

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CURTIS INDUSTRIES, LLC
Petitioner

v.

B & D TECHNOLOGIES, LLC
Patent Owner

Case IPR 2024-01150
U.S. Patent No. 10,632,815

PATENT OWNER'S SUR-REPLY

TABLE OF CONTENTS

I. ARGUMENT	1
A. The Claims Require One or More of the A/C Unit’s Components to Bound the Interior Volume of the Cab	1
B. The Becton Dickinson Factors Support Discretionary Denial	3
II. CONSTRUCTION USED IN PATENT OWNER’S PRELIMINARY RESPONSE	5

I. ARGUMENT

A. The Claims Require One or More of the A/C Unit's Components to Bound the Interior Volume of the Cab

Contrary to Petitioner's position, the claim language, specification, prosecution history, and even Patent Owner's ("PO's") infringement contentions support its position regarding the rear wall meaning the interior rear wall.

Claim 1 of the '815 Patent requires "a front wall, a first sidewall, a second sidewall, and a ceiling that **collectively define an interior volume...**" '815 Patent, 10:4-7 (emphasis added). Each of these surfaces must directly bound the interior volume. Claim 1 also states "wherein one or more components of the air conditioning unit **define a rear wall *disposed opposite the front wall*.**" '815 Patent, 10:17-18 (emphasis added). As "front wall" and "sidewall" are used to define the interior volume, the inclusion of a "**rear wall disposed opposite the front wall**" is readily understood to mean the interior volume's rear wall. Claim 1 also states that "when the lower frame is secured to the mower frame **the front wall is disposed in front of an operator seat** of the lawn mower and **the rear wall is disposed behind the operator seat.**" '815 Patent, 10:20-24 (emphasis added). The front wall and the rear wall are again used together to define the interior volume of the cab. The claim thus requires the rear wall to be the rear wall of the interior volume.

Petitioner next argues that PO's infringement contentions acknowledge that the surfaces may be the exterior surfaces because PO points to exterior surfaces in

its infringement contentions. However, PO's arrows in a litigation document being oriented from the inside or outside of these panels does not change that these panels bound the interior volume. Petitioner also ignores that PO consistently identified the *interior* rear wall being defined by A/C components in its infringement contentions. See Ex. 1015, at 6, 19, 29, and 39.

Further, the figures of the application consistently depict the interior rear wall as the surface defined by one or more components of the A/C unit and the exterior rear wall as a separate element. See '815 Patent, Figs. 1-10. The specification describes the "rear enclosure" as the exterior rear wall of the cab. '815 Patent 6:59-63 ("A rear portion of the cab assembly 20 (FIG.1) **is covered by the rear enclosure 58** having a plurality of fixed louvers 50 along a rearward-facing surface"), 8:53-55 ("installing the rear enclosure 58 **over the air conditioning unit 50**"). Thus, the A/C unit's components do not form the rear exterior wall of any described embodiment.

Petitioner accuses PO of attempting to "limit claim terms to a preferred embodiment described in the specification;" however, the interior side of the rear wall is the plain and ordinary meaning of the term in light of the specification. Petitioner fails to identify any section of the specification or the claims that conflict with PO's interpretation. Petitioner instead relies solely on this conclusory statement.

PO's construction is supported by the claim language and the specification. Thus, the Board should adopt PO's construction and deny the Petition for failing to show a reasonable likelihood that any claim of the '815 patent is unpatentable.

B. The Becton Dickinson Factors Support Discretionary Denial

The Becton, Dickinson factors favor discretionary denial. Petitioner's Asserted References fail to present any new features missing from the combination of references cited by the Examiner during prosecution. Specifically, the Examiner cited the combination of Osswald (Ex.2001) in view of Taylor (Ex.2004), Anglin (Ex.2003), and Ichikawa (Ex.2002). Ex. 1002, at 24. PO's position is not that a single reference provides each and every element of the Petitioner's grounds; rather, PO's argument is that the combination of these references results in substantially the same system that Petitioner proposes in Grounds I-II.

Regarding Osswald, the examiner repeatedly cited Osswald as teaching an enclosure system for a lawn mower throughout prosecution. During prosecution, PO contested the examiner's interpretation of Osswald; however, PO was unable to persuade the examiner. Ex.1002 at 14. Osswald teaches a fully enclosed cab for the user. Although the sidewalls of the cab contain openings, the examiner stated during prosecution that this does not prevent the combination from achieving its intended purpose. Ex.1002 at 14. Osswald is the base reference that provides a lawn mower with an attached enclosed cab.

Turning to Ichikawa, the cab contains an A/C unit mounted in a ceiling compartment. This is the same configuration taught by Toro. Further, the cab of Ichikawa is shaped similarly to the cab of Toro. However, Petitioner again asserts that this is not an air-conditioned cab for a lawn mower. The Examiner stated the lawn mower is present in Osswald, and Petitioner agrees that a different type of vehicle does not prevent a valid 103 combination. Ex.1002 at 13; Petition at 45. As such, the cab of Ichikawa may be combined with the lawn mower of Osswald. This results in a lawn mower with an A/C unit positioned within a compartment in the ceiling of the cab.

Regarding Anglin, Petitioner cites arguments PO made during prosecution for why Anglin cannot be combined. The examiner responded to PO's argument with the statement Petitioner quoted, "Simply because one teaching relates to a different type of vehicle does not preclude a proper 103 rejection." Ex.1002 at 13. The examiner cited Anglin as teaching an A/C unit powered by rotary motion from a vehicle's engine. Ex.1002 at 15. The combination with Osswald and Ichikawa teaches a lawn mower having a cab with an A/C unit mounted inside a ceiling compartment, the A/C unit powered by rotary motion from the engine of the lawn mower. This is substantially the same as the cab of the Toro References.

Finally, Taylor teaches a vehicle having an A/C unit mounted behind the driver's seat. PO has already shown how Petitioner's grounds I-II are deficient with

respect to one or more components of an A/C unit defining a rear wall. However, the examiner contemplated a similar modification using Taylor and Ichikawa during prosecution. The examiner proposed modifying Taylor to move the A/C unit above the operator. This is the same type of combination that Petitioner now proposes.

As such, Petitioner's Grounds I-II result in substantially the same system that the examiner proposed during prosecution. The Board should therefore issue a discretionary denial without reaching the merits of the Petition.

II. CONSTRUCTION USED IN PATENT OWNER'S PRELIMINARY RESPONSE

PO would like to clarify that it utilized Petitioner's proposed construction of the A/C unit components in its Preliminary Response. Specifically, PO stated that the isolation panel is a component of the A/C unit. Preliminary Response at 32-33. For avoidance of doubt, PO's position is that the isolation panel 90 is **not** a component of the A/C unit. The status of the isolation panel 90 does not affect PO's arguments, as the condenser 62 and the evaporator unit 52 still form an interior rear boundary of the cab.

Respectfully submitted,

Date: November 19, 2024

/J. Hunter Adams/

J. Hunter Adams (Atty. Reg. No. 69,994)

Certificate of Service

It is certified that a copy of the Preliminary Response in Case No. IPR
2024-01150 has been served on Petitioners by emailing a copy of the same to the
following address with consent of the Petitioner:

IPR44006-00011P1@fr.com

Respectfully submitted,

Date: November 19, 2024

/J. Hunter Adams/

J. Hunter Adams (Atty. Reg. No. 69,994)