Circuit, however, has applied the rules as to application of pre-AIA 35 U.S.C. § 112 ¶ 6 from the en banc portion of *Williamson* to the application of current 35 U.S.C. § 112(f). *See, e.g., Egenera, Inc. v. Cisco Sys., Inc.*, 972 F.3d 1367, 1372–73 (Fed. Cir. 2020) (discussing *Williamson* as to the applicability of § 112(f)). We do the same.

whether the words of the claim are understood by persons of ordinary skill in the art to have a sufficiently definite meaning as the name for structure.”

Williamson, 792 F.3d at 1348 (en banc in relevant part). Here, Petitioner has failed to present (and we find that the record does not include) either intrinsic evidence or extrinsic evidence showing that the term “sealing means” would have been understood by persons of ordinary skill in the art to have a sufficiently definite meaning as the name for structure. Instead, in both the relevant claim language and the written description, the challenged patent describes the “sealing means” in terms of its sealing *function*. See Ex. 1001, 9:16–18 (claim 1 reciting: “sealing means are arranged between the end-face sealing surface of the first connecting device and the end-face sealing surface of the second connecting device”), 7:46–49 (“In an embodiment variant, which is not shown, provision is made between the end-face sealing surface 43 and the end-face sealing surface 33 for sealing means which ensure a permanently reliable sealing function.”), Fig. 1.

Only in the written description—i.e., not in claim 1—does the challenged patent discuss *structures* that perform the required function. Ex. 1001, 3:63–4:5. Within these disclosures in the written description, the challenged patent does not discuss a “sealing means” as a name for structure *itself*; rather, the challenged patent discloses that the “sealing means can [be] designed in a wide variety of forms” before listing three exemplary structures. *Id.* In the three sentences describing the exemplary structures, the term “sealing means” is not used. *Id.* For these reasons, the “sealing means” limitation does not recite any structure that performs the sealing function, and, therefore, an adequate understanding of the structure cannot be obtained from the claim language itself without resorting to the written

description or extrinsic evidence. *See TriMed, Inc. v. Stryker Corp.*, 514 F.3d 1256, 1259–60 (Fed. Cir. 2008) (“Sufficient structure exists when the claim language specifies the exact structure that performs the functions in question without need to resort to other portions of the specification or extrinsic evidence for an adequate understanding of the structure.”). For these reasons, Petitioner has failed to overcome the rebuttable presumption that § 112(f) applies, and we determine that § 112(f) applies to the “sealing means” limitation. For purposes of this Decision, we need not further construe the “sealing means” limitation under § 112(f) to determine whether to institute *inter partes* review.

3. “fits behind”

In wherein clause (vi), claim 1 recites: “the outwardly pointing outer flange of the first connecting device *fits behind* the inner flange of the nut unit.” Ex. 1001, 9:4–5 (emphasis added). In the Preliminary Response, Patent Owner discusses the term “fits behind” in this claim language. *See* Prelim. Resp. 41–45. We need not construe explicitly this language or any other claim terms because doing so would not change the outcome of the analysis. *See Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019) (“The Board is required to construe ‘only those terms . . . that are in controversy, and only to the extent necessary to resolve the controversy.’” (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))).

C. Petitioner’s Failure to Comply with 37 C.F.R. § 42.104(b)(3) for Each of the Asserted Grounds of Unpatentability

Patent Owner argues that institution should be denied because Petitioner failed to comply with 37 C.F.R. § 42.104(b)(3) by failing to

construe the “sealing means” limitation under § 112(f). *See* Prelim. Resp. 15–22. For the reasons below, we agree with Patent Owner.

The rules governing *inter partes* reviews require that “[w]here the claim to be construed contains a means-plus-function . . . limitation as permitted under 35 U.S.C. [§] 112(f),” a petitioner “must identify the specific portions of the specification that describe the structure, material, or acts corresponding to each claimed function.” 37 C.F.R. § 42.104(b)(3). Discussing this rule, the Board’s Consolidated Trial Practice Guide provides guidance for situations involving means-plus-function limitations:

Where claim language may be construed according to 35 U.S.C. § 112(f), a petitioner must provide a construction that includes both the claimed function and the specific portions of the specification that describe the structure, material, or acts corresponding to each claimed function. 37 C.F.R. § 42.104(b)(3). A party may choose to elaborate why § 112(f) should or should not apply to the limitation at issue. *See Williamson v. Citrix Online, LLC*, 792 F.3d 1339 (Fed. Cir. 2015). *A petitioner who chooses not to address construction under § 112(f) risks failing to satisfy the requirement of 37 C.F.R. § 42.104(b)(3).*

Consolidated Trial Practice Guide 45 (Nov. 2019) (“TPG”) (emphasis added), *available at* <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

Because § 112(f) applies to the “sealing means” limitation (*see* § II.B.2), Petitioner was required to “identify the specific portions of the specification that describe the structure, material, or acts corresponding to each claimed function.” 37 C.F.R. § 42.104(b)(3). But Petitioner failed to satisfy that requirement, despite the presence of the word “means” in the “sealing means” limitation. Instead, Petitioner takes the position that no claim construction is necessary for any terms in the challenged patent. *See* Pet. 10. And, as discussed in further detail in the next subsections as to each

asserted ground, Petitioner does not, in its element-by-element analyses, identify any portions of the challenged patent that disclose the same or equivalent structures that perform the “sealing means” limitation’s function.

1. Asserted Anticipation of Claims 1, 2, 6, and 7 by Craig

Petitioner asserts that claims 1, 2, 6, and 7 of the challenged patent are anticipated by Craig. Pet. 9, 26–39. For the reasons below, we determine that the Petition does not show a reasonable likelihood that Petitioner would prevail in demonstrating that these claims are anticipated by Craig.

In an anticipation analysis, the scope of the claim language must, when necessary, be interpreted, and then the construed claim language is compared to the prior art. *See In re Crish*, 393 F.3d 1253, 1256 (Fed. Cir. 2004); *compare* 37 C.F.R. § 42.104(b)(3) (addressing “How the challenged claim is to be construed”), *with* 37 C.F.R. § 42.104(b)(4) (addressing “How the *construed claim* is unpatentable under the statutory grounds identified” (emphasis added)). “[A] challenger who seeks to demonstrate that a means-plus-function limitation was present in the prior art must prove that the corresponding structure—or an equivalent—was present in the prior art.” *Fresenius USA, Inc. v. Baxter Int’l, Inc.*, 582 F.3d 1288, 1299 (Fed. Cir. 2009) (citing *In re Donaldson Co.*, 16 F.3d 1189, 1193 (Fed. Cir. 1994)).

To address the “sealing means” limitation in the context of this asserted ground, Petitioner states—with no citation to any evidentiary support—that “Craig teaches providing gasket 15 between the end-face surfaces of union end 13 and end connection 11 (first and second connecting devices) which inherently provides a sealing means when nut 12 is tightened.” Pet. 38. On the record here, Petitioner has failed to identify any portions of the challenged patent that disclose the same or equivalent

structures that perform the “sealing means” limitation’s function and has thus not adequately explained why the “gasket” in Craig falls within the scope of the “sealing means” limitation, when properly construed. *See* Prelim. Resp. 53 (arguing that “the Board should reject [this asserted ground] due to Petitioner’s failure to show with reasonable likelihood that Craig discloses the ‘sealing means’ term in claim 1 of the [challenged patent], particularly in view that Petitioner was required to but did not identify how that term should be construed beyond simply asserting ‘ordinary’ meaning, let alone under 35 U.S.C. § 112(f)”). Because Petitioner has not provided an adequate analysis for this asserted ground, we determine, based on the current record, that the Petition does not show a reasonable likelihood that Petitioner would prevail in demonstrating that claim 1 is anticipated by Craig.

This asserted ground as to dependent claims 2, 6, and 7 includes the same deficiency discussed above as to sole independent claim 1. Thus, we determine that the Petition does not show a reasonable likelihood that Petitioner would prevail with respect to the contention that claims 2, 6, and 7 are anticipated by Craig.

2. Asserted Anticipation of Claims 1 and 7 by AS-Schneider 2008 Hook-Ups Catalog

Petitioner asserts that claims 1 and 7 of the challenged patent are anticipated by AS-Schneider 2008 Hook-Ups Catalog.¹³ Pet. 9, 40–53. For

¹³ Patent Owner argues that certain non-patent references relied upon by Petitioner in the asserted grounds—including AS-Schneider 2008 Hook-Ups Catalog—were not publicly accessible and thus not “printed publications” under 35 U.S.C. § 311(b), making those references unavailable for use in an *inter partes* review. *See* Prelim. Resp. 22–34. Because we deny institution

the reasons below, we determine that the Petition does not show a reasonable likelihood that Petitioner would prevail in demonstrating that these claims are anticipated by AS-Schneider 2008 Hook-Ups Catalog.

To address the “sealing means” limitation in the context of this asserted ground, Petitioner identifies “sealing washer 6a/6b” in an embodiment referred to by Petitioner as “PR08.” Pet. 53 (citing Ex. 1006 at 37). Petitioner discusses why one of ordinary skill in the art would have understood that sealing washer 6a/6b would be arranged between the two identified end-face sealing surfaces, but does not identify any portions of the challenged patent that disclose the same or equivalent structures that perform the “sealing means” limitation’s function. Thus, Petitioner has not adequately explained why “sealing washer 6a/6b” in AS-Schneider 2008 Hook-Ups Catalog falls within the scope of the “sealing means” limitation. *See* Prelim. Resp. 64 (arguing that, in AS-Schneider 2008 Hook-Ups Catalog, “there certainly is no disclosure of the ‘sealing means’ as proposed to be construed” under § 112(f)). The cited paragraph of the Rodgers Declaration is unpersuasive for the same reasons. *See* Rodgers Decl. ¶ 158, *cited at* Pet. 53. Because Petitioner has not provided an adequate analysis for this asserted ground, we determine, based on the current record, that the Petition does not show a reasonable likelihood that Petitioner would prevail in demonstrating that claim 1 is anticipated by AS-Schneider 2008 Hook-Ups Catalog.

for other reasons, we do not reach a conclusion on that issue. For purposes of this Decision only, we assume, without deciding, the non-patent references relied upon in the Petition are “printed publications” under § 311(b).

This asserted ground as to claim 7 includes the same deficiency discussed above as to sole independent claim 1. Thus, we determine that the Petition does not show a reasonable likelihood that Petitioner would prevail with respect to the contention that claim 7 is anticipated by AS-Schneider 2008 Hook-Ups Catalog.

3. Asserted Obviousness of Claims 1, 2, 6, and 7 Based on Craig and Common Knowledge

Petitioner asserts that claims 1, 2, 6, and 7 of the challenged patent would have been obvious based on Craig and common knowledge. Pet. 9, 55–58. For the reasons below, we determine that the Petition does not show a reasonable likelihood that Petitioner would prevail in demonstrating that these claims would have been obvious based on this asserted ground.

In an obviousness analysis, we must ascertain the “differences between the prior art and the claims at issue.” *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966). To address the “sealing means” limitation in the context of this asserted ground, Petitioner relies on the same aspect of Craig discussed in the context of the anticipation ground based on Craig. *See* Pet. 55 (“As outlined above in [the anticipation ground based on Craig], Craig teaches each element of claims 1–7.”). Petitioner only relies on “common knowledge” and proposes modifications to Craig to address limitations other than the “sealing means” limitation. *See* Pet. 55–58. Thus, for the same reasons discussed as to the anticipation ground based on Craig, we determine, based on the current record, that the Petition does not show a reasonable likelihood that Petitioner would prevail in demonstrating that claim 1 would have been obvious based on Craig and common knowledge.

This asserted ground as to claims 2, 6, and 7 includes the same deficiency discussed above as to sole independent claim 1. Thus, we

determine that the Petition does not show a reasonable likelihood that Petitioner would prevail with respect to the contention that claims 2, 6, and 7 would have been obvious based on Craig and common knowledge.

4. Asserted Obviousness of Claims 1, 2, and 4–7 Based on Parker-1, AS-Schneider 2012 Accessories Catalog, and Common Knowledge & Asserted Obviousness of Claims 1, 2, and 4–7 Based on Parker-2, AS-Schneider 2012 Accessories Catalog, and Common Knowledge

Petitioner asserts that claims 1, 2, and 4–7 of the challenged patent would have been obvious based on (1) Parker-1, AS-Schneider 2012 Accessories Catalog, and common knowledge and (2) Parker-2, AS-Schneider 2012 Accessories Catalog, and common knowledge. Pet. 9–10, 58–89. For the reasons below, we determine that the Petition does not show a reasonable likelihood that Petitioner would prevail in demonstrating that these claims would have been obvious based on either asserted ground.

To address the “sealing means” limitation in the context of these asserted grounds, Petitioner relies on an o-ring that, according to Petitioner, is “arranged on the end face of the stabilized connector” in Parker-1 and Parker-2. *See* Pet. 80. On the record here, Petitioner has failed to identify any portions of the challenged patent that disclose the same or equivalent structures that perform the “sealing means” limitation’s function and thus has not adequately explained why the “o-ring” in Parker-1 or Parker-2 falls within the scope of the “sealing means” limitation, when properly construed.¹⁴ *See* Prelim. Resp. 53 (arguing that these grounds “should be

¹⁴ To the extent Petitioner relies, even in the alternative, on the “sealing washer” in AS-Schneider 2012 Accessories Catalog as the “sealing means” (*see* Pet. 80), the same reasoning applies.

rejected” because the relied-upon references fail to disclose, among other limitations, the “sealing means” limitation).

Although o-rings of specific types are disclosed in the challenged patent as one of the “wide variety of forms” for the “sealing means” (Ex. 1001, 3:63–66), that does not satisfy *Petitioner’s* requirement under 37 C.F.R. § 42.104(b)(3) to identify corresponding structure in the challenged patent. *See* TPG at 45 (“A petitioner who chooses not to address construction under § 112(f) risks failing to satisfy the requirement of 37 C.F.R. § 42.104(b)(3).”). The cited paragraphs of the Rodgers Declaration are unpersuasive for the same reasons. *See* Rodgers Decl. ¶¶ 187–189, *cited at* Pet. 80–81. Because Petitioner has not provided an adequate analysis for these asserted grounds, we determine, based on the current record, that the Petition does not show a reasonable likelihood that Petitioner would prevail in demonstrating that claim 1 would have been obvious based on either combination of references.

This asserted ground as to claims 2 and 4–7 includes the same deficiency discussed above as to sole independent claim 1. Thus, we determine that the Petition does not show a reasonable likelihood that Petitioner would prevail with respect to the contention that claims 2 and 4–7 would have been obvious based on either combination of references.

5. *Asserted Obviousness of Claims 1–3, 6, and 7 Based on AS-Schneider 2008 Hook-Ups Catalog, AS-Schneider 2012 Accessories Catalog, and Common Knowledge*

Petitioner asserts that claims 1–3, 6, and 7 of the challenged patent would have been obvious based on AS-Schneider 2008 Hook-Ups Catalog, AS-Schneider 2012 Accessories Catalog, and common knowledge. Pet. 10, 89–105. For the reasons below, we determine that the Petition does not

show a reasonable likelihood that Petitioner would prevail in demonstrating that these claims would have been obvious based this asserted ground.

To address the “sealing means” limitation in the context of this asserted ground, Petitioner identifies “seal ring 4” in an embodiment of the AS-Schneider 2008 Hook-Ups Catalog referred to by Petitioner as “DPD.” *See* Pet. 101 (identifying seal ring 4 in DPD); *see also* Pet. 89 (citing Ex. 1006 at 51–52 as disclosing “DPD”). On the record here, Petitioner has failed to identify any portions of the challenged patent that disclose the same or equivalent structures that perform the “sealing means” limitation’s function and thus has not adequately explained why the “seal ring” in AS-Schneider 2008 Hook-Ups Catalog falls within the scope of the “sealing means” limitation, when properly construed.¹⁵ *See* Prelim. Resp. 71 (arguing that this ground “should be rejected” because the relied-upon references fail to disclose, among other limitations, the “sealing means” limitation). The cited paragraphs of the Rodgers Declaration are unpersuasive for the same reasons. *See* Rodgers Decl. ¶¶ 218–220, *cited at* Pet. 101–102. Because Petitioner has not provided an adequate analysis for these asserted grounds, we determine, based on the current record, that the Petition does not show a reasonable likelihood that Petitioner would prevail in demonstrating that claim 1 would have been obvious based on AS-Schneider 2008 Hook-Ups Catalog, AS-Schneider 2012 Accessories Catalog, and common knowledge.

¹⁵ To the extent Petitioner relies, even in the alternative, on the “sealing washer” in AS-Schneider 2012 Accessories Catalog as the “sealing means” (*see* Pet. 101), the same reasoning applies.

This asserted ground as to claims 2, 3, 6, and 7 includes the same deficiency discussed above as to sole independent claim 1. Thus, we determine that the Petition does not show a reasonable likelihood that Petitioner would prevail with respect to the contention that claims 2, 3, 6, and 7 would have been obvious based on AS-Schneider 2008 Hook-Ups Catalog, AS-Schneider 2012 Accessories Catalog, and common knowledge.

III. CONCLUSION

For the reasons above, we determine that the Petition does not show a reasonable likelihood that Petitioner would prevail with respect to at least one of challenged claims 1–7 of the challenged patent.

IV. ORDER

Accordingly, it is hereby:

ORDERED that the Petition is denied as to all challenged claims, and no *inter partes* review is instituted.

IPR2024-00851
Patent 9,851,030 B2

FOR PETITIONER:

Domingo M. Llagostera
Russell T. Wong
Megan R. Wood
Tara L. Marcus
BLANK ROME LLP
domingo.llagostera@blankrome.com
russell.wong@blankrome.com
megan.wood@blankrome.com
tara.marcus@blankrome.com

FOR PATENT OWNER:

Wasif H. Qureshi
Blake T. Dietrich
JACKSON WALKER LLP
wqureshi@jw.com
bdietrich@jw.com