side to side, in the manner of an aircraft joystick. (*See Rorabaugh*, col.8 ll. 40-45, FIG. 2, reproduced below.)

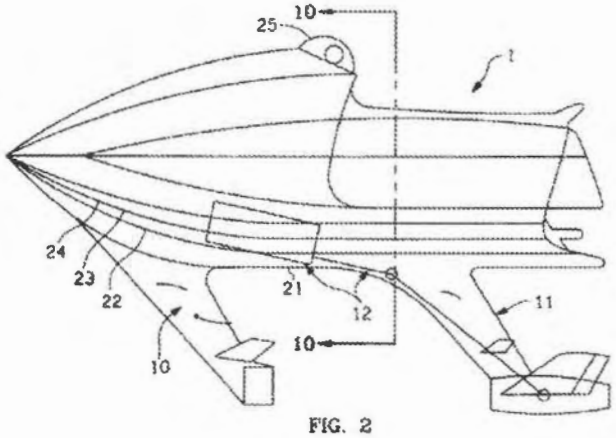



FIG. 2

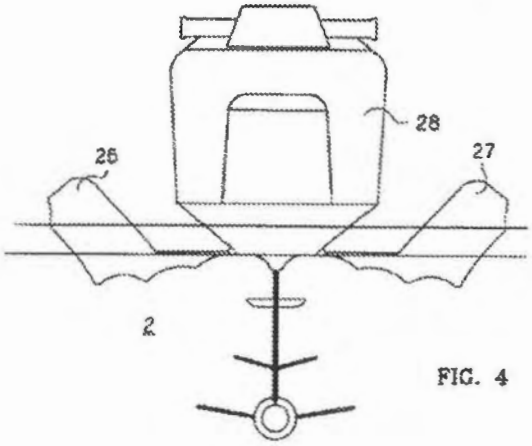
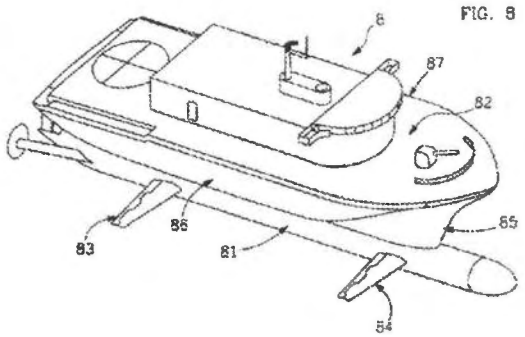



FIG. 4

Thus, contrary to Examiner's alleged motive for combining the foils of *Rorabaugh* with the watercraft of *Braden*, the hydrofoils of *Rorabaugh* do not provide stability to the watercraft; rather, it is the sponsons of *Rorabaugh* that impart stability. (Langelaan Dec., ¶ 21.) Indeed, the language from column 1, lines 16-20 of *Rorabaugh*, which was quoted on page 4 of the Action as support for the concept of adding *Rorabaugh's* hydrofoils to *Braden's* surfboard for the purpose of "provid[ing] increased stability," is not actually discussing stability provided by hydrofoils, but rather is discussing stability provided by *Rorabaugh's* sponsons. (*Id.*) In contrast, the hydrofoil assemblies 10, 11 are designed to impart a lifting force on the watercraft such that the watercraft rises to a hydrofoil plane. (*See, e.g., Rorabaugh*, col.10 ll.60-63.) Thus, the Examiner's purported motive for combining the foils of *Rorabaugh* with the watercraft of *Braden* (*i.e.,* to "provide increased stability to the *Braden*

watercraft") is insufficient for actually stabilizing the watercraft of *Braden*. Indeed, to stabilize the watercraft of *Braden* using the teachings of *Rorabaugh*, the *sponsons* of *Rorabaugh* should be added to the watercraft of *Braden*, not the hydrofoils.

Even if a person having ordinary skill in the art were to combine the foils of *Rorabaugh* with the watercraft of *Braden* in an attempt to stabilize the watercraft, as posited by the Examiner in the Action, such a person would not have stabilized the watercraft without relying on adjustable control surfaces like those utilized by *Rorabaugh*. In that regard, a person having ordinary skill in the art would have well understood that the hydrofoils of *Rorabaugh* include adjustable control surfaces. (Langelaan Dec., ¶ 22; *see also Rorabaugh*, FIG. 8, reproduced below.) Such adjustable control surfaces are well-known in the art, and they contradict the language of independent claims 1 and 16 currently under reexamination, which recite "the hydrofoil having no movable surface" and "the watercraft having no movable steering system."




The watercraft of independent claim 1 and amended independent claim 16 is a "passively stable, weight-shift controlled personal hydrofoil watercraft." A person having ordinary skill in the field of aerospace engineering would understand "passively stable" to refer to stability achieved without the need for active control systems, such as the adjustable control surfaces taught by *Rorabaugh*. (Langelaan Dec., ¶ 12.) Indeed, col.6 ll.7-11 of the '659 Patent subject to the present reexamination characterizes "passive stability" as stability that "obviate[s] the necessity for mechanisms or active control systems to provide stability. This passive stability allows the watercraft to be controlled by weight shift rather than by mechanical systems." Accordingly, implementation of *Rorabaugh's* hydrofoils (with their adjustable control surfaces) into *Braden's* powered surfboard would result in a watercraft that is not "passively stable" and "weight-shift controlled," contrary to independent claims 1 and 16.

Thus, Patent Owner respectfully asserts that the Action has failed to establish a *prima facie* case of obviousness as to the combination of *Braden* and *Rorabaugh* for at least the reasons that the Examiner has not provided a proper motive for combining *Rorabaugh* and *Braden* and because such a combination would contradict the explicit language of the independent claims. Therefore, Patent Owner respectfully requests the rejection of claims 1 and 16 based on *Braden* and *Rorabaugh* be withdrawn. Additionally, due at least to the dependency of claims 2-15 and 17-20 from independent claim 1 or independent claim 16, the rejection as to such dependent claims should also be withdrawn.

**B. Obviousness Rejections over *Braden* in view of *Woolley***

As discussed above, *Braden* is directed to a powered surfboard. The Action alleged that *Braden* discloses all of the features recited in independent claims 1 and 16 except for those relating to the hydrofoil. For those missing teachings, the Action pointed to the front blade 40 and rear blade 42 of the planing blade 38 of *Woolley's* flying ski, alleging that it would have been obvious to add those contended hydrofoils to *Braden's* motor 12 in order to "increase the stability of the *Braden* watercraft and create a more balanced support surface for the user." (Action, p.7.) However, as discussed below, Patent Owner respectfully traverses this rejection, as it has failed to establish a *prima facie* case of obviousness.

In the Action, the Examiner alleged that it would have been obvious to add the contended hydrofoils of *Woolley* to *Braden's* powered surfboard in order to increase stability. However, a person having ordinary skill in the art would not utilize a hydrofoil for the purpose of improving the stability of a watercraft. (Langelaan Dec., ¶ 20.) Rather, the function of a hydrofoil is to produce lift, so as to raise the main body of the watercraft above the surface of the water, which results in a reduction of the drag force. (*Id.* at ¶¶ 6, 24.) That is consistent with *Woolley's* use of its planing blade 38, which is primarily for elevating the rider and board above the surface of the water to provide a flying experience. (*Id.* at ¶ 23; *see also Woolley*, ¶¶ [0005]-[0006].) Once that primary objective is achieved, then the hydrofoil can be designed to provide desired stability characteristics to the watercraft that is lifted above the water during operation. (Langelaan Dec., ¶ 23.) Indeed, paragraphs [0191]-[0214] of *Woolley* discuss how its planing blade 38 can be further modified to provide desired stability characteristics for different rider skill levels. (*Id.*) However, even these referenced modifications in

*Woolley* would still be made to a watercraft that is fundamentally propelled via a tow rope, and the tow rope itself provides stability and controllability to the rider.

As such, if a person having ordinary skill in the art were to consider adding a hydrofoil to *Braden's* powered surfboard for its actual function of lifting the body of the surfboard out of the water during operation, then that modification would result in tremendous instability. (*Id.* at ¶ 24.) Specifically, *Braden's* motor mount 13 would have to be lengthened so that it could continue to provide thrust while the surfboard body is lifted above the water during operation. (*Id.* at ¶ 26.) However, such a shift of the thrust vector away from the center of gravity (which is located up near the rider's torso) would destabilize *Braden's* watercraft by imparting a large nose-up pitching moment. (*Id.* at ¶¶ 25-26.) Neither *Braden* nor *Woolley* suggest how one would successfully counteract that destabilizing torque. (*Id.* at ¶ 26.) Indeed, *Woolley* does not experience anything like that resulting torque, due to some significant differences between *Woolley* and the claimed invention. (*Id.* at ¶¶ 25-26.) That is, *Woolley's* propulsion is provided via a tow rope from a remote motorboat, such that the propulsive force extends roughly through the center of gravity of the vehicle (*i.e.*, the rider's torso). (*Id.* at ¶ 25.) Moreover, the tow rope allows the rider to provide steering and control inputs by moving the tow handle around. (*Id.*) Effectively, the only way this combination of references teaches how to impart stability would be to incorporate the tow rope and its associated source of thrust (from the powerboat) of *Woolley*.

Therefore, in view of the destabilizing impact of incorporating a hydrofoil into *Braden's* powered surfboard, at best a person having ordinary skill in the art at the time of the present invention would have concluded that an active stabilization system including movable steering systems and/or movable control surfaces would have been required in order to achieve stability in the watercraft as modified. (*Id.* at ¶ 27.) Indeed, that is exactly what was done in the past, as demonstrated by, for example, U.S. Patent No. 7,047,901 to Chen ("*Chen*"), which is a reference that was discussed in the Background of the '659 Patent and was also applied during the prosecution history of the original application that matured as the '659 Patent. (*Id.* at ¶¶ 24, 27.)

However, such active control components would not have fallen within the scope of the claimed invention, as the claims recite a "passively stable" and "weight-shift controlled" hydrofoil watercraft having "no movable steering system," and in which the hydrofoil has "no movable surface." It would only have been through improper hindsight knowledge gleaned from the disclosure

of the '659 Patent itself or through undue experimentation that a person having ordinary skill in the art at the time of the invention would have achieved a functioning watercraft within the scope of the claims of the '659 Patent. Indeed, the passively stable, weight-shift controlled hydrofoil watercraft of the present invention achieves results without an active steering system that would have been unexpected to a person having ordinary skill in the art at the time of the invention, as further discussed in the following section.

Thus, in view of the above, it is respectfully submitted that the rejection of independent claims 1 and 16 based on *Braden* in view of *Woolley* should now be withdrawn. Moreover, due at least to the dependency of claims 2, 4-6, 8-11, 13-15, and 18-20 from either independent claim 1 or independent claim 16, the rejection as to such dependent claims should also be withdrawn.

**SECONDARY CONSIDERATIONS**

In considering obviousness of a claim, objective evidence relevant to non-obviousness, such as long-felt but unsolved needs, unexpected results, failure of others, and commercial success, sometimes referred to as "secondary considerations," must be evaluated by the Examiner. *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966). See also, e.g., *In re Piasecki*, 745 F.2d 1468, 1473, 223 USPQ 785, 788 (Fed. Cir. 1984) (commercial success). This evidence may be provided as part of the specification, or during prosecution. MPEP § 2141. The originally filed specification and the present communication provide an abundance of objective evidence supporting non-obviousness of the present claims. Patent Owner respectfully submits that there exists ample evidence of secondary considerations that plainly rebut the Examiner's obviousness assertions. Accompanying this response is a declaration by Nick Leason, co-founder and CEO of the assignee of this patent, MHL Custom, Inc. ("Leason Declaration").

1. Commercial Success

Generally, the '659 Patent, and the underlying products covered by the claims of the '659 Patent, have achieved wild commercial success in terms of the license and sale of the '659 Patent, the creation of a market for products covered by the '659 Patent, and the tremendous market success of these products within the market created by Patent Owner.

Furthermore, the success of the Patent Owner's products has a direct nexus to the claims of the '659 Patent. Indeed, "there is a presumption of nexus for objective considerations when the

patentee shows that the asserted objective evidence is tied to a specific product and that product 'is the invention disclosed and claimed in the patent.'" *WBIP, LLC v. Kohler Co.*, 829 F.3d 1317, 1329 (Fed. Cir. 2016). When a nexus is presumed, "the burden shifts to the party asserting obviousness to present evidence to rebut the presumed nexus." *Id.*; *see also Yita LLC v. MacNeil IP LLC*, 69 F.4th 1356, 1365 (Fed. Cir. 2023). The inclusion of noncritical features does not defeat a finding of a presumption of nexus. *See, e.g., PPC Broadband, Inc. v. Corning Optical Commc'ns RF, LLC*, 815 F.3d 734, 747 (Fed. Cir. 2016) (stating that a nexus may exist "even when the product has additional, unclaimed features"). As set forth in the Langelaan Declaration, the Patent Owner's products (as illustrated by the LIFT3 product) have a direct nexus to the claims of the '659 Patent. (Langelaan Dec., ¶ 28.) Further, paragraphs 3-8 of the Leason Declaration describe how the success of the assignee's underlying products are directly attributable to the claimed features – namely, that the product is passively stable and does not require complex active stabilizers such as movable surfaces or steering systems.

2. Copying by Others

Relatedly, Patent Owner respectfully submits that there is ample evidence of attempted and actual copying of these products by third parties. (*See* Leason Dec., ¶¶ 9-14.) Such attempted and actual copying have led to certain of the above-noted license agreements, as well as to successful patent infringement assertions in court (*e.g.*, 1-21-cv-00091, *MHL Custom, Inc. v. Waydoo USA, Inc. et al* (finding of infringement, currently pending appeal though Waydoo is seeking to voluntarily dismiss its appeal)). These copycat companies have also been the source of an IPR (IPR2024-00085) filed against the '659 Patent, and likely the present re-examination proceeding. The successful licensing and patent assertion history of the '659 Patent is itself evidence that these competitive products also embody the elements of the claims of the '659 Patent just as the Lift3 and other products do.

3. Failure of Others and Long-Felt but Unresolved Need

Patent Owner also has evidence of numerous earlier attempts to make a personal hydrofoil watercraft that is passively stable and easy for anyone to use, though all such previous attempts failed or came up short. (*See* Leason Dec., ¶¶ 15-23.) As such, despite these previous attempts by others, the inventor and Patent Owner were the first to conceive and reduce to practice a passively stable hydrofoil that did not require a movable surface or a moveable steering system. Such a device can be

distinguished from that disclosed in the *Chen* reference (referred to above) which utilizes an actively controlled steering mechanism.

4. Unexpected Results

Similarly, Patent Owner experienced unexpected success during experimentation with a hydrofoil embodied by the claims of the '659 Patent. (*See* Leason Dec., ¶¶ 24-26.) Specifically, Patent Owner, like anyone of ordinary skill in the art, would have believed that some sort of control surface would be required (like that in *Chen*) in order to counteract destabilizing forces imparted by the propulsion system. Upon implementing the hydrofoil designs embodied by the claims of the '659 Patent, which did not include movable surfaces or steering systems, Patent Owner achieved the *passive* stability that did not require any active, movable control or steering systems. This design using the teachings of the '659 Patent allowed Patent Owner to offer a hydrofoil board that could be used by anyone, including those that are not experienced surfers or top athletes.

5. Industry Praise

Finally, Patent Owner has received voluminous industry praise, even aside from the instances of copying and the strong and growing revenues in both sales and patent license royalties. (*See* Leason Dec., ¶¶ 27-30.) Patent Owner provides examples of this industry praise as exhibits to the Leason Declaration.

Therefore, the secondary considerations discussed above show that the present claims are non-obvious over the prior art. Accordingly, Patent Owner submits that the independent claims are patentable over the prior art and respectfully requests that the rejections under § 103 set forth in the Office Action be withdrawn.

**NEW CLAIMS**

By the present Amendment, new claims 21-28 are added, which claims depend either directly or indirectly from independent claim 1. Due at least to that dependency from a claim which is believed to be patentable for those reasons discussed above, such new claims should also be in condition for allowance.

## CONCLUSION

As it is believed that all of the rejections set forth in the Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone Patent Owner's attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

All required fees are being paid via credit card. However, please charge any additional fees not already paid via credit card, and credit any overpayments to our Deposit Account No. 12-1095.

Dated: March 4, 2024

Respectfully submitted,

Electronic signature: /Michael C. Bossner/
Michael C. Bossner
Registration No.: 79,441
LERNER DAVID LLP
20 Commerce Dr.
Cranford, New Jersey 07016
(908) 654-5000
Attorney for Patent Owner

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the following documents:

1. Amendment;
2. Declaration of Dr. Jacob Langelaan Under 37 C.F.R. § 1.132;
3. Exhibits A and B to Declaration of Dr. Jacob Langelaan;
4. Declaration of Nick Leason, Under 37 C.F.R. § 1.132; and
5. Exhibits A through Y to Declaration of Nick Leason.
6. Patent Owner's Statement Pursuant To MPEP §2281 Of The Substance Of The Interview Of January 30, 2024

is being served upon the following counsel of record this 4th day of March, 2024, by First Class Mail.

Bayramoglu Law Offices, LLC
1540 West Warm Springs Road
Suite 100
Henderson, NV 89014

/Michael C. Bossner/

MICHAEL C. BOSSNER
Registration No. 79,441

PTO/SB/06 (09-11)
Approved for use through 1/31/2014. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

| PATENT APPLICATION FEE DETERMINATION RECORD<br>Substitute for Form PTO-875 | Application or Docket Number<br>90/015,269 | Filing Date<br>08/09/2023 | ☐ To be Mailed |
|---|---|---|---|

**ENTITY:** ☐ LARGE ☑ SMALL ☐ MICRO

## APPLICATION AS FILED - PART I

| FOR | (Column 1)<br>NUMBER FILED | (Column 2)<br>NUMBER EXTRA | | RATE ($) | FEE ($) |
|---|---|---|---|---|---|
| ☐ BASIC FEE<br>(37 CFR 1.16(a), (b), or (c)) | N/A | N/A | | N/A | |
| ☐ SEARCH FEE<br>(37 CFR 1.16(k), (l), or (m)) | N/A | N/A | | N/A | |
| ☐ EXAMINATION FEE<br>(37 CFR 1.16(o), (p), or (q)) | N/A | N/A | | N/A | |
| TOTAL CLAIMS<br>(37 CFR 1.16(i)) | minus 20 = | * | | x $40 = | |
| INDEPENDENT CLAIMS<br>(37 CFR 1.16(h)) | minus 3 = | * | | x $192 = | |
| ☐ APPLICATION SIZE FEE (37 CFR 1.16(s)) | If the specification and drawings exceed 100 sheets of paper, the application size fee due is $310 ($155 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s). | | | | |
| ☐ MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j)) | | | | | |
| * If the difference in column 1 is less than zero, enter "0" in column 2. | | | | TOTAL | |

## APPLICATION AS AMENDED - PART II

| | | (Column 1) | | (Column 2) | (Column 3) | | | |
|---|---|---|---|---|---|---|---|---|
| AMENDMENT | 03/04/2024 | CLAIMS REMAINING AFTER AMENDMENT | | HIGHEST NUMBER PREVIOUSLY PAID FOR | PRESENT EXTRA | | RATE ($) | ADDITIONAL FEE ($) |
| | Total<br>(37 CFR 1.16(i)) | * 28 | Minus | ** 20 | = 8 | | x $40 = | 320 |
| | Independent<br>(37 CFR 1.16(h)) | * 2 | Minus | *** 3 | = 0 | | x $192 = | 0 |
| | ☐ Application Size Fee (37 CFR 1.16(s)) | | | | | | | |
| | ☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j)) | | | | | | | |
| | | | | | | | TOTAL ADD'L FEE | 320 |

| | | (Column 1) | | (Column 2) | (Column 3) | | | |
|---|---|---|---|---|---|---|---|---|
| AMENDMENT | | CLAIMS REMAINING AFTER AMENDMENT | | HIGHEST NUMBER PREVIOUSLY PAID FOR | PRESENT EXTRA | | RATE ($) | ADDITIONAL FEE ($) |
| | Total<br>(37 CFR 1.16(i)) | * | Minus | ** | = | | x $0 = | |
| | Independent<br>(37 CFR 1.16(h)) | * | Minus | *** | = | | x $0 = | |
| | ☐ Application Size Fee (37 CFR 1.16(s)) | | | | | | | |
| | ☐ FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j)) | | | | | | | |
| | | | | | | | TOTAL ADD'L FEE | |

| | |
|---|---|
| * If the entry in column 1 is less than the entry in column 2, write "0" in column 3. | LIE |
| ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20". | /RHONDA BELL/ |
| *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3". | |
| The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1. | |

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 90/015,269 | 08/09/2023 | 9586659 | GBWHCC001-EPR | 5917 |

530 7590 01/29/2024

Lerner David LLP
20 COMMERCE DRIVE
CRANFORD, NJ 07016

| EXAMINER | |
|---|---|
| LILLIS, EILEEN DUNN | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3993 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/29/2024 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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Commissioner for Patents
United States Patents and Trademark Office
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1/29/2024

THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS

BAYRAMOGLU LAW OFFICES. LLC
1540 WEST WARM SPRINGS ROAD
SUITE 100
HENDERSON, NV 89014

**EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. : 90015269
PATENT NO. : 9586659
ART UNIT : 3993

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above-identified ex parte reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the ex parte reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

| **Decision on Petition for Extension of Time in Reexamination** | Application No.: 90/015,269 | Applicant(s): 9,586,659 | |
|---|---|---|---|
| | Examiner<br>Eileen Lillis | Art Unit<br>3993 | |

1. THIS IS A DECISION ON THE PETITION FILED 1/26/24.

2. THIS DECISION IS ISSUED PURSUANT TO:
   - A. ☒ 37 CFR 1.550(c) – The time for taking any action by a patent owner in a third party requested *ex parte* reexamination proceeding will be extended only for sufficient cause and for a reasonable time specified.
   - B. ☐ 37 CFR 1.550(c) – The time for taking action by a patent owner in a patent owner requested *ex parte* reexamination proceeding will only be extended for more than two months for sufficient cause and for a reasonable time specified.
   - C. ☐ 37 CFR 1.956 – The time for taking any action by a patent owner in an *inter partes* reexamination proceeding will be extended only for sufficient cause and for a reasonable time specified.

   The petition is before the Central Reexamination Unit for consideration.

3. FORMAL MATTERS: Patent Owner requests that the time period for filing a response to the Non-Final Office action mailed on 12/05/23, which set a two (2) month shortened statutory period for response, be extended by one (1) month.
   - A. Petition fee per 37 CFR § 1.17(g)):
     - i. ☐ Petition includes authorization to debit a deposit account.
     - ii. ☒ Petition includes authorization to charge a credit card account.
     - iii. ☐ Other: _____.
   - B. ☒ Proper certificate of service was provided. (Not required in reexamination where patent owner is requester).
   - C. ☒ Petition was timely filed.
   - D. ☒ Petition properly signed.

4. DECISION (See MPEP 2265)
   - A. ☒ Granted or ☐ Granted-in-part for ***one (1) additional month***. (See 37 CFR 1.550(c) and 37 CFR 1.956).
     - i. ☐ Other/comment: _____.
   - B. ☐ Dismissed because:
     - i. ☐ Formal matters (See unchecked box(es) (A, B, C and/or D) in section 3 above).
     - ii. ☐ Petitioner failed to provide a factual accounting of reasonably diligent behavior by all those responsible for preparing a response to the outstanding Office action within the statutory time period.
     - iii. ☐ Petitioner failed to explain why, *in spite of the action taken thus far*, the requested additional time is needed.
     - iv. ☐ The statements provided fail to establish sufficient cause to warrant extension of the time for taking action (See attached).
     - v. ☐ The petition is moot.
     - vi. ☐ Other/comment: _____.

5. CONCLUSION:

| Direct telephone inquiries to either:<br>QAS Stephen J. Stein at 571-272-1544, or<br>SPRS Andrew J. Fischer at 571-272-6779. | /Andrew J. Fischer/, Supervisory Patent Reexamination Specialist, Central Reexamination Unit |
|---|---|

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# ELECTRONIC ACKNOWLEDGEMENT RECEIPT

| APPLICATION # | RECEIPT DATE / TIME | ATTORNEY DOCKET # |
|---|---|---|
| **90/015,269** | **01/26/2024 03:59:34 PM Z ET** | **GBWHCC001-EPR** |

## Title of Invention

POWERED HYDROFOIL BOARD

## Application Information

| | | | |
|---|---|---|---|
| APPLICATION TYPE | Utility / ex parte reexam | PATENT # | 9586659 |
| CONFIRMATION # | 5917 | FILED BY | Melinda Cormier |
| PATENT CENTER # | 64106219 | FILING DATE | 08/09/2023 |
| CUSTOMER # | 530 | FIRST NAMED INVENTOR | - 9586659 |
| CORRESPONDENCE ADDRESS | - | AUTHORIZED BY | Keith McWha |

## Documents

**TOTAL DOCUMENTS: 2**

| DOCUMENT | PAGES | DESCRIPTION | SIZE (KB) |
|---|---|---|---|
| Renewed Petition for Extension of Time.pdf | 3 | Miscellaneous Incoming Letter | 43 KB |
| Certificate of Service for Petition for Extension of Time.pdf | 1 | Miscellaneous Incoming Letter | 13 KB |

## Digest

| DOCUMENT | MESSAGE DIGEST(SHA-512) |
|---|---|
| Renewed Petition for Extension of Time.pdf | B7D99CACC72D4A1B4AFEE12CAB59BF57B188F06007338E39256F6092D8B92ACFEADAFE283B846021BCC2FE25F8D048D701B96BC51D1F26351DF0E4D71D597F59 |
| Certificate of Service for | AFE4A2A8F21D9E2C857C5F01EF95C8A58796477DC8DD492F |

| | |
|---|---|
| Petition for Extension of Time.pdf | 9251C59C42547E8192A4521AEB1C6CEB207134D00D1624EBC C8BB48D1B4A2D5A3EE4D6C65D2B5B28 |

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

**New Applications Under 35 U.S.C. 111**

If a new application is being filed and the application includes the necessary components for filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application

**National Stage of an International Application under 35 U.S.C. 371**

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

**New International Application Filed with the USPTO as a Receiving Office**

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with 37 C.F.R. § 1.6(a)(4).

Dated: January 26, 2024
Electronic Signature for Brian R. Tomkins: /Brian R. Tomkins/

Docket No.: MHLCUS 3.5-002 CON (PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Reexamination Application of:
Nicholas Leason

Application No.: 90/015,269 | Confirmation No.: 5917

Filed: August 9, 2023 | Art Unit: N/A

For: Powered Hydrofoil Board | Examiner: Spahn, Gay

**RENEWED PETITION FOR EXTENSION OF TIME PURSUANT TO 37 CFR § 1.550(c)**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

The Patent Owner hereby submits this renewed petition to the Director, requesting that an extension of time of one month be permitted for the filing of a response to the Non-Final Action dated December 5, 2023 (the "outstanding Action"). The Patent Owner had previously filed a petition on January 22, 2024, requesting such a one-month extension, but such petition was dismissed in a Decision dated January 24, 2024, noting that Petitioner had failed to provide a factual accounting of reasonably diligent behavior in preparing a response to the outstanding Action and Petitioner also failed to explain why, in spite of the action taken thus far, the requested additional time is needed. Accordingly, Patent Owner files this renewed petition for a one-month extension, including the required factual accounting.

The petition fee set forth in 37 C.F.R. § 1.17(g) is transmitted herewith. The Commissioner is hereby authorized to charge any fee deficiency, charge any additional fees, or credit any overpayment of fees associated with this application in connection with this filing, or any future filing submitted to the U.S. Patent and Trademark Office during the pendency of this application, to Deposit Account No. 12-1095.

**Factual accounting of reasonably diligent behavior**

The outstanding Action was issued on December 5, 2023, and Applicant's undersigned counsel and his colleagues immediately proceeded to analyze the rejections in the Action and the disclosures of the applied references. In addition, before the late-December holidays, Applicant's counsel conducted meetings to review the substance of the rejections with Applicant's in-house representatives and Applicant's counsel handling the related litigations (i.e., MHL Custom Inc. v. Waydoo USA, Inc., 21-cv-00091, D. Del. (appeal by Waydoo underway); MHL Custom Inc. v. Foil Boarding Company, Inc., 22-cv-21258, N.D. Fla.) and the recently-filed IPR petitions (IPR2024-00085 and IPR2024-00086), in order to formulate and coordinate response strategies across these proceedings and this present re-examination. Both litigations are currently active, and both IPR proceedings were recently filed, and thus Applicant, Applicant's litigation counsel and Applicant's undersigned counsel are all involved and collaborating in multiple active proceedings relating to the patent property currently under re-examination.

Following review of the Action, Applicant's counsel started considering potential Rule 132 declarants and decided on one shortly after the holidays. In early January, Applicant's counsel arranged and participated in several substantive meetings with the selected declarant for a Rule 132 declaration that is being prepared for filing in support of the response to the outstanding Action.

Applicant's counsel is also actively marshalling evidence and preparing a second Rule 132 declaration concerning additional evidence of secondary considerations to traverse the pending obviousness rejections in the outstanding Action, which again requires the involvement and collaboration of Applicant, Applicant's litigation counsel and Applicant's undersigned counsel.

Applicant's counsel also reached out to Examiner McPartlin to schedule an interview, shortly after substantive discussions with the Rule 132 declarant, to present and discuss arguments and evidence for the response to the Action. That interview is to be attended by the panel of three examiners, the Rule 132 declarant, and Applicant's counsel. Due to difficulties in scheduling with so many participants, that interview was initially scheduled for January 26, 2024, and then was rescheduled for January 30, 2024, which is less than one week before the original two-month response deadline of February 5, 2024.

**Why the requested additional time is needed**

In spite of Applicant's actions taken thus far, as summarized above, the requested additional one-month of time is nevertheless needed in order to prepare a fully responsive and persuasive response to the outstanding Action. Specifically, as noted above, Applicant's representatives are continuing to gather evidence of secondary considerations, most notably evidence to support a showing of commercial success, in order to traverse the obviousness rejections in the outstanding Action, and Applicant needs additional time in order to gather such evidence. In addition, as also noted above, the interview in connection with this matter has finally been scheduled, but leaves Applicant with less than one week before the original two-month deadline of February 5, 2024. Therefore, more time is needed for Applicant to fully account for the results of the interview in preparing and finalizing the written response to the outstanding Action, as well as for Applicant's declarant to modify the positions relied on in his declaration in order to address any additional issues that may be raised by the examiners during the interview.

**Request for relief**

In view of the above, Patent Owner hereby respectfully requests that the Director grant this petition requesting an extension of time of one month for the filing of a response to the outstanding Action dated December 5, 2023.

Dated: January 26, 2024

Respectfully submitted,

Electronic signature: /Brian R. Tomkins/
Brian R. Tomkins
Registration No.: 58550
LERNER DAVID LLP
20 Commerce Dr.
Cranford, New Jersey 07016
(908) 654-5000
Attorney for Applicant

## CERTIFICATE OF SERVICE

I hereby certify that a true copy of the following documents:

1. Renewed Petition for Extension of Time for Responding to Outstanding Office Action Associated with U.S. Pat. App. No. 90/015,269 filed January 26, 2024;

is being served upon the following counsel of record this 26th day of January, 2024, by First Class Mail.

Bayramoglu Law Offices, LLC
1540 West Warm Springs Road
Suite 100
Henderson, NV 89014

/Brian R. Tomkins/
BRIAN R. TOMKINS
Registration No. 58,550

Control No. 90/015,269

UNITED STATES
PATENT AND TRADEMARK OFFICE

P.O. Box 1450
Alexandria, VA 22313 - 1450
www.uspto.gov

# ELECTRONIC PAYMENT RECEIPT

| APPLICATION # | RECEIPT DATE / TIME | ATTORNEY DOCKET # |
|---|---|---|
| **90/015,269** | **01/26/2024 03:59:34 PM Z ET** | **GBWHCC001-EPR** |

## Title of Invention

POWERED HYDROFOIL BOARD

## Application Information

| | | | |
|---|---|---|---|
| APPLICATION TYPE | Utility / ex parte reexam | PATENT # | 9586659 |
| CONFIRMATION # | 5917 | FILED BY | Melinda Cormier |
| PATENT CENTER # | 64106219 | AUTHORIZED BY | Keith McWha |
| CUSTOMER # | 530 | FILING DATE | 08/09/2023 |
| CORRESPONDENCE ADDRESS | - | FIRST NAMED INVENTOR | - 9586659 |

## Payment Information

| PAYMENT METHOD | PAYMENT TRANSACTION ID | PAYMENT AUTHORIZED BY |
|---|---|---|
| CARD / 1060 | E20241PG00185110 | Melinda Cormier |

| FEE CODE | DESCRIPTION | ITEM PRICE($) | QUANTITY | ITEM TOTAL($) |
|---|---|---|---|---|
| 2463 | PETITIONS REQUIRING THE PETITION FEE SET FORTH IN 37 CFR 1.17(G) (GROUP II) | 88.00 | 1 | 88.00 |
| | | | **TOTAL AMOUNT:** | **$88.00** |

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

**New Applications Under 35 U.S.C. 111**

If a new application is being filed and the application includes the necessary components for filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application

**National Stage of an International Application under 35 U.S.C. 371**

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage

submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

**New International Application Filed with the USPTO as a Receiving Office**

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 90/015,269 | 08/09/2023 | 9586659 | GBWHCC001-EPR | 5917 |

530 7590 01/24/2024

Lerner David LLP
20 COMMERCE DRIVE
CRANFORD, NJ 07016

| EXAMINER | |
|---|---|
| LILLIS, EILEEN DUNN | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3993 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/24/2024 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patents and Trademark Office
P.O.Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

1/24/2024

THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS

BAYRAMOGLU LAW OFFICES. LLC
1540 WEST WARM SPRINGS ROAD
SUITE 100
HENDERSON, NV 89014

**EX PARTE REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. : 90015269
PATENT NO. : 9586659
ART UNIT : 3993

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above-identified ex parte reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the ex parte reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

| **Decision on Petition for Extension of Time in Reexamination** | **Application No.:** 90/015,269 | **Applicant(s):** 9,586,659 | |
|---|---|---|---|
| | **Examiner** Eileen Lillis | **Art Unit** 3993 | |

1. THIS IS A DECISION ON THE PETITION FILED 1/22/24.

2. THIS DECISION IS ISSUED PURSUANT TO:
   - A. ☒ 37 CFR 1.550(c) – The time for taking any action by a patent owner in a third party requested *ex parte* reexamination proceeding will be extended only for sufficient cause and for a reasonable time specified.
   - B. ☐ 37 CFR 1.550(c) – The time for taking action by a patent owner in a patent owner requested *ex parte* reexamination proceeding will only be extended for more than two months for sufficient cause and for a reasonable time specified.
   - C. ☐ 37 CFR 1.956 – The time for taking any action by a patent owner in an *inter partes* reexamination proceeding will be extended only for sufficient cause and for a reasonable time specified.

   The petition is before the Central Reexamination Unit for consideration.

3. FORMAL MATTERS: Patent Owner requests that the time period for filing a response to the Non-Final Office action mailed on 12/05/23, which set a two (2) month shortened statutory period for response, be extended by one (1) month.
   - A. Petition fee per 37 CFR § 1.17(g)):
     - i. ☒ Petition includes authorization to debit a deposit account.
     - ii. ☐ Petition includes authorization to charge a credit card account.
     - iii. ☐ Other: _____.
   - B. ☐ Proper certificate of service was provided. (Not required in reexamination where patent owner is requester). The Certificate of Service fails to identify the manner of service as required by MPEP 2266.03.
   - C. ☒ Petition was timely filed.
   - D. ☒ Petition properly signed.

4. DECISION (See MPEP 2265)
   - A. ☐ Granted or ☐ Granted-in-part for ***one (1) additional month***. (See 37 CFR 1.550(c) and 37 CFR 1.956).
     - i. ☐ Other/comment: _____.
   - B. ☒ Dismissed because:
     - i. ☐ Formal matters (See unchecked box(es) (A, B, C and/or D) in section 3 above).
     - ii. ☒ Petitioner failed to provide a factual accounting of reasonably diligent behavior by all those responsible for preparing a response to the outstanding Office action within the statutory time period.
     - iii. ☒ Petitioner failed to explain why, *in spite of the action taken thus far*, the requested additional time is needed.
     - iv. ☐ The statements provided fail to establish sufficient cause to warrant extension of the time for taking action (See attached).
     - v. ☐ The petition is moot.
     - vi. ☐ Other/comment: _____.

5. CONCLUSION: As noted in MPEP 2165 VI.:

   Any request for an extension of time, ..., must fully state the reasons therefor. The reasons must include a statement of what action the patent owner has taken to provide a response as of the date the request for extension is submitted, and why, in spite of the action taken thus far, the requested additional time is needed. The statement must include a factual accounting of reasonably diligent behavior by all those responsible for preparing a response to the outstanding Office action within the statutory time period."

   No factual accounting has been set forth in the petition.

| Direct telephone inquiries to either:<br>QAS Stephen J. Stein at 571-272-1544, or<br>SPRS Andrew J. Fischer at 571-272-6779. | /Andrew J. Fischer/, Supervisory Patent Reexamination Specialist, Central Reexamination Unit |
|---|---|

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with 37 C.F.R. § 1.6(a)(4).

Dated: January 22, 2024
Electronic Signature for Michael C. Bossner: /Michael C. Bossner/

Docket No.: MHLCUS 3.5-002 CON (PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Reexamination Application of:
Nicholas Leason

Application No.: 90/015,269 | Confirmation No.: 5917

Filed: August 9, 2023 | Art Unit: N/A

For: Powered Hydrofoil Board | Examiner: Spahn, Gay

**PETITION FOR EXTENSION OF TIME PURSUANT TO 37 CFR § 1.550(c)**

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

The Patent Owner hereby submits this petition to the Director, requesting that an extension of time of one month be permitted for the filing of a response to the Non-Final Action dated December 5, 2023.

□ Remarks begin on page 2 of this paper.

□ The petition fee set forth in 37 C.F.R. § 1.17(g) is transmitted herewith.

□ The Commissioner is hereby authorized to charge any fee deficiency, charge any additional fees, or credit any overpayment of fees, associated with this application in connection with this filing, or any future filing, submitted to the U.S. Patent and Trademark Office during the pendency of this application, to Deposit Account No. 12-1095.

## REMARKS

Applicant thanks the Examiner for agreeing to conduct an interview with Applicant's counsel. An interview date of January 26, 2024, was initially scheduled, but that date has since changed to January 30, 2024 to accommodate scheduling of all parties. Because of this date change, the time needed to secure an expert declaration, and the time required after the interview to prepare a response to the outstanding Office Action, Applicant requests a one-month extension of the Office Action response deadline to March 5, 2024.

## REQUEST FOR RELIEF

Patent Owner hereby requests that the Director grant this petition requesting an extension of time of 1 month for the filing of a response to the Non-Final Action dated December 5, 2023.

Dated: January 22, 2024

Respectfully submitted,

Electronic signature: /Michael C. Bossner/
Michael C. Bossner
Registration No.: 79,441
LERNER DAVID LLP
20 Commerce Dr.
Cranford, New Jersey 07016
(908) 654-5000
Attorney for Applicant

UNITED STATES
PATENT AND TRADEMARK OFFICE

P.O. Box 1450
Alexandria, VA 22313 - 1450
www.uspto.gov

# ELECTRONIC ACKNOWLEDGEMENT RECEIPT

| APPLICATION # | RECEIPT DATE / TIME | ATTORNEY DOCKET # |
|---|---|---|
| **90/015,269** | **01/22/2024 01:40:31 PM Z ET** | **GBWHCC001-EPR** |

## Title of Invention

POWERED HYDROFOIL BOARD

## Application Information

| | | | |
|---|---|---|---|
| APPLICATION TYPE | Utility / ex parte reexam | PATENT # | 9586659 |
| CONFIRMATION # | 5917 | FILED BY | Kathleen Reynolds |
| PATENT CENTER # | 64034903 | FILING DATE | 08/09/2023 |
| CUSTOMER # | 530 | FIRST NAMED INVENTOR | - 9586659 |
| CORRESPONDENCE ADDRESS | - | AUTHORIZED BY | James Vezeris |

## Documents

**TOTAL DOCUMENTS: 2**

| DOCUMENT | PAGES | DESCRIPTION | SIZE (KB) |
|---|---|---|---|
| Certificate of Service for Petition for Extension of Time.pdf | 1 | Reexam Certificate of Service | 12 KB |
| Petition for Extension of Time.pdf | 2 | Reexam Request for Extension of Time | 39 KB |

## Digest

| DOCUMENT | MESSAGE DIGEST(SHA-512) |
|---|---|
| Certificate of Service for Petition for Extension of Time.pdf | 4415E50628DF1649C5C4F8858DE0F7C28F11F5785C7D85FA89CEA5410C669CE661955AD4E631A4203D6583936E9ABBE69FA |

A6213D9E5E5B07430DB151C966F07

| | |
|---|---|
| Petition for Extension of Time.pdf | E929D91647068FDC84DECE54AAEBE5A706FE34137CE9A3E706EF9FF3F471C0D1C1C15135905A663D3FB2AB17E051A972D688C5D461B33B743BE02CA459F00559 |

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

**New Applications Under 35 U.S.C. 111**

If a new application is being filed and the application includes the necessary components for filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

**National Stage of an International Application under 35 U.S.C. 371**

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

**New International Application Filed with the USPTO as a Receiving Office**

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

## CERTIFICATE OF SERVICE

I hereby certify that a true copy of the following documents:

1. Petition for Extension of Time for Responding to Outstanding Office Action Associated with U.S. Pat. App. No. 90/015,269 filed January 22, 2024;

is being served upon the following counsel of record this 22nd day of January, 2024, by First Class Mail.

Bayramoglu Law Offices, LLC
1540 West Warm Springs Road
Suite 100
Henderson, NV 89014

/Michael C. Bossner/
MICHAEL C. BOSSNER
Registration No. 79,441

Control No. 90/015,269

# United States Patent and Trademark Office

*Office of the Chief Financial Officer*

Document Code:WFEE

User :Manuel Saldana

Sale Accounting Date:01/22/2024

Sale Item Reference Number
90015269

Effective Date
01/22/2024

| Document Number | Fee Code | Fee Code Description | Amount Paid | Payment Method |
|---|---|---|---|---|
| I20241LE07539555 | 2463 | PETITION FEE-37CFR 1.17(G) (GROUPII) | $88.00 | Deposit Account |

## CERTIFICATE OF SERVICE

I hereby certify that a true copy of the following documents:

1. Information Disclosure Statement for U.S. Pat. App. No. 90/015,269 filed Friday, December 15, 2023;

2. References enclosed within such Information Disclosure Statement filed December 15, 2023; and

3. Communication filed December 18, 2023;

are being served upon the following counsel of record this 18th day of December 2023.

Bayramoglu Law Offices, LLC
1540 West Warm Springs Road
Suite 100
Henderson, NV 89014

/Michael C. Bossner/
MICHAEL C. BOSSNER
Registration No. 79,441

Control No. 90/015,269

UNITED STATES
PATENT AND TRADEMARK OFFICE

P.O. Box 1450
Alexandria, VA 22313 - 1450
www.uspto.gov

# ELECTRONIC ACKNOWLEDGEMENT RECEIPT

| APPLICATION # | RECEIPT DATE / TIME | ATTORNEY DOCKET # |
|---|---|---|
| **90/015,269** | **12/18/2023 02:32:57 PM Z ET** | **GBWHCC001-EPR** |

## Title of Invention

POWERED HYDROFOIL BOARD

## Application Information

| | | | |
|---|---|---|---|
| APPLICATION TYPE | Utility / ex parte reexam | PATENT # | 9586659 |
| CONFIRMATION # | 5917 | FILED BY | Sharon McGee |
| PATENT CENTER # | 63652635 | FILING DATE | 08/09/2023 |
| CUSTOMER # | 530 | FIRST NAMED INVENTOR | - 9586659 |
| CORRESPONDENCE ADDRESS | - | AUTHORIZED BY | Kevin Kocun |

## Documents

**TOTAL DOCUMENTS: 2**

| DOCUMENT | PAGES | DESCRIPTION | SIZE (KB) |
|---|---|---|---|
| Certificate of Service.pdf | 1 | Reexam Certificate of Service | 12 KB |
| Supplemental Filing re Certificate of Service and IDS.pdf | 2 | Reexam Certificate of Service | 27 KB |

## Digest

| DOCUMENT | MESSAGE DIGEST(SHA-512) |
|---|---|
| Certificate of Service.pdf | 986F09B7D5A13FC5F2D8E1CD2621FBAC31D6BA2E9D07B873 A1A34C062708DCBB655AE0C3BD2F1F78A13447EB27D0C15F3 DD34B37FD30A2055D8B4CE8416A3E4D |

| | |
|---|---|
| Supplemental Filing re Certificate of Service and IDS.pdf | 7974E9ED6036A5981F8D93A73F2D1C3D0420ED3985D0C1797<br>D566AF27DF300EB10D2AF6F33C190D45DA156BC7FBD948427<br>DDDD1A22A012B8F79AB6515886B7BA |

This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

**New Applications Under 35 U.S.C. 111**

If a new application is being filed and the application includes the necessary components for filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

**National Stage of an International Application under 35 U.S.C. 371**

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

**New International Application Filed with the USPTO as a Receiving Office**

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with 37 C.F.R. § 1.6(a)(4).

Dated: December 18, 2023
Electronic Signature for Michael C. Bossner: /Michael C. Bossner/

Docket No.: MHLCUS 3.5-002 CON (PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Reexamination Application of:
Nicholas Leason

Application No.: 90/015,269 | Confirmation No.: 5917

Filed: August 9, 2023 | Art Unit: N/A

For: Powered Hydrofoil Board | Examiner: Not Yet Assigned

**SUPPLEMENTAL FILING RE CERTIFICATE OF SERVICE AND INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

The attached Certificate of Service is associated with the Information Disclosure Statement filed on Friday, December 15, 2023 ("IDS"). Particularly, the Certificate of Service provides notice of service to the third-party requester, Bayramoglu Law Offices, LLC, which was completed today, December 18, 2023. Further, Patent Owner takes this opportunity to notify the Examiner that most of the documents submitted in the IDS are from various litigations and USPTO proceedings relating to U.S. Pat. No. 9,586,659 and its patent family. The docket numbers associated therewith are provided below.

- 1-21-cv-00091, *MHL Custom, Inc. v. Waydoo USA, Inc. et al* (decided in the United States District Court for the District of Delaware and currently being appealed to the United States Court of Appeals for the Federal Circuit)

- 3-22-cv-21258, *MHL Custom Inc. v. Foil Boarding Company, Inc.* (currently pending in the United States District Court for the Northern District of Florida)

- IPR2024-00085, Inter Partes Review of U.S. Patent No. 9,586,659 (currently pending in the USPTO)

- IPR2024-00086, Inter Partes Review of U.S. Patent No. 9,359,044 (currently pending in the USPTO)

Dated: December 18, 2023

Respectfully submitted,

Electronic signature: /Michael C. Bossner/
Michael C. Bossner
Registration No.: 79,441
LERNER DAVID LLP
20 Commerce Dr.
Cranford, New Jersey 07016
(908) 654-5000
Attorney for Applicant

UNITED STATES
PATENT AND TRADEMARK OFFICE

P.O. Box 1450
Alexandria, VA 22313 - 1450
www.uspto.gov

# ELECTRONIC ACKNOWLEDGEMENT RECEIPT

| APPLICATION # | RECEIPT DATE / TIME | ATTORNEY DOCKET # |
|---|---|---|
| **90/015,269** | **12/15/2023 10:49:55 AM Z ET** | **GBWHCC001-EPR** |

## Title of Invention

POWERED HYDROFOIL BOARD

## Application Information

| | | | |
|---|---|---|---|
| APPLICATION TYPE | Utility / ex parte reexam | PATENT # | 9586659 |
| CONFIRMATION # | 5917 | FILED BY | Sharon McGee |
| PATENT CENTER # | 63628049 | FILING DATE | 08/09/2023 |
| CUSTOMER # | 530 | FIRST NAMED INVENTOR | - 9586659 |
| CORRESPONDENCE ADDRESS | - | AUTHORIZED BY | Kevin Kocun |

## Documents

**TOTAL DOCUMENTS: 56**

| DOCUMENT | PAGES | DESCRIPTION | SIZE (KB) |
|---|---|---|---|
| MHL Custom_ Inc v Waydoo USA_ Inc et al as of 12-08-23.pdf | 26 | Non Patent Literature | 10230 KB |
| MHLCUS45 - 102 Defs Ans Brief in Opp to MHLs Daubert Mot and Summ J Motion 11-14-22pd.pdf | 44 | Non Patent Literature | 14316 KB |
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## Digest

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This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

**New Applications Under 35 U.S.C. 111**

If a new application is being filed and the application includes the necessary components for filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

**National Stage of an International Application under 35 U.S.C. 371**

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

**New International Application Filed with the USPTO as a Receiving Office**

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

PTO/SB/08a (01-22)
Approved for use through 05/31/2024. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**INFORMATION DISCLOSURE STATEMENT BY APPLICANT**
**( Not for submission under 37 CFR 1.99)**

| | |
|---|---|
| Application Number | 90015269 |
| Filing Date | 2023-08-09 |
| First Named Inventor | Nicholas Leason |
| Art Unit | N/A |
| Examiner Name | Not Yet Assigned |
| Attorney Docket Number | MHLCUS 3.5-002 CON |

**U.S.PATENTS** Remove

| Examiner Initial* | Cite No | Patent Number | Kind Code[1] | Issue Date | Name of Patentee or Applicant of cited Document | Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear |
|---|---|---|---|---|---|---|
| | 1 | 4020782 | | 1977-05-03 | Gleason, John | |
| | 2 | 6443786 | | 2002-09-03 | Woolley, Robert C. | |
| | 3 | 8290636 | | 2012-10-16 | Manning, Doug | |
| | 4 | 9359044 | | 2016-06-07 | Langelaan, Jacob Willem | |
| | 5 | 9586659 | | 2017-03-07 | Langelaan, Jacob Willem | |
| | 6 | 4972792 | | 1990-11-27 | Yokoyama et al. | |
| | 7 | 5469801 | | 1995-11-28 | Payne | |
| | 8 | 9969463 | | 2018-05-15 | Pivec | |

| INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99) | | |
|---|---|---|
| | Application Number | 90015269 |
| | Filing Date | 2023-08-09 |
| | First Named Inventor | Nicholas Leason |
| | Art Unit | N/A |
| | Examiner Name | Not Yet Assigned |
| | Attorney Docket Number | MHLCUS 3.5-002 CON |

| | | | | | | |
|---|---|---|---|---|---|---|
| | 9 | 7232355 | | 2007-06-19 | Woolley | |
| | 10 | 6311631 | | 2001-11-06 | Beecher, Ronald L. | |

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| Examiner Initial* | Cite No | Publication Number | Kind Code[1] | Publication Date | Name of Patentee or Applicant of cited Document | Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear |
|---|---|---|---|---|---|---|
| | 1 | 20110201238 | A1 | 2011-08-18 | Rott et al. | |
| | 2 | 20030167991 | A1 | 2003-09-11 | Namanny, Stan | |

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| Examiner Initial* | Cite No | Foreign Document Number[3] | Country Code[2] i | Kind Code[4] | Publication Date | Name of Patentee or Applicant of cited Document | Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear | T[5] |
|---|---|---|---|---|---|---|---|---|
| | 1 | | | | | | | ☐ |

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| Examiner Initials* | Cite No | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc), date, pages(s), volume-issue number(s), publisher, city and/or country where published. | T[5] |
|---|---|---|---|
| | 1 | Document 1. COMPLAINT FOR PATENT INFRINGEMENT against FOIL BOARDING COMPANY, INC. ( Filing fee $ 402 receipt number AFLNDC-7525988.), filed by MHL CUSTOM, INC.. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C) (ZOESCH, JOHN) (Entered: 10/21/2022) | ☐ |

| INFORMATION DISCLOSURE STATEMENT BY APPLICANT ( Not for submission under 37 CFR 1.99) | | |
|---|---|---|
| | Application Number | 90015269 |
| | Filing Date | 2023-08-09 |
| | First Named Inventor | Nicholas Leason |
| | Art Unit | N/A |
| | Examiner Name | Not Yet Assigned |
| | Attorney Docket Number | MHLCUS 3.5-002 CON |

| | | | |
|---|---|---|---|
| | 2 | Document 14. ANSWER to 1 Complaint , COUNTERCLAIM against MHL CUSTOM INC by FOIL BOARDING COMPANY INC. (COUCH, MATTHEW) (Entered: ANSWER to 1 Complaint , COUNTERCLAIM against MHL CUSTOM INC by FOIL BOARDING COMPANY INC. (COUCH, MATTHEW) (Entered: 12/21/2022) | ☐ |
| | 3 | Document 18. ANSWER to 14 Answer to Complaint, Counterclaim by MHL CUSTOM INC. (ZOESCH, JOHN) (Entered: 01/11/2023) | ☐ |
| | 4 | Document 1. COMPLAINT FOR PATENT INFRINGEMENT filed with Jury Demand against Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc (Entered: 01/27/2021) | ☐ |
| | 5 | Document 13. ANSWER to 1 Complaint, with Jury Demand and COUNTERCLAIMS against MHL Custom, Inc., by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..(Farnan, Kelly) Modified on 5/21/2021 (nms). (Entered: 05/20/2021) | ☐ |
| | 6 | Document 17. ANSWER to 13 Answer to Complaint, Counterclaim by MHL Custom, Inc..(Bennett, Blake) (Entered: 06/10/2021) | ☐ |
| | 7 | Document 31. Joint Claim Construction Chart, by MHL Custom, Inc.. (Attachments: # 1 Exhibit A)(Bennett, Blake) Modified on 11/23/2021 (nms). (Entered: 11/22/2021) | ☐ |
| | 8 | Document 39. JOINT Appendix re 46 Joint Claim Construction Brief, by MHL Custom, Inc.. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K)(Bennett, Blake) Modified on 2/28/2022 (nms). Modified on 3/1/2022 (nms). (Entered: 02/25/2022). [Parts 1-5] | ☐ |
| | 9 | Document 40. Joint Motion for Claim Construction - filed by MHL Custom, Inc.. Motions referred to Mary Pat Thynge. (Bennett, Blake) Modified on 2/28/2022 (nms). (Entered: 02/25/2022) | ☐ |
| | 10 | Document 46. JOINT Claim Construction Brief, filed by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/1/2022 (nms). (Entered: 03/01/2022) | ☐ |
| | 11 | Document 59. Letter to The Honorable Richard G. Andrews, from Blake A. Bennett, regarding submission of supplementation regarding claim construction. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C)(Bennett, Blake) Modified on 5/16/2022 (nms). (Entered: 05/13/2022) | ☐ |
| | 12 | Document 60. Letter to Honorable Richard G. Andrews, from Kelly E. Farnan, regarding submission of supplementation regarding claim construction. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E)(Farnan, Kelly) Modified on 5/16/2022 (nms). (Entered: 05/13/2022) | ☐ |

| INFORMATION DISCLOSURE STATEMENT BY APPLICANT ( Not for submission under 37 CFR 1.99) | | |
|---|---|---|
| | Application Number | 90015269 |
| | Filing Date | 2023-08-09 |
| | First Named Inventor | Nicholas Leason |
| | Art Unit | N/A |
| | Examiner Name | Not Yet Assigned |
| | Attorney Docket Number | MHLCUS 3.5-002 CON |

| | | | |
|---|---|---|---|
| | 13 | Document 61. Letter to The Honorable Richard G. Andrews, from Blake A. Bennett, regarding Plaintiff's objection to Defendants' May 13, 2022 submission (D.I. 60 ). (Bennett, Blake) Modified on 5/19/2022 (nms). (Entered: 05/18/2022) | ☐ |
| | 14 | Document 62. Letter to The Honorable Richard G. Andrews, from Kelly E. Farnan, regarding Defendants limited response to Plaintiffs May 13, 2022 Submission (D.I. 59 ). (Farnan, Kelly) Modified on 5/18/2022 (nms). (Entered: 05/18/2022) | ☐ |
| | 15 | Document 66. MEMORANDUM OPINION: Providing claim construction for multiple terms in U.S. Patent Nos. 9,359,044 and 9,586,659. Signed by Judge Richard G. Andrews on 6/24/2022. (nms) (Entered: 06/24/2022) | ☐ |
| | 16 | Document 68. CLAIM CONSTRUCTION ORDER. Signed by Judge Richard G. Andrews on 6/30/2022. (nms) (Entered: 06/30/2022) | ☐ |
| | 17 | Document 87. REDACTED VERSION of 80 Opening Brief in Support, by MHL Custom, Inc.. (Bennett, Blake) Modified on 11/1/2022 (nms). (Entered: 11/01/2022) | ☐ |
| | 18 | Document 88. REDACTED VERSION of 83 Opening Brief in Support, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) (Entered: 11/01/2022)" | ☐ |
| | 19 | Document 102. REDACTED VERSION of 93 Answering Brief in Opposition,,, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Bordley, Dorronda) (Entered: 11/14/2022) | ☐ |
| | 20 | Document 104. REDACTED VERSION of 91 Answering Brief in Opposition, by MHL Custom, Inc.. (Bennett, Blake) Modified on 11/15/2022 (nms). (Entered: 11/14/2022) | ☐ |
| | 21 | Document 112. REDACTED VERSION of 106 Reply Brief by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) (Entered: 11/18/2022) | ☐ |
| | 22 | Document 118. REDACTED VERSION of 101 Reply Brief, by MHL Custom, Inc.. (Bennett, Blake) Modified on 11/21/2022 (nms). (Entered: 11/21/2022) | ☐ |
| | 23 | Document 142. ORDER: Regarding construction of "passively stable" (see Order for further details). Signed by Judge Richard G. Andrews on 1/3/2023. (nms) (Entered: 01/03/2023) | ☐ |

| INFORMATION DISCLOSURE STATEMENT BY APPLICANT ( Not for submission under 37 CFR 1.99) | | |
|---|---|---|
| | Application Number | 90015269 |
| | Filing Date | 2023-08-09 |
| | First Named Inventor | Nicholas Leason |
| | Art Unit | N/A |
| | Examiner Name | Not Yet Assigned |
| | Attorney Docket Number | MHLCUS 3.5-002 CON |

| | | | |
|---|---|---|---|
| | 24 | Document 153. MEMORANDUM OPINION. Signed by Judge Richard G. Andrews on 2/3/2023. (nms) (Entered: 02/03/2023) | ☐ |
| | 25 | Document 154. ORDER: Summary judgment of infringement of the '044 Patent (D.I. 78 ) is DENIED; Signed by Judge Richard G. Andrews on 2/3/2023. (nms) (Entered: 02/03/2023) | ☐ |
| | 26 | Document 160. ORAL ORDER: Ordered by Judge Richard G. Andrews on 2/22/2023. (nms) (Entered: 02/22/2023) | ☐ |
| | 27 | Document 174. Proposed Final Jury Instructions, by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/7/2023 (nms). (Entered: 03/07/2023) | ☐ |
| | 28 | Document 210. Amended Final Proposed Pretrial Order, by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/23/2023 (nms). Modified on 3/24/2023 (nms). (Entered: 03/23/2023) | ☐ |
| | 29 | Document 211. EXHIBITS 1-8 to 210 Amened Proposed Final Pretrial Order, by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/23/2023 (nms). (Entered: 03/23/2023) | ☐ |
| | 30 | Document 217. Final Jury Instructions (to be read into open court). (nms) (Entered: 03/31/2023) | ☐ |
| | 31 | Document 218. FINAL JURY VERDICT Form. (nms) (Entered: 03/31/2023) | ☐ |
| | 32 | Docket #220, REDACTED VERSION of 219 Jury Verdict. (lah) (Entered: 03/31/2023) | ☐ |
| | 33 | Document 222. TRIAL VERDICT (see verdict for further details). Signed by Judge Richard G. Andrews on 4/4/2023. (nms) (Entered: 04/04/2023) | ☐ |
| | 34 | Document 226. SO ORDERED Granting 225 JUDGMENT on the Jury Verdict. Signed by Judge Richard G. Andrews on 4/12/2023. (nms) (Entered: 04/12/2023) | ☐ |

| INFORMATION DISCLOSURE STATEMENT BY APPLICANT ( Not for submission under 37 CFR 1.99) | | |
|---|---|---|
| | Application Number | 90015269 |
| | Filing Date | 2023-08-09 |
| | First Named Inventor | Nicholas Leason |
| | Art Unit | N/A |
| | Examiner Name | Not Yet Assigned |
| | Attorney Docket Number | MHLCUS 3.5-002 CON |

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|---|---|---|---|
| | 35 | Document 257. MEMORANDUM OPINION. Signed by Judge Richard G. Andrews on 9/6/2023. (nms) (Entered: 09/06/2023) | ☐ |
| | 36 | Document 259. MEMORANDUM OPINION. Signed by Judge Richard G. Andrews on 9/7/2023. (nms) (Entered: 09/07/2023) | ☐ |
| | 37 | Document 260. ORDER: Plaintiffs Motion for Entry of a Permanent Injunction (D.I. 230 ) is DENIED; Signed by Judge Richard G. Andrews on 9/7/2023. (nms) (Entered: 09/07/2023) | ☐ |
| | 38 | Petition for Inter Partes Review of U.S. Patent No. 9,586,659 filed 10/26/23, Case IPR2024-00085. 92 pgs. | ☐ |
| | 39 | Petition for Inter Partes Review of U.S. Patent No. 9,359,044 filed 10/26/23, Case IPR2024-00086. 100 pgs. | ☐ |
| | 40 | DECLARATION OF STEFANO BRIZZOLARA, PH.D U.S. PATENT NO. 9,586,659 dated 10/26/23, Case IPR2024-00085. 85 pgs. | ☐ |
| | 41 | DECLARATION OF STEFANO BRIZZOLARA, PH.D U.S. PATENT NO. 9,359,044 dated 10/26/23, Case IPR2024-00086. 93 pgs. | ☐ |
| | 42 | DECLARATION OF JAKOB KUTTENKEULER dated 12/4/21, Case IPR2024-00085. 14 pgs. | ☐ |
| | 43 | DECLARATION OF JAKOB KUTTENKEULER dated 12/4/21, Case IPR2024-00086. 14 pgs. | ☐ |
| | 44 | Prosecution History of U.S. Application No. 14/509,289 filed 10/8/14, now Patent No. 9,359,044, [Downloaded 12/11/23/]. 675 pgs. [Parts 1-4] | ☐ |
| | 45 | Prosecution History of U.S. Application No. 15/064,521 filed 3/8/16, now Patent No. 9,586,659, [Downloaded 12/11/23/]. 154 pgs. | ☐ |

| INFORMATION DISCLOSURE STATEMENT BY APPLICANT ( Not for submission under 37 CFR 1.99) | | |
|---|---|---|
| | Application Number | 90015269 |
| | Filing Date | 2023-08-09 |
| | First Named Inventor | Nicholas Leason |
| | Art Unit | N/A |
| | Examiner Name | Not Yet Assigned |
| | Attorney Docket Number | MHLCUS 3.5-002 CON |

| | | | |
|---|---|---|---|
| | 46 | Docket Report - 1-21-cv-00091-RGA, MHL Custom, Inc. v. Waydoo USA, Inc. et al (as of 12-08-23). 26 pgs. | ☐ |
| | 47 | Docket Report - 3-22-cv-21258-MCR-ZCB MHL Custom Inc. v. Foil Boarding Company, Inc. (as of 12-08-23). 6 pgs. | ☐ |

If you wish to add additional non-patent literature document citation information please click the Add button Add

**EXAMINER SIGNATURE**

| Examiner Signature | | Date Considered | |
|---|---|---|---|

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through a citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

[1] See Kind Codes of USPTO Patent Documents at www.USPTO.GOV or MPEP 901.04. [2] Enter office that issued the document, by the two-letter code (WIPO Standard ST.3). [3] For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. [4] Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. [5] Applicant is to place a check mark here if English language translation is attached.

| INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Not for submission under 37 CFR 1.99) | | |
|---|---|---|
| | Application Number | 90015269 |
| | Filing Date | 2023-08-09 |
| | First Named Inventor | Nicholas Leason |
| | Art Unit | N/A |
| | Examiner Name | Not Yet Assigned |
| | Attorney Docket Number | MHLCUS 3.5-002 CON |

**CERTIFICATION STATEMENT**

Please see 37 CFR 1.97 and 1.98 to make the appropriate selection(s):

☐ That each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(1).

**OR**

☐ That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR 1.56(c) more than three months prior to the filing of the information disclosure statement. See 37 CFR 1.97(e)(2).

☐ See attached certification statement.

☒ The fee set forth in 37 CFR 1.17 (p) has been submitted herewith.

☒ A certification statement is not submitted herewith.

**SIGNATURE**

A signature of the applicant or representative is required in accordance with CFR 1.33, 10.18. Please see CFR 1.4(d) for the form of the signature.

| Signature | /Michael C. Bossner/ | Date (YYYY-MM-DD) | 2023-12-15 |
|---|---|---|---|
| Name/Print | Michael C. Bossner | Registration Number | 79,441 |

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these record s.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with 37 C.F.R. § 1.6(a)(4).

Dated: December 15, 2023
Electronic Signature for Michael C. Bossner: /Michael C. Bossner/

Docket No. MHLCUS 3.5-002 CON
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Reexamination Application of:
Nicholas Leason

Application No.: 90/015,269

Confirmation No.: @@@

Filed: August 9, 2023

Art Unit: N/A

For: Powered Hydrofoil Board

Examiner: Not Yet Assigned

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**INFORMATION DISCLOSURE STATEMENT**

Dear Commissioner:

It is respectfully requested that the reference(s) listed on the enclosed form be made of record and considered with respect to the above-referenced U.S. patent application. A copy of each reference which is not a U.S. patent or patent application is enclosed. Submission of the present Information Disclosure Statement should not be taken as an admission that the cited reference(s) is/are legally available prior art or that the same is/are pertinent or material.

The required fees are being paid via credit card. However, please charge any additional fees not already paid via credit card, and credit any overpayments to our Deposit Account No. 12-1095.

Dated: December 15, 2023

Respectfully submitted,

Electronic signature: /Michael C. Bossner/
Michael C. Bossner
Registration No.: 79,441
LERNER DAVID LLP
20 Commerce Dr.
Cranford, New Jersey 07016
(908) 654-5000
Attorney for Applicant(s)

7904959

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 90/015,269 | 08/09/2023 | 9586659 | GBWHCC001-EPR | 5917 |

530 7590 12/05/2023

Lerner David LLP
20 COMMERCE DRIVE
CRANFORD, NJ 07016

| EXAMINER | |
|---|---|
| SPAHN, GAY | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3993 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 12/05/2023 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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1540 West Warm Springs Road
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Henderson, NV 89014

# *EX PARTE* REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. *90/015,269* .

PATENT UNDER REEXAMINATION *9586659* .

ART UNIT *3636* .

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

| *Office Action in Ex Parte Reexamination* | **Control No.** 90/015,269 | **Patent Under Reexamination** 9586659 | |
|---|---|---|---|
| | **Examiner** SARAH B MCPARTLIN | **Art Unit** 3636 | **AIA (FITF) Status** Yes |

***-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***

a. ☐ Responsive to the communication(s) filed on _____.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

b. ☐ This action is made FINAL.

c. ☑ A statement under 37 CFR 1.530 has not been received from the patent owner.

A shortened statutory period for response to this action is set to expire 2 month(s) from the mailing date of this letter. Failure to respond within the period for response will result in termination of the proceeding and issuance of an *ex parte* reexamination certificate in accordance with this action. 37 CFR 1.550(d). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).** If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. ☐ Notice of References Cited by Examiner, PTO-892.
2. ☐ Information Disclosure Statement, PTO/SB/08.
3. ☐ Interview Summary, PTO-474.
4. ☐ _____.

Part II SUMMARY OF ACTION

1a. ☑ Claims 1-20 are subject to reexamination.
1b. ☐ Claims _____ are not subject to reexamination.
2. ☐ Claims _____ have been canceled in the present reexamination proceeding.
3. ☐ Claims _____ are patentable and/or confirmed.
4. ☑ Claims 1-20 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ The drawings, filed on _____ are acceptable.
7. ☐ The proposed drawing correction, filed on _____ has been (7a) ☐ approved (7b) ☐ disapproved.
8. ☐ Acknowledgment is made of the priority claim under 35 U.S.C. 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the certified copies have
   1 ☐ been received.
   2 ☐ not been received.
   3 ☐ been filed in Application No. _____.
   4 ☐ been filed in reexamination Control No. _____.
   5 ☐ been received by the International Bureau in PCT application No. _____.
   * See the attached detailed Office action for a list of the certified copies not received.
9. ☐ Since the proceeding appears to be in condition for issuance of an *ex parte* reexamination certificate except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte* Quayle, 1935 C.D. 11, 453 O.G. 213.
10. ☐ Other: _____

cc: Requester (if third party requester)

## DETAILED ACTION

### *Notice of Pre-AIA or AIA Status*

1. The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

### *Prosecution History*

2. A reexamination of claims 1-20 of US Patent Number 9,586,659 was requested on August 9, 2023.

An Order Granting Reexamination of ***Ex Parte*** Reexamination was mailed on September 7, 2023.

No Patent Owner Statement was received.

### *Claim Rejections - 35 USC § 103*

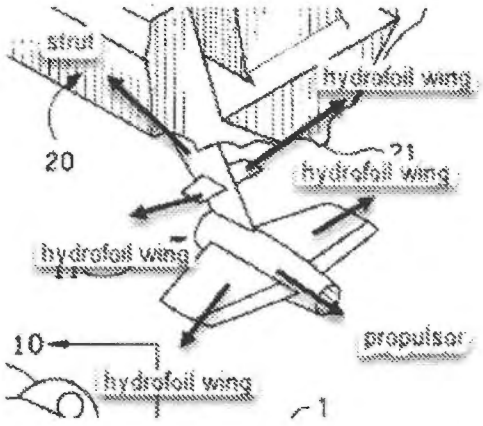
3. The following is a quotation of 35 U.S.C. 103 which forms the basis for all obviousness rejections set forth in this Office action:

> A patent for a claimed invention may not be obtained, notwithstanding that the claimed invention is not identically disclosed as set forth in section 102, if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious before the effective filing date of the claimed invention to a person having ordinary skill in the art to which the claimed invention pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim(s) 1-20 is/are rejected under 35 U.S.C. 103 as being unpatentable over Braden (US 2011/0111650A1) in view of Rorabaugh et al. (5,544,607). Braden discloses a passively stable, weight-shift controlled personal watercraft comprising: a flotation device (10) ("buoyant material" recited in line 4 of paragraph [0023]) that has a fore-aft length greater than a lateral width (see top down view shown in Figure 2), the flotation device having a top surface and a bottom surface, wherein a user can be disposed on the top surface of the floatation device in a prone, kneeling, or standing position, the flotation device having a forward section, carrying cleat (27), a middle section, and a rear section carrying cleat (17a); a strut (13) having an upper end and a lower end, the upper end fixedly interconnected with the flotation device (10) between the middle section and the rear section of the flotation device; a propulsion system (20)(21)(12)(11) for propelling the watercraft in a body of water and the watercraft having no movable

steering system. With respect to claim 2, the propulsion system (20)(21)(12)(11) comprises a battery (20), an electric motor (12), a motor speed controller in the form of controlling circuitry including switches (52)(16) and capacitors (53)(54)(55) connected in series between a relay switch (42) and the motor (12), and a propulsor (11) in the form of a propeller. With respect to claim 8, the batteries (20) and capacitors (21), are mounted "within the interior of the surfboard body" and within water proof casings (see paragraph [0026]) wherein other portions of the speed controller including circuitry and switches are mounted within water proof access panels (22a)(22b) and aft waterproof access panel (14). With respect to claim 11, a wireless handheld controller (43)(44) having a transmitter (43), and a throttle interface (40)(41) having a receiver (41) wherein the transmitter is adapted to send wireless signals to the receiver that cause an output of the propulsion system to change. With respect to claims 16 and 20, Braden discloses a surf-board shaped flotation device (10) that has a fore-aft length greater than a lateral width (see top down view shown in Figure 2), the flotation device having a top surface and a bottom surface, wherein a user can be disposed on the top surface of the floatation device in a prone, kneeling, or standing position, the flotation device having a forward section, carrying cleat (27), a middle section, and a rear section carrying cleat (17a); a strut (13) having an upper end fixedly connected to the surfboard-shaped flotation device (10); a propulsion system (20)(21)(12)(11) comprises a battery (20), an electric motor (12), a motor speed controller in the form of controlling circuitry including switches (52)(16) and capacitors (53)(54)(55) connected in series between a relay switch (42) and the motor (12), and a propulsor (11) in the form of a propeller, and the battery (20) and capacitors (21), are mounted "within the interior of the surfboard body" and within water proof casings (see paragraph [0026]) wherein other portions of the speed controller including circuitry and switches are mounted within water proof access panels (22a)(22b) and aft waterproof access panel (14); the watercraft having no moveable steering system; a wireless handheld controller (43)(44) having a transmitter (43), and a throttle interface (40)(41) having a receiver (41) wherein the transmitter (43) is adapted to send wireless signals to the receiver (41) that cause an output of the propulsion system (20)(21)(12)(11) to change. Braden discloses all claimed elements with the exception of a hydrofoil having no movable surface interconnected with the lower end of the strut and connected to the propulsion system, according to claim 1, and a hydrofoil interconnected to the surf-board shaped floatation device and having a hydrofoil wing, according to claim 16.

Rorabaugh teaches a weight-shift controlled personal watercraft comprising: a strut having an upper end and a lower end, the upper end interconnected with a flotation device (28); a propulsion system for propelling the watercraft in a body of water and a hydrofoil interconnected with the lower end of the strut. A propulsor of the propulsion system is disposed below the hydrofoil. Note the two hydrofoil wings attached above the propulsor in the below labelled figure from Rorabaugh. The hydrofoil is indirectly attached to the strut. Note the two hydrofoil wings attached to the strut by way of the propulsor in the below labelled figure. The strut is directly connected to the propulsor. A first hydrofoil wing of the hydrofoil is indirectly connected to the strut through the propulsor of the propulsion system. The hydrofoil comprises a plurality of wings that are interconnected [to each other] by way of a strut given that the upper hydrofoil wings are attached on either side of the strut. A first hydrofoil wing of the hydrofoil is directly connected to the strut as demonstrated by the upper hydrofoil wings.




It would have been obvious to one of ordinary skill in the art at the time of filing of the instant invention to add hydrofoil wings, as taught by Rorabaugh, to the strut (13) and the motor (12), disclosed by Braden. Such an addition would provide increased stability to the Braden watercraft given the hydrofoils are "positionally fixed in extension from the hull, are safe and stable to operate in shallow water and also in heavy seas when not on hydrofoil plane" (column 1, lines 16-20).

With respect to claims 9, Braden as modified does not specifically disclose that the pod containing the motor is waterproof, that the watercraft includes a cooling system for the electric motor (claims 9 and 18) and the that the pod is removably interconnected through a fitting with a hydrofoil. It is commonly known to contain electric motors within a waterproof enclosure if the electric motor will be

exposed to water since water will prevent the motor from working as intended. Furthermore, the use of a cooling system for an electric motor, as required by claims 9 and 18, is also commonly known to ensure the motor functions as intended. These features are obvious and known to one of ordinary skill in the art.

With respect to claim 10, Braden as modified is silent as to how the pod is connected to the hydrofoil wings, however a limited set of attachment means including a fitting and/or a welded connection would have been obvious to one of ordinary skill in the art at the time of filing. Using a fitting to connect the engine housing and hydrofoil provides one of ordinary skill in the art a reasonable expectation of successfully joining the two elements securely and would require only routine experimentation and ordinary skill in the art.

With respect to claims 13 and 19, Braden as modified does not specifically disclose an internal passage within the strut and passage of electrical wires from the motor to the water tight compartment. It would have been obvious to one of ordinary skill in the art to pass wires from the battery compartment (20) through the board and the strut to reach the engine since exposed wires outside the confines of the watercraft would be prone to snagging on obstacles within the water. Running wiring through the confines of the vehicle is well known and would have been obvious to try to one of ordinary skill in the art at the time of filing of the invention.

With respect 14, Braden as modified fails to disclose a detector adapted to detect a user's presence on the flotation device and cease operation of the motor if the user is not detected on the flotation device. Lanyard elements, which tether a watercraft user to the watercraft, are commonly known to include a sensor in communication with an engine, wherein indication that the lanyard has been detached from a docking station on the watercraft results in power being cut to the engine. This lanyard system is a commonly known safety feature in watercraft. It would have been obvious to one of ordinary skill to incorporate a sensor as described as the tethered lanyard system above that detects when a user falls from the watercraft since such a provision enhances the safety of the user and is well known in the art.

5. Claim(s) 1-2, 4-6, 8-11, 13-16 and 18-20 is/are also rejected under 35 U.S.C. 103 as being unpatentable over Braden (US 2011/0111650A1) in view of Woolley (US 2005/0255764A1). Braden

discloses a passively stable, weight-shift controlled personal watercraft comprising: a flotation device (10) ("buoyant material" recited in line 4 of paragraph [0023]) that has a fore-aft length greater than a lateral width (see top down view shown in Figure 2), the flotation device having a top surface and a bottom surface, wherein a user can be disposed on the top surface of the floatation device in a prone, kneeling, or standing position, the flotation device having a forward section, carrying cleat (27), a middle section, and a rear section carrying cleat (17a); a strut (13) having an upper end and a lower end, the upper end fixedly interconnected with the flotation device (10) between the middle section and the rear section of the flotation device; a propulsion system (20)(21)(12)(11) for propelling the watercraft in a body of water and the watercraft having no movable steering system. With respect to claim 2, the propulsion system (20)(21)(12)(11) comprises a battery (20), an electric motor (12), a motor speed controller in the form of controlling circuitry including switches (52)(16) and capacitors (53)(54)(55) connected in series between a relay switch (42) and the motor (12), and a propulsor (11) in the form of a propeller. With respect to claim 8, the batteries (20) and capacitors (21), are mounted "within the interior of the surfboard body" and within water proof casings (see paragraph [0026]) wherein other portions of the speed controller including circuitry and switches are mounted within water proof access panels (22a)(22b) and aft waterproof access panel (14). With respect to claim 11, a wireless handheld controller (43)(44) having a transmitter (43), and a throttle interface (40)(41) having a receiver (41) wherein the transmitter is adapted to send wireless signals to the receiver that cause an output of the propulsion system to change. With respect to claims 16 and 20, Braden discloses a surf-board shaped flotation device (10) that has a fore-aft length greater than a lateral width (see top down view shown in Figure 2), the flotation device having a top surface and a bottom surface, wherein a user can be disposed on the top surface of the floatation device in a prone, kneeling, or standing position, the flotation device having a forward section, carrying cleat (27), a middle section, and a rear section carrying cleat (17a); a strut (13) having an upper end fixedly connected to the surfboard-shaped flotation device (10); a propulsion system (20)(21)(12)(11) comprises a battery (20), an electric motor (12), a motor speed controller in the form of controlling circuitry including switches (52)(16) and capacitors (53)(54)(55) connected in series between a relay switch (42) and the motor (12), and a propulsor (11) in the form of a propeller, and the battery (20) and capacitors (21), are mounted "within the interior of the surfboard body" and within water proof casings (see paragraph [0026])

wherein other portions of the speed controller including circuitry and switches are mounted within water proof access panels (22a)(22b) and aft waterproof access panel (14); the watercraft having no moveable steering system; a wireless handheld controller (43)(44) having a transmitter (43), and a throttle interface (40)(41) having a receiver (41) wherein the transmitter (43) is adapted to send wireless signals to the receiver (41) that cause an output of the propulsion system (20)(21)(12)(11) to change. Braden discloses all claimed elements with the exception of a hydrofoil having no movable surface interconnected with the lower end of the strut and connected to the propulsion system.

Woolley teaches a passively stable, weight-shift controlled personal watercraft comprising a flotation device (20) with a strut (36) extending downward from a bottom surface thereof. The strut has a fuselage (44) mounted at a bottom end thereof and hydrofoils (40) and (42) indirectly connected to the strut by way of the fuselage. Hydrofoil (40) "increases stability" (paragraph [0155]) and hydrofoil (42) provides "stability" (paragraph [0163]) to the watercraft (10). Hydrofoils (40) and (42) constitute hydrofoil wings as required by claim 16.

It would have been obvious to one of ordinary skill in the art at the time of filing of the instant invention to add hydrofoils (40) and (42), as taught by Wooley, to motor (12), disclosed by Braden. Such an addition would provide a hydrofoil interconnected with the lower end of the strut as required by claim 1, a hydrofoil wing indirectly connected to the strut through the propulsion system as required by claim 6 and a propulsion system directly or indirectly connected to the hydrofoil as required by claim 15. Adding the hydrofoils taught by Wooley to the Braden device would increase the stability of the Braden watercraft and create a more balanced support surface for the user.

With respect to claims 9, Braden as modified does not specifically disclose that the pod containing the motor is waterproof, that the watercraft includes a cooling system for the electric motor (claims 9 and 18) and the that the pod is removably interconnected through a fitting with a hydrofoil. It is commonly known to contain electric motors within a waterproof enclosure if the electric motor will be exposed to water since water will prevent the motor from working as intended. Furthermore, the use of a cooling system for an electric motor, as required by claims 9 and 18, is also commonly known to ensure the motor functions as intended. These features are obvious and known to one of ordinary skill in the art.

With respect to claim 10, Braden as modified is silent as to how the pod is connected to the hydrofoil wings, however a limited set of attachment means including a fitting and/or a welded connection would have been obvious to one of ordinary skill in the art at the time of filing. Using a fitting to connect the engine housing and hydrofoil provides one of ordinary skill in the art a reasonable expectation of successfully joining the two elements securely and would require only routine experimentation and ordinary skill in the art.

With respect to claims 13 and 19, Braden as modified does not specifically disclose an internal passage within the strut and passage of electrical wires from the motor to the water tight compartment. It would have been obvious to one of ordinary skill in the art to pass wires from the battery compartment (20) through the board and the strut to reach the engine since exposed wires outside the confines of the watercraft would be prone to snagging on obstacles within the water. Running wiring through the confines of the vehicle is well known and would have been obvious to try to one of ordinary skill in the art at the time of filing of the invention.

With respect 14, Braden as modified fails to disclose a detector adapted to detect a user's presence on the flotation device and cease operation of the motor if the user is not detected on the flotation device. Lanyard elements, which tether a watercraft user to the watercraft, are commonly known to include a sensor in communication with an engine, wherein indication that the lanyard has been detached from a docking station on the watercraft results in power being cut to the engine. This lanyard system is a commonly known safety feature in watercraft. It would have been obvious to one of ordinary skill to incorporate a sensor as described as the tethered lanyard system above that detects when a user falls from the watercraft since such a provision enhances the safety of the user and is well known in the art.

***Reexamination Procedures***

6. In order to ensure full consideration of any amendments, affidavits or declarations, or other documents as evidence of patentability, such documents must be submitted in response to this Office action. Submissions after the next Office action, which is intended to be a final action, will be governed

by the requirements of 37 CFR 1.116, after final rejection and 37 CFR 41.33 after appeal, which will be strictly enforced.

Extensions of time under 37 C.F.R. 1.136(a) will not be permitted in these proceedings because the provisions of 37 C.F.R. 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding. Additionally, 35 U.S.C. § 305 requires that reexamination proceedings "will be conducted with special dispatch" (37 C.F.R. 1.550(a)). Extension of time in ex parte reexamination proceedings are provided for in 37 C.F.R. 1.550(c).

The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a), to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving Patent No. 9,586,659 throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

The third party requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

In any reexamination proceeding under this chapter, the patent owner will be permitted to propose any amendment to his patent and a new claim or claims thereto, in order to distinguish the invention as claimed from the prior art cited under the provisions of section 301 of this title, or in response to a decision adverse to the patentability of a claim of a patent. See 35 U.S.C. 305. For this reason, patent owner is notified that any amendment to a claim not involved in the reexamination proceeding may not be entered, and if entered, will bring that claim into the reexamination proceeding. See 37 CFR 1.104. Patent owner is notified that any proposed amendment to the specification and/or claims in this reexamination proceeding must comply with 37 C.F.R. 1.530(d)-G), must be formally presented pursuant to 37 C.F.R. 1.52(a) and (b), and must contain any fees required by 37 C.F.R. 1.20(c). Also, in accordance with 37 CFR 1.530(e), each claim amendment must be accompanied by an explanation of the support in the disclosure of the patent for the amendment (1.e., support for the changes made in the claim(s), support for any insertions and deletions). See MPEP § 2250(IV) for examples to assist in the preparation of proper proposed amendments in reexamination proceedings. After the filing of a request for reexamination by a third party requester, any document filed by either the patent owner or the third party requested must be served on the other party (or parties where two or more third party requested

proceedings are merged) in the reexamination proceeding in the manner provided in 37 C.F.R. 1.248. See 37 C.F.R. 1.550(f. Per MPEP 2263, the shortened statutory period for reply of 2 MONTHS is stet for filing a response to this Office action.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH B. MCPARTLIN whose telephone number is (571)272-6854. The examiner can normally be reached M-F 7 am - 4 pm.

Examiner interviews are available via telephone, in-person, and video conferencing using a USPTO supplied web-based collaboration tool. To schedule an interview, applicant is encouraged to use the USPTO Automated Interview Request (AIR) at http://www.uspto.gov/interviewpractice.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Gay Spahn** can be reached on 571-272-7731. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of published or unpublished applications may be obtained from Patent Center. Unpublished application information in Patent Center is available to registered users. To file and manage patent submissions in Patent Center, visit: https://patentcenter.uspto.gov. Visit https://www.uspto.gov/patents/apply/patent-center for more information about Patent Center and https://www.uspto.gov/patents/docx for information about filing in DOCX format. For additional questions, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**All** correspondence relating to this ex parte reexamination proceeding should be directed:

| | |
|---|---|
| At Patent Center: | https://patentcenter.uspto.gov/ |
| By Mail to: | Mail Stop *Ex Parte* Reexam<br>Central Reexamination Unit<br>Commissioner for Patents<br>United States Patent & Trademark Office<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |
| By FAX to: | (571) 273-9900<br>Central Reexamination Unit |
| By hand: | Customer Service Window<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |

/SARAH B MCPARTLIN/
Primary Examiner, Art Unit 3636

Conferees:
/PLE/ Patricia L Engle
Reexamination Specialist, Art Unit 3993

/EILEEN D LILLIS/
SPRS, Art Unit 3993

| Search Notes | Application/Control No. | Applicant(s)/Patent Under Reexamination |
|---|---|---|
| | 90/015,269 | 9586659 |
| | Examiner | Art Unit |
| | SARAH B MCPARTLIN | 3636 |

| CPC - Searched* | | |
|---|---|---|
| Symbol | Date | Examiner |
| | | |

| CPC Combination Sets - Searched* | | |
|---|---|---|
| Symbol | Date | Examiner |
| | | |

| US Classification - Searched* | | | |
|---|---|---|---|
| Class | Subclass | Date | Examiner |
| | | | |

* See search history printout included with this form or the SEARCH NOTES box below to determine the scope of the search.

| Search Notes | | |
|---|---|---|
| Search Notes | Date | Examiner |
| Reviewed patent file | 11/20/2023 | SBM |
| Reviewed PTACTS for post grant proceedings (none found) | 11/20/2023 | SBM |

| Interference Search | | | |
|---|---|---|---|
| US Class/CPC Symbol | US Subclass/CPC Group | Date | Examiner |
| | | | |

| /S.B.M/<br>Primary Examiner, Art Unit 3636 | |
|---|---|

## Bibliographic Data

Application No: 90/015,269

Foreign Priority claimed: ○ Yes ◉ No

35 USC 119 (a-d) conditions met: ☐ Yes ☐ No ☐ Met After Allowance

Verified and Acknowledged: None /SARAH B MCPARTLIN/ (Examiner's Signature) | Initials

Title: POWERED HYDROFOIL BOARD

| FILING or 371(c) DATE | CLASS | GROUP ART UNIT | ATTORNEY DOCKET NO. |
|---|---|---|---|
| 08/09/2023 | 440 | 3993 | GBWHCC001-EPR |
| RULE | | | |

**APPLICANTS**

**INVENTORS**

9586659,

**CONTINUING DATA**

This application is a REX of 15064521 03/08/2016 PAT 9586659

15064521 is a CON of 14509289 10/08/2014 PAT 9359044

14509289 has PRO of 61889071 10/10/2013

**FOREIGN APPLICATIONS**

**IF REQUIRED, FOREIGN LICENSE GRANTED****

**** SMALL ENTITY ****

**STATE OR COUNTRY**

**ADDRESS**

Lerner David LLP
20 COMMERCE DRIVE
CRANFORD, NJ 07016
UNITED STATES

**FILING FEE RECEIVED**

$225

## PE2E SEARCH - Search History (Prior Art)

| Ref # | Hits | Search Query | DBs | Default Operator | Plurals | British Equivalents | Time Stamp |
|---|---|---|---|---|---|---|---|
| L1 | 1 | ("5544607").pn. | (US-PGPUB; USPAT) | OR | ON | ON | 2023/11/20 11:51 AM |
| L2 | 1 | ("20050255764").pn. | (US-PGPUB; USPAT) | OR | ON | ON | 2023/11/20 11:54 AM |
| L3 | 1 | ("20110111650").pn. | (US-PGPUB; USPAT) | OR | ON | ON | 2023/11/20 11:55 AM |
| L4 | 1 | ("9586659").pn. | (US-PGPUB; USPAT) | OR | ON | ON | 2023/11/21 09:25 AM |
| L5 | 3 | ((US-5544607-A).did. AND USPT.dbnm.) OR ((US-20050255764-A1 OR US-20110111650-A1).did. AND PGPB.dbnm.) | (US-PGPUB; USPAT; USOCR; FIT (AU, AP, AT, CA, CH, CN, DD, DE, EA, EP, ES, FR, GB, JP, KR, OA, RU, SU, WO); FPRS; EPO; JPO; DERWENT; IBM_TDB) | OR | ON | ON | 2023/11/21 08:35 PM |
| L6 | 0 | L5 AND "cool" | (US-PGPUB; USPAT; USOCR; FIT (AU, AP, AT, CA, CH, CN, DD, DE, EA, EP, ES, FR, GB, JP, KR, OA, RU, SU, WO); FPRS; EPO; JPO; DERWENT; IBM_TDB) | OR | ON | ON | 2023/11/21 08:35 PM |

## PE2E SEARCH - Search History (Interference)

There are no Interference searches to show.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 90/015,269 | 08/09/2023 | 9586659 | GBWHCC001-EPR | 5917 |

530 7590 09/07/2023

Lerner David LLP
20 COMMERCE DRIVE
CRANFORD, NJ 07016

| EXAMINER | |
|---|---|
| ENGLE, PATRICIA LYNN | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3993 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 09/07/2023 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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Alexandria, VA 22313-1450
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(THIRD PARTY REQUESTER'S CORRESPONDENCE ADDRESS)

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1540 WEST WARM SPRINGS ROAD
SUITE 100
HENDERSON, NV 89014

# *EX PARTE* REEXAMINATION COMMUNICATION TRANSMITTAL FORM

REEXAMINATION CONTROL NO. *90/015,269* .

PATENT UNDER REEXAMINATION *9586659* .

ART UNIT *3993* .

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

| *Order Granting Request For Ex Parte Reexamination* | Control No. 90/015,269 | Patent Under Reexamination 9586659 | |
|---|---|---|---|
| | Examiner PATRICIA L ENGLE | Art Unit 3993 | AIA (FITF) Status Yes |

***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--***

The request for *ex parte* reexamination filed 08/09/2023 has been considered and a determination has been made. An identification of the claims, the references relied upon, and the rationale supporting the determination are attached.

Attachments: a)☐ PTO-892, b)☑ PTO/SB/08, c)☐ Other: ____

1. ☑ The request for *ex parte* reexamination is GRANTED.

RESPONSE TIMES ARE SET AS FOLLOWS:

For Patent Owner's Statement (Optional): TWO MONTHS from the mailing date of this communication (37 CFR 1.530 (b)). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c).**

For Requester's Reply (optional): TWO MONTHS from the **date of service** of any timely filed Patent Owner's Statement (37 CFR 1.535). **NO EXTENSION OF THIS TIME PERIOD IS PERMITTED.** If Patent Owner does not file a timely statement under 37 CFR 1.530(b), then no reply by requester is permitted.

cc:Requester ( if third party requester )

## DECISION ON REQUEST

A substantial new question of patentability (SNQ) affecting claims **1-20** of United States Patent Number **9,586,659** (the '659 patent) is raised by the request for *ex parte* reexamination.

### *Notice of Pre-AIA or AIA Status*

The present application, filed on or after March 16, 2013, is being examined under the first inventor to file provisions of the AIA.

### *Extensions of Time*

Extensions of time under 37 CFR 1.136(a) will not be permitted in these proceedings because the provisions of 37 CFR 1.136 apply only to "an applicant" and not to parties in a reexamination proceeding. Additionally, 35 U.S.C. 305 requires that *ex parte* reexamination proceedings "will be conducted with special dispatch" (37 CFR 1.550(a)). Extensions of time in *ex parte* reexamination proceedings are provided for in 37 CFR 1.550(c).

### *Service of Papers*

After the filing of a request for reexamination by a third party requester, any document filed by either the patent owner or the third party requester must be served on the other party (or parties where two or more third party requester proceedings are merged) in the reexamination proceeding in the manner provided in 37 C.F.R. 1.248. See 37 C.F.R. 1.550(c).

***Waiver of Right to File Patent Owner Statement***

In a reexamination proceeding, Patent Owner may waive the right under 37 C.F.R. 1.530 to file a Patent Owner Statement. The document needs to contain a statement that Patent Owner waives the right under 37 C.F.R. 1.530 to file a Patent Owner Statement and proof of service in the manner provided by 37 C.F.R. 1.248, if the request for reexamination was made by a third party requester, see 37 C.F.R. 1.550(f). The Patent Owner may consider using the following statement in a document waiving the right to file a Patent Owner Statement:

**WAIVER OF RIGHT TO FILE PATENT OWNER STATEMENT**

Patent Owner waives the right under 37 C.F.R. 1.530 to file a Patent Owner Statement.

***Amendment in Reexamination Proceedings***

Patent owner is notified that any proposed amendment to the specification and/or claims in this reexamination proceeding must comply with 37 C.F.R. 1.530(d)-(j), must be formally presented pursuant to 37 C.F.R. 1.52(a) and (b), and must contain any fees required by 37 C.F.R. 1.20(c). See MPEP § 2250(IV) for examples to assist in the preparation of proper proposed amendments in reexamination proceedings.

***Submissions***

In order to ensure full consideration of any affidavits or declarations or other documents as evidence of patentability, such documents must be submitted in response to the first Office action on the merits (which does not result in a close of prosecution). Submissions after the second Office action on the merits, which is intended to be a final action, will be governed by the

requirements of 37 C.F.R. 1.116, after final rejection and by 37 C.F.R. 41.33 after appeal, which will be strictly enforced.

***Notification of Concurrent Proceedings***

The patent owner is reminded of the continuing responsibility under 37 C.F.R. 1.565(a) to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving the patent throughout the course of this reexamination proceeding. Likewise, if present, the third party requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

***Notification of Current Assignment of the Patent***

The patent owner is requested to provide the current assignment information for the patent for which reexamination is requested. An assignment can be made of record in the file of a patent application, patent, or other patent proceeding (e.g., reexamination proceeding). This step is necessary to permit the assignee to "take action" in the application, patent, or other patent proceeding under the conditions set forth in 37 CFR 3.73 and MPEP § 324. Recordation of an assignment in the assignment records of the Office, however, does not, by itself, permit the assignee to take action in the application, patent, or other patent proceeding.

***Brief Summary of the Prior Examination Proceeding***

US Patent No. 9,586,659 (the '659 Patent) was filed as SN 15/064,521 (the '521 Application) on March 8, 2016. The '521 application was filed as a continuation of SN

14/509,289 (now US Patent No. 9,359,044) which was filed on October 8, 2014. SN 14/509,289 claimed benefit to provisional application no. 61/889,071 which was filed on October 10, 2013.

During the prosecution of the '659 patent, the Examiner issued a non-final rejection on May 23, 2016. The claims were rejected on the grounds of non-statutory double patenting as being unpatentable over SN 14/509,289. The Applicant filed a terminal disclaimer on September 22, 2016. The Examiner issued a Notice of Allowability on November 2, 2016 with the following reasons for allowance: "The following is an examiner's statement of reasons for allowance: prior art search did not reveal the limitations of the surfboard with the hydrofoil and propulsion system configuration." (SN 15/064,521, Notice of Allowability of November 2, 2016).

***Substantial New Questions of Patentability Proposed by Requester***

The request indicates that the third party requester considers the following proposed rejections to raise substantial new questions of patentability:

Ground 1: Claims 1, 3-7, 12, 15 and 17 are anticipated by Rorabaugh (US Patent No. 5,544,607)

Ground 2: Claim 13 is obvious over Rorabaugh

Ground 3: Claims 1, 3-7, 12, 13, 15 and 17 are obvious over Rorabaugh in view of Woolley (US 2005/0255764).

Ground 4: Claims 1-20 are obvious over Woolley in view of Braden (US 2011/0111650)

Ground 5: Claims 1-20 are obvious over Rorabaugh in view of Wang (TW 201000361)

***Analysis of the Substantial New Questions of Patentability in the Request***

**Ground 1: Claims 1, 3-7, 12, 15 and 17 are anticipated by Rorabaugh (US Patent No. 5,544,607)**

**Ground 2: Claim 13 is obvious over Rorabaugh**

Rorabaugh has a publication date of August 13, 1996. Rorabaugh was not cited or considered during the prosecution of the '659 patent. Rorabaugh qualifies as prior art under 35 U.S.C. § 102(a)(1) and (2) for all claims.

Rorabaugh discloses a passively stable, weight-shift controlled personal hydrofoil watercraft including a flotation device that has a fore-aft length greater than a lateral width (Fig. 1), the flotation device having a top surface and a bottom surface, wherein a user can be disposed on the top surface of the flotation device in a prone, kneeling, or standing position and a strut (11) having a upper end and a lower end, the upper end fixedly interconnected with the flotation device between the middle section and the rear section of the flotation device (Fig. 2) and a hydrofoil (Fig. 1) fixedly interconnected with the lower end of the strut; a propulsion system (Abstract) for propelling the watercraft in a body of water, wherein the propulsion system is connected to the hydrofoil.

Therefore, it appears that Rorabaugh has at least one teaching relevant to a flotation device "with the hydrofoil and propulsion system configuration" which are limitations that appear to have been missing from the prior art during the prior examination.

With the teaching of Rorabaugh there is a substantial likelihood that a reasonable examiner would consider the disclosure of Rorabaugh to be important in deciding the patentability of the '659 patent.

Accordingly it is agreed that Rorabaugh raises a SNQ with respect to claims 1, 3-7, 12, 13, 15 and 17 of the ''659 patent.

**Ground 3: Claims 1, 3-7, 12, 15 and 17 are anticipated by Rorabaugh (US Patent No. 5,544,607) in view of Woolley (US 2005/0255764)**

Rorabaugh has a publication date of August 13, 1996. Rorabaugh was not cited or considered during the prosecution of the '659 patent. Rorabaugh qualifies as prior art under 35 U.S.C. § 102(a)(1) and (2) for all claims.

Woolley has a publication date of November 17, 2005. Woolley was not cited or considered during the prosecution of the '659 patent. Woolley qualifies as prior art under 35 U.S.C. § 102(a)(1) and (2) for all claims.

Rorabaugh discloses a passively stable, weight-shift controlled personal hydrofoil watercraft including a flotation device that has a fore-aft length greater than a lateral width (Fig. 1), the flotation device having a top surface and a bottom surface, wherein a user can be disposed on the top surface of the flotation device in a prone, kneeling, or standing position and a strut (11) having a upper end and a lower end, the upper end fixedly interconnected with the flotation device between the middle section and the rear section of the flotation device (Fig. 2) and a hydrofoil (Fig. 1) fixedly interconnected with the lower end of the strut; a propulsion system (Abstract) for propelling the watercraft in a body of water, wherein the propulsion system is connected to the hydrofoil. Woolley discloses a passively stable, weight-shift controlled personal hydrofoil watercraft including a strut connected at one end with the flotation device and a hydrofoil at the lower end of the strut. Woolley illustrates a watercraft having no moveable steering system.

Therefore, it appears that Rorabaugh in view of Woolley has at least one teaching relevant to a flotation device "with the hydrofoil and propulsion system configuration" which are limitations that appear to have been missing from the prior art during the prior examination.

With the teaching of Rorabaugh in view of Woolley there is a substantial likelihood that a reasonable examiner would consider the disclosure of Rorabaugh in view of Woolley to be important in deciding the patentability of the '659 patent.

Accordingly it is agreed that Rorabaugh raises a SNQ with respect to claims 1, 3-7, 12, 13, 15 and 17 of the '659 patent.

**Ground 4: Claims 1-20 are anticipated by Woolley (US 2005/0255764) in view of Braden (US 2011/0111650)**

Woolley has a publication date of November 17, 2005. Woolley was not cited or considered during the prosecution of the '659 patent. Woolley qualifies as prior art under 35 U.S.C. § 102(a)(1) and (2) for all claims.

Braden has a publication date of May 12, 2011. Braden was not cited or considered during the prosecution of the '659 patent. Braden qualifies as prior art under 35 U.S.C. § 102(a)(1) and (2) for all claims.

Woolley discloses a passively stable, weight-shift controlled personal hydrofoil watercraft including a flotation device that has a fore-aft length greater than a lateral width (20), the flotation device having a top surface and a bottom surface, wherein a user can be disposed on the top surface of the flotation device in a prone, kneeling, or standing position and a strut (36) having a upper end and a lower end, the upper end fixedly interconnected with the flotation device between the middle section and the rear section of the flotation device (Fig. 1) and a hydrofoil (40) fixedly interconnected with the lower end of the strut, the hydrofoil having no moveable surface. Braden discloses a flotation device (10) having a strut (13) with a propulsion system (12,11).

Therefore, it appears that Woolley in view of Braden has at least one teaching relevant to a flotation device "with the hydrofoil and propulsion system configuration" which are limitations that appear to have been missing from the prior art during the prior examination.

With the teaching of Woolley in view of Braden there is a substantial likelihood that a reasonable examiner would consider the disclosure of Woolley in view of Braden to be important in deciding the patentability of the '659 patent.

Accordingly it is agreed that Woolley in view of Braden raises a SNQ with respect to claims 1-20 of the '659 patent.

**Ground 5: Claims 1-20 are anticipated by Woolley (US 2005/0255764) in view of Wang (TW 201000361)**

Woolley has a publication date of November 17, 2005. Woolley was not cited or considered during the prosecution of the '659 patent. Woolley qualifies as prior art under 35 U.S.C. § 102(a)(1) and (2) for all claims.

Wang has a publication date of January 1, 2010. Wang was not cited or considered during the prosecution of the '659 patent. Wang qualifies as prior art under 35 U.S.C. § 102(a)(1) for all claims.

Woolley discloses a passively stable, weight-shift controlled personal hydrofoil watercraft including a flotation device that has a fore-aft length greater than a lateral width (20), the flotation device having a top surface and a bottom surface, wherein a user can be disposed on the top surface of the flotation device in a prone, kneeling, or standing position and a strut (36) having a upper end and a lower end, the upper end fixedly interconnected with the flotation device between the middle section and the rear section of the flotation device (Fig. 1) and a

hydrofoil (40) fixedly interconnected with the lower end of the strut, the hydrofoil having no moveable surface. Wang discloses a flotation device (Abstract) having a propulsion system (Abstract).

Therefore, it appears that Woolley in view of Wang has at least one teaching relevant to a flotation device "with the hydrofoil and propulsion system configuration" which are limitations that appear to have been missing from the prior art during the prior examination.

With the teaching of Woolley in view of Wang there is a substantial likelihood that a reasonable examiner would consider the disclosure of Woolley in view of Wang to be important in deciding the patentability of the '659 patent.

Accordingly it is agreed that Woolley in view of Wang raises a SNQ with respect to claims 1-20 of the '659 patent.

***35 USC 325(d)***

A review of the post grant history for the '659atent indicates that there have been no other Office post grant challenges made to the patent (Reexamination Proceedings or *Inter Partes* Review, Post Grant Review, Covered Business Method trials). Accordingly, a discretionary denial of reexamination pursuant to 35 USC 325(d) is not applicable.

***Conclusion***

For the reasons given above, at least one of the references cited by the 3rd Party Requester raises a substantial new question of patentability with respect to the subject patent. Accordingly, the '659 patent will be reexamined.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PATRICIA L ENGLE whose telephone number is (571)272-6660. The examiner can normally be reached Monday- Friday 7:30 am-4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 571-272-6928.

All correspondence relating to this *ex parte* reexamination proceeding should be directed as follows:

| | |
|---|---|
| By EFS: | Registered users may submit via the electronic filing system, EFS-Web, at: https://efs.uspto.gov/efile/portal/home |
| By Mail: | Mail Stop *Ex Parte* Reexam<br>ATTN: Central Reexamination Unit<br>Commissioner for Patents<br>U.S. Patent & Trademark Office<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |
| By FAX: | (571) 273-9900<br>Central Reexamination Unit |
| By hand: | Customer Service Window<br>Randolph Building<br>401 Dulany St.<br>Alexandria, VA 22314 |

For EFS-Web transmissions, 37 CFR 1.8(a)(1) (i)(C) and (ii) state that correspondence (except for a request for reexamination and a corrected or replacement request for reexamination) will be considered timely filed if: (a) it is transmitted via the Office's electronic filing system in accordance with 37 CFR 1.6(a)(4); and, (b) includes a certificate of transmission

for each piece of correspondence stating the date of transmission, which is prior to the expiration of the set period of time in the Office action.

Any inquiry concerning this communication or earlier communications from the Reexamination Legal Advisor or Examiner, or as to the status of this proceeding, should be directed to the Central Reexamination Unit (CRU) at telephone number: 571-272-7705. The CRU's fax number is: 571-273-9900.

/Patricia L Engle/
Reexamination Specialist, Art Unit 3993

Conferees: /SBM/
Sarah B. McPartlin
Primary Examiner, Art Unit 3993

/GAS/
Gay Ann Spahn
Supervisory Primary Examiner, Art Unit 3993

Doc code: IDS
Doc description: Information Disclosure Statement (IDS) Filed

PTO/SB/08a (02-18)
Approved for use through 11/30/2020. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

**INFORMATION DISCLOSURE STATEMENT BY APPLICANT**
**( Not for submission under 37 CFR 1.99)**

| | |
|---|---|
| Application Number | |
| Filing Date | 08/09/2023 |
| First Named Inventor | Jacob Willem LANGELAAN |
| Art Unit | |
| Examiner Name | Patricia L. ENGLE |
| Attorney Docket Number | GBWHCC001-EPR |

**U.S.PATENTS** Remove

| Examiner Initial* | Cite No | Patent Number | Kind Code[1] | Issue Date | Name of Patentee or Applicant of cited Document | Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear |
|---|---|---|---|---|---|---|
| | 1 | 5544607 | A | 1996-08-13 | RORABAUGH, DALE, et al. | |

If you wish to add additional U.S. Patent citation information please click the Add button. Add

**U.S.PATENT APPLICATION PUBLICATIONS** Remove

| Examiner Initial* | Cite No | Publication Number | Kind Code[1] | Publication Date | Name of Patentee or Applicant of cited Document | Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear |
|---|---|---|---|---|---|---|
| | 1 | 20050255764 | A1 | 2005-11-17 | WOOLLEY ROBERT C | |
| | 2 | 20110111650 | A1 | 2011-05-12 | BRADEN PAUL T, et al. | |

If you wish to add additional U.S. Published Application citation information please click the Add button. Add

**FOREIGN PATENT DOCUMENTS** Remove

| Examiner Initial* | Cite No | Foreign Document Number[3] | Country Code[2] i | Kind Code[4] | Publication Date | Name of Patentee or Applicant of cited Document | Pages,Columns,Lines where Relevant Passages or Relevant Figures Appear | T[5] |
|---|---|---|---|---|---|---|---|---|
| | 1 | 201000361 | TW | A | 2010-01-01 | GRANDOT TECH INC | | |

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**NON-PATENT LITERATURE DOCUMENTS** Remove





ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /PLE/

| INFORMATION DISCLOSURE STATEMENT BY APPLICANT ( Not for submission under 37 CFR 1.99) | | |
|---|---|---|
| | Application Number | |
| | Filing Date | 08/09/2023 |
| | First Named Inventor | Jacob Willem LANGELAAN |
| | Art Unit | |
| | Examiner Name | Patricia L. ENGLE |
| | Attorney Docket Number | GBWHCC001-EPR |

| Examiner Initials* | Cite No | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc), date, pages(s), volume-issue number(s), publisher, city and/or country where published. | T[5] |
|---|---|---|---|
| | 1 | | |

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**EXAMINER SIGNATURE**

| Examiner Signature | /Patricia L. Engle/ | Date Considered | 08/30/2023 |
|---|---|---|---|

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through a citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

[1] See Kind Codes of USPTO Patent Documents at www.USPTO.GOV or MPEP 901.04. [2] Enter office that issued the document, by the two-letter code (WIPO Standard ST.3). [3] For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. [4] Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. [5] Applicant is to place a check mark here if English language translation is attached.





ALL REFERENCES CONSIDERED EXCEPT WHERE LINED THROUGH. /PLE/

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# BIB DATA SHEET

**CONFIRMATION NO. 5917**

| SERIAL NUMBER | FILING or 371(c) DATE | CLASS | GROUP ART UNIT | ATTORNEY DOCKET NO. |
|---|---|---|---|---|
| 90/015,269 | 08/09/2023<br>RULE | 440 | 3993 | GBWHCC001-EPR |

**APPLICANTS**
MHL CUSTOM INC(OWNER), Residence Not Provided;
BAYRAMOGLU LAW OFFICES LLC, HENDERSON, NV;

**INVENTORS**
9586659, Residence Not Provided;
IP-R-Us, LLC, Residence Not Provided;

**** CONTINUING DATA ***************************
This application is a REX of 15/064,521 03/08/2016 PAT 9586659
which is a CON of 14/509,289 10/08/2014 PAT 9359044
which claims benefit of 61/889,071 10/10/2013

**** FOREIGN APPLICATIONS ***************************

**** IF REQUIRED, FOREIGN FILING LICENSE GRANTED ** **** SMALL ENTITY **

| Foreign Priority claimed ☐ Yes ☐ No | | STATE OR COUNTRY | SHEETS DRAWINGS | TOTAL CLAIMS | INDEPENDENT CLAIMS |
|---|---|---|---|---|---|
| 35 USC 119(a-d) conditions met ☐ Yes ☐ No | ☐ Met after Allowance | | | 20 | 2 |
| Verified and Acknowledged Examiner's Signature | Initials | | | | |

**ADDRESS**
Lerner David LLP
20 COMMERCE DRIVE
CRANFORD, NJ 07016
UNITED STATES

**TITLE**
POWERED HYDROFOIL BOARD

| FILING FEE RECEIVED | FEES: Authority has been given in Paper | ☐ All Fees |
|---|---|---|
| 0.00 | No._____ to charge/credit DEPOSIT ACCOUNT | ☐ 1.16 Fees (Filing) |
| | No._____ for following: | ☐ 1.17 Fees (Processing Ext. of time) |
| | | ☐ 1.18 Fees (Issue) |
| | | ☐ Other _____ |
| | | ☐ Credit |

BIB (Rev. 05/07).

# Litigation Search Report CRU 3999
# Reexam No. 90/015,269

| | |
|---|---|
| **To: Patricia Engle** | **From: Patricia Martin** |
| **Location: CRU** | **Location: CRU 3999** |
| **Art Unit: 3993** | **Phone: (571) 272-7705** |
| **Date: August 21, 2023** | |

## Search Notes

**U.S. Patent No. 9,586,659**

1. Performed a KeyCite Search in Westlaw, which retrieves all history on the patent including any litigation.
2. Performed a search on the patent in Lexis CourtLink for any open dockets or closed cases.
3. Performed a search in Lexis in the Federal Courts and Administrative Materials databases for any cases found.
4. Performed a search in Lexis in the IP Journal and Periodicals database for any articles on the patent.
5. Performed a search in Lexis in the news databases for any articles about the patent or any articles about litigation on this patent.

**Litigation: Found**



Paper No. Date: 08/21/2023

**Negative Treatment**

**Negative Direct History**

*The KeyCited document has been negatively impacted in the following ways by events or decisions in the same litigation or proceedings:*

1. POWERED HYDROFOIL BOARD [redacted]

US PAT 9586659 , U.S. PTO Utility , Mar. 07, 2017

*Ruled Invalid by*

2. MHL Custom, Inc. v. Waydoo USA, Inc. [redacted]

2023 WL 1768325 , D.Del. , Feb. 03, 2023



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# 1:21cv91, Mhl Custom, Inc. V. Waydoo Usa, Inc. Et Al

US District Court Docket

United States District Court, Delaware

(Wilmington)

**This case was retrieved on** 08/21/2023

## Header

**Case Number:** 1:21cv91
**Date Filed:** 01/27/2021
**Assigned To:** Judge Richard G. Andrews
**Nature of Suit:** Patent (830)
**Cause:** Patent Infringement
**Lead Docket:** None
**Other Docket:** None
**Jurisdiction:** Federal Question

**Class Code:** Open
**Statute:** 28:1338
**Jury Demand:** Plaintiff
**Demand Amount:** $0
**NOS Description:** Patent

## Participants

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**Plaintiff**

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| Litigants | Attorneys |
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| Shenzhen Waydoo Intelligence Technology Co., Ltd.<br>a limited liability company of China<br>**Defendant** | Dorronda R. Bordley<br>LEAD ATTORNEY;ATTORNEY TO BE NOTICED<br>[Terminated: 08/01/2023]<br>Richards, Layton & Finger, PA<br>One Rodney Square Suite 600 920 N. King Street<br>Wilmington, DE 19801<br>USA<br>(302) 651-7713 Email:Bordley@rlf.Com<br><br>Kelly E. Farnan<br>LEAD ATTORNEY;ATTORNEY TO BE NOTICED<br>Richards, Layton & Finger, PA<br>One Rodney Square Suite 600 920 N. King Street<br>Wilmington, DE 19801<br>USA<br>(302) 651-7705 Email:Farnan@rlf.Com<br><br>Edgar H. Haug<br>PRO HAC VICE;ATTORNEY TO BE NOTICED<br><br>,<br><br>Email:Ehaug@haugpartners.Com<br><br>Jason A. Kanter<br>PRO HAC VICE;ATTORNEY TO BE NOTICED<br><br>, |

| Litigants | Attorneys |
| --- | --- |
| | Email:Jkanter@haugpartners.Com<br><br>Mark Basanta<br>PRO HAC VICE;ATTORNEY TO BE NOTICED<br><br>Email:Mbasanta@haugpartners.Com<br><br>Patrick Lavery<br>PRO HAC VICE;ATTORNEY TO BE NOTICED<br><br>Email:Plavery@haugpartners.Com<br><br>Robert E. Colletti<br>PRO HAC VICE;ATTORNEY TO BE NOTICED<br><br>Email:Rcolletti@haugpartners.Com<br><br>Roman Khasidov<br>PRO HAC VICE;ATTORNEY TO BE NOTICED<br><br>Email:Rkhasidov@haugpartners.Com |
| Intellectual Property Insurance Services Corp<br>**Intervenor** | Joseph S. Naylor<br>LEAD ATTORNEY;ATTORNEY TO BE NOTICED<br>Swartz Campbell LLC<br>300 Delaware Avenue Suite 1410 P.O. Box 330<br>Wilmington, DE 19801<br>USA<br>(302) 656-5935 Fax: (302) 658-1682<br>Email:Jnaylor@swartzcampbell.Com<br><br>Kara Renee Fussner<br>ATTORNEY TO BE NOTICED<br>Husch Blackwell LLP<br>8001 Forsyth Boulevard Suite 1500<br>St. Louis, MO 63105<br>USA<br>314-480-1500 Fax: 314-480-1505<br>Email:Kara.Fussner@huschblackwell.Com |
| Shenzhen Waydoo Intelligence Technology Co., Ltd.<br>a limited liability company of China<br>**Counter Claimant** | Dorronda R. Bordley<br>LEAD ATTORNEY;ATTORNEY TO BE NOTICED<br>[Terminated: 08/01/2023]<br>Richards, Layton & Finger, PA<br>One Rodney Square Suite 600 920 N. King Street<br>Wilmington, DE 19801<br>USA<br>(302) 651-7713 Email:Bordley@rlf.Com<br><br>Kelly E. Farnan |

| Litigants | Attorneys |
|---|---|
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| Waydoo USA, Inc.<br>a Delaware corporation \|<br>**Counter Claimant** | Dorronda R. Bordley<br>LEAD ATTORNEY;ATTORNEY TO BE NOTICED<br>[Terminated: 08/01/2023]<br>Richards, Layton & Finger, PA<br>One Rodney Square Suite 600 920 N. King Street<br>Wilmington, DE 19801<br>USA<br>(302) 651-7713 Email:Bordley@rlf.Com<br><br>Kelly E. Farnan<br>LEAD ATTORNEY;ATTORNEY TO BE NOTICED<br>Richards, Layton & Finger, PA<br>One Rodney Square Suite 600 920 N. King Street<br>Wilmington, DE 19801<br>USA<br>(302) 651-7705 Email:Farnan@rlf.Com<br><br>Jason A. Kanter<br>PRO HAC VICE;ATTORNEY TO BE NOTICED<br><br>Email:Jkanter@haugpartners.Com<br><br>Patrick Lavery<br>PRO HAC VICE;ATTORNEY TO BE NOTICED<br><br>Email:Plavery@haugpartners.Com |
| MHL Custom, Inc.<br>**Counter Defendant** | Andrew Ralli<br>LEAD ATTORNEY;ATTORNEY TO BE NOTICED<br>Cooch and Taylor, P.A.<br>1007 North Orange Street Suite 1120<br>Wilmington, DE 19801<br>USA<br>302-984-9821 Fax: 302-984-3939 |

## Litigants

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[Terminated: 03/03/2022]

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Robert J. Theuerkauf
PRO HAC VICE;ATTORNEY TO BE NOTICED

Email:Rjt@grayice.Com

## Proceedings

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| 1 | 01/27/2021 | COMPLAINT FOR PATENT INFRINGEMENT filed with Jury Demand against Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc. - Magistrate Consent Notice to Pltf. ( Filing fee $ 402, receipt number ADEDC-3492281.) - filed by MHL Custom, Inc.. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Civil Cover Sheet)(myr) (Additional attachment(s) added on 1/27/2021: # 4 Exhibit C) (cna, ). (Entered: 01/27/2021) | |
| 2 | 01/27/2021 | Notice, Consent and Referral forms re: U.S. Magistrate Judge jurisdiction. (myr) (Entered: 01/27/2021) | |
| 3 | 01/27/2021 | Report to the Commissioner of Patents and Trademarks for Patent/Trademark Number(s) 9,359,044 ;9.586,659. (myr) (Entered: 01/27/2021) | |
| 4 | 01/27/2021 | Summonses Issued (please complete the top portion of the form and print out for use/service). (myr) (Entered: 01/27/2021) | |
| 5 | 02/01/2021 | SUMMONS Returned Executed by MHL Custom, Inc.. Waydoo USA, Inc. served on 1/29/2021, answer due 2/19/2021. (Bennett, Blake) (Entered: 02/01/2021) | |
| 6 | 02/01/2021 | SUMMONS Returned Executed by MHL Custom, Inc.. Shenzhen Waydoo Intelligence Technology Co., Ltd. served on 1/29/2021, answer due 2/19/2021. (Bennett, Blake) (Entered: 02/01/2021) | |

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| | 02/03/2021 | Case Assigned to Judge Richard G. Andrews. Please include the initials of the Judge (RGA) after the case number on all documents filed. (rjb) (Entered: 02/03/2021) | |
| 7 | 02/05/2021 | MOTION for Pro Hac Vice Appearance of Attorney Robert J. Theuerkauf - filed by MHL Custom, Inc.. (Bennett, Blake) (Entered: 02/05/2021) | |
| 8 | 02/05/2021 | MOTION for Pro Hac Vice Appearance of Attorney Daniel W. Redding - filed by MHL Custom, Inc.. (Bennett, Blake) (Entered: 02/05/2021) | |
| 9 | 02/05/2021 | MOTION for Pro Hac Vice Appearance of Attorney Dennis D. Murrell - filed by MHL Custom, Inc.. (Bennett, Blake) (Entered: 02/05/2021) | |
| | 02/05/2021 | SO ORDERED, re 8 MOTION for Pro Hac Vice Appearance of Attorney Daniel W. Redding, 9 MOTION for Pro Hac Vice Appearance of Attorney Dennis D. Murrell, and 7 MOTION for Pro Hac Vice Appearance of Attorney Robert J. Theuerkauf, filed by MHL Custom, Inc.. Signed by Judge Richard G. Andrews on 2/5/2021. (nms) (Entered: 02/05/2021) | |
| 10 | 02/24/2021 | ORAL ORDER: Answers were due to be filed on 2/19/2021 (see D.I. 5 : D.I. 6 ), and to date none have been filed. Now the Plaintiff shall file a status letter within 3 days from the entry of this Order. Ordered by Judge Richard G. Andrews on 2/24/2021. (nms) (Entered: 02/24/2021) | |
| | 02/24/2021 | Pro Hac Vice Attorneys Robert J. Theuerkauf, Daniel W. Redding, Dennis D. Murrell for MHL Custom, Inc. added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (kmd) (Entered: 02/24/2021) | |
| 11 | 02/24/2021 | Letter to The Honorable Richard G. Andrews, from Blake A. Bennett, regarding status. (Bennett, Blake) Modified on 2/25/2021 (nms). (Entered: 02/24/2021) | |
| 12 | 02/26/2021 | STIPULATION of Waiver and to Extend Time by MHL Custom, Inc.. (Bennett, Blake) (Entered: 02/26/2021) | |
| | 03/01/2021 | SO ORDERED, re 12 Stipulation of Waiver and to Extend Time (*Reset Answer Deadlines: Shenzhen Waydoo Intelligence Technology Co., Ltd. answer due 5/20/2021; Waydoo USA, Inc. answer due 5/20/2021). Signed by Judge Richard G. Andrews on 3/1/2021. (nms) (Entered: 03/01/2021) | |
| 13 | 05/20/2021 | ANSWER to 1 Complaint, with Jury Demand and COUNTERCLAIMS against MHL Custom, Inc., by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..(Farnan, Kelly) Modified on 5/21/2021 (nms). (Entered: 05/20/2021) | |
| 14 | 05/20/2021 | MOTION for Pro Hac Vice Appearance of Attorney Edgar H. Haug, Robert E. Colletti and Roman Khasidov - filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) (Entered: 05/20/2021) | |
| | 05/20/2021 | SO ORDERED, re 14 MOTION for Pro Hac Vice Appearance of Attorney Edgar H. Haug, Robert E. Colletti and Roman Khasidov, filed by Waydoo USA, Inc., Shenzhen Waydoo Intelligence Technology Co., Ltd.. Signed by Judge Richard G. Andrews on 5/20/2021. (nms) (Entered: 05/20/2021) | |
| 15 | 05/26/2021 | Order Setting Rule 16(b) Telephone Conference: A Scheduling Conference is set for 6/15/2021, at 4:00 PM before Judge Richard G. Andrews (see Order for further details). Signed by Judge Richard G. Andrews on 5/26/2021. (nms) (Entered: 05/26/2021) | |
| | 05/27/2021 | Pro Hac Vice Attorney Edgar H. Haug,Robert E. Colletti for Shenzhen Waydoo Intelligence Technology Co., Ltd., for Waydoo | |

| # | Date | Proceeding Text | Source |
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| | | USA, Inc. added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (myr) (Entered: 05/27/2021) | |
| 16 | 05/27/2021 | Disclosure Statement pursuant to Rule 7.1: identifying Other Affiliate SZ DJI Technology Co., Ltd., Other Affiliate Waydoo USA, Inc., Other Affiliate Joy Surf Limited for Shenzhen Waydoo Intelligence Technology Co., Ltd. filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) (Entered: 05/27/2021) | |
| | 06/04/2021 | Pro Hac Vice Attorney Roman Khasidov for Shenzhen Waydoo Intelligence Technology Co., Ltd.and Waydoo USA, Inc. added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (mal) (Entered: 06/04/2021) | |
| 17 | 06/10/2021 | ANSWER to 13 Answer to Complaint, Counterclaim by MHL Custom, Inc..(Bennett, Blake) (Entered: 06/10/2021) | |
| 18 | 06/11/2021 | PROPOSED Scheduling Order, by MHL Custom, Inc.. (Bennett, Blake) Modified on 6/11/2021 (nms). (Entered: 06/11/2021) | |
| 19 | 06/14/2021 | SCHEDULING ORDER: Case referred to the Magistrate Judge for the purpose of exploring ADR. This matter will also be referred to a magistrate judge to handle all discovery disputed. Joinder of Parties due by 12/17/2021. Amended Pleadings due by 12/17/2021. Fact Discovery completed by 5/13/2022. Dispositive Motions due by 10/20/2022. Joint Claim Construction Brief due by 2/25/2022. A Markman Hearing is set for 3/22/2022, at 9:00 AM in Courtroom 6A. A Pretrial Conference is set for 3/10/2023, at 9:00 AM in Courtroom 6A. A 5 day Jury Trial is set for 3/27/2023, at 9:30 AM in Courtroom 6A (see Order for further details). Signed by Judge Richard G. Andrews on 6/14/2021. (nms) (Entered: 06/14/2021) | |
| 20 | 06/14/2021 | ORAL ORDER: The Rule 16(b) Conference set for 6/15/2021, is CANCELED. Ordered by Judge Richard G. Andrews on 6/14/2021. (nms) (Entered: 06/14/2021) | |
| | 06/14/2021 | CASE REFERRED to Magistrate Judge Jennifer L. Hall for Mediation. Please see Standing Order dated January 20, 2016, regarding disclosure of confidential ADR communications. A link to the standing order is provided here for your convenience at https://www.ded.uscourts.gov/sites/ded/files/forms/StandingOrderforADR-Mediation.pdf (Taylor, Daniel) (Entered: 06/14/2021) | |
| 21 | 06/14/2021 | CASE REFERRED to Magistrate Judge Mary Pat Thynge to handle all discovery disputes including any that arise in connection with expert reports. (nms) (Entered: 06/14/2021) | |
| 22 | 06/14/2021 | ORAL ORDER: If, during the pendency of this case, Plaintiff(s) and Defendant(s) jointly wish to schedule a form of alternative dispute resolution ("ADR"), such as mediation, with Judge Hall, they should contact chambers by e-mail at Cailah_Garfinkel@ded.uscourts.gov or by phone. Additionally, if either side wishes to speak ex parte with Judge Hall regarding ADR matters, they may contact chambers via e-mail or by phone to arrange a time for a call. In addition, Judge Hall may in the future enter a sua sponte order setting an ADR teleconference. ORDERED by Judge Jennifer L. Hall on 6/14/2021. (ceg) (Entered: 06/14/2021) | |
| 23 | 06/18/2021 | NOTICE OF SERVICE of Defendants Initial Disclosures Under Fed. R. Civ. P. 26(a)(1) filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..(Farnan, Kelly) (Entered: 06/18/2021) | |
| 24 | 06/21/2021 | NOTICE of Appearance by Dorronda R. Bordley on behalf of | |

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| | | Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc. (Bordley, Dorronda) (Entered: 06/21/2021) | |
| 25 | 06/22/2021 | ORAL ORDER Setting Teleconference: Plaintiff to initiate the call. A Telephone Conference to discuss discovery in the context of the Scheduling Order and the referral to Judge Thynge is set for 7/27/2021 at 02:00 PM Eastern Time before Judge Mary Pat Thynge. Signed by Judge Mary Pat Thynge on 6/22/2021. (Taylor, Daniel) (Entered: 06/22/2021) | |
| 26 | 07/08/2021 | PROPOSED Discovery Confidentiality Order, by MHL Custom, Inc.. (Bennett, Blake) Modified on 7/8/2021 (nms). (Entered: 07/08/2021) | |
| 27 | 07/08/2021 | SO ORDERED Granting 26 Proposed Discovery Confidentiality Order. Signed by Judge Richard G. Andrews on 7/8/2021. (nms) (Entered: 07/08/2021) | |
| | 07/27/2021 | Minute Entry for proceedings held before Judge Mary Pat Thynge - Discovery Conference held on 7/27/2021, Terminated Hearings. (Court Reporter Jennifer Guy.) (Taylor, Daniel) (Entered: 07/30/2021) | |
| 28 | 08/05/2021 | ORDER re 19 Scheduling Order, 21 Order Referring Case to Magistrate Judge: paragraph 3.f. of the Scheduling Order at D.I. 19 is replaced and modified consistent with the attached ORDER. Signed by Judge Mary Pat Thynge on 8/5/2021. (Taylor, Daniel) (Main Document 28 replaced on 8/5/2021) (Taylor, Daniel). (Entered: 08/05/2021) | |
| | 08/05/2021 | CORRECTING ENTRY: Updated discovery ORDER at D.I. 28 with corrected document (Taylor, Daniel) (Entered: 08/05/2021) | |
| 29 | 08/17/2021 | NOTICE OF SERVICE of Defendants Waydoo USA, Inc. and Shenzhen Waydoo Intelligence Technology Co., Ltd.s (1) First Set of Interrogatories to Plaintiff (Nos. 1-11), (2) First Set of Requests for Production of Documents and Things to Plaintiff (Nos. 1-55), and (3) this notice filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..(Bordley, Dorronda) (Entered: 08/17/2021) | |
| 30 | 08/27/2021 | NOTICE OF SERVICE of (1) Waydoos Responses to MHLs First Set of Interrogatories (Nos. 1-20) and (2) Waydoos Responses To MHLs First Set of Production Requests (Nos. 1-45) filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..(Farnan, Kelly) (Entered: 08/27/2021) | |
| 31 | 11/22/2021 | Joint Claim Construction Chart, by MHL Custom, Inc.. (Attachments: # 1 Exhibit A)(Bennett, Blake) Modified on 11/23/2021 (nms). (Entered: 11/22/2021) | |
| 32 | 12/06/2021 | NOTICE of Subpoena to Testify at a Deposition in a Civil Action to Google LLC by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc. (Attachments: # 1 Exhibit 1)(Farnan, Kelly) (Entered: 12/06/2021) | |
| 33 | 12/07/2021 | MOTION for Pro Hac Vice Appearance of Attorney Mark Basanta - filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) (Entered: 12/07/2021) | |
| | 12/07/2021 | SO ORDERED, re 33 MOTION for Pro Hac Vice Appearance of Attorney Mark Basanta, filed by Waydoo USA, Inc., Shenzhen Waydoo Intelligence Technology Co., Ltd.. Signed by Judge Richard G. Andrews on 12/7/2021. (nms) (Entered: 12/07/2021) | |
| 34 | 12/28/2021 | NOTICE to Take Deposition of Christopher Barry on January 13, 2022 filed by Waydoo USA, Inc..(Bordley, Dorronda) (Entered: 12/28/2021) | |
| 35 | 01/21/2022 | NOTICE OF SERVICE of (1) Defendants' Opening Claim Construction Brief and (2) Exhibits 1-9 of Defendants' Opening Claim Construction Brief filed by Shenzhen Waydoo Intelligence | |

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| | | Technology Co., Ltd., Waydoo USA, Inc..(Farnan, Kelly) (Entered: 01/21/2022) | |
| 36 | 02/18/2022 | NOTICE OF SERVICE of Defendant Waydoo USA, Inc. and Shenzen Waydoo Intelligence Technology Co., Ltd.'s Sur-Reply Claim Construction Brief filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..(Bordley, Dorronda) (Entered: 02/18/2022) | |
| 37 | 02/25/2022 | MOTION for Pro Hac Vice Appearance of Attorney Brian P. McGraw - filed by MHL Custom, Inc.. (Bennett, Blake) (Entered: 02/25/2022) | |
| | 02/25/2022 | SO ORDERED, re 37 MOTION for Pro Hac Vice Appearance of Attorney Brian P. McGraw, filed by MHL Custom, Inc.. Signed by Judge Richard G. Andrews on 2/25/2022. (nms) (Entered: 02/25/2022) | |
| 39 | 02/25/2022 | JOINT Appendix re 46 Joint Claim Construction Brief, by MHL Custom, Inc.. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F, # 7 Exhibit G, # 8 Exhibit H, # 9 Exhibit I, # 10 Exhibit J, # 11 Exhibit K)(Bennett, Blake) Modified on 2/28/2022 (nms). Modified on 3/1/2022 (nms). (Entered: 02/25/2022) | |
| 40 | 02/25/2022 | Joint Motion for Claim Construction - filed by MHL Custom, Inc.. Motions referred to Mary Pat Thynge.(Bennett, Blake) Modified on 2/28/2022 (nms). (Entered: 02/25/2022) | |
| | 02/28/2022 | CORRECTING ENTRY: The Joint Claim Construction Brief filed at D.I. 38 has been removed from the docket as the filing was incompletely formatted. The parties are requested to resubmit the brief which should also include a table of contents and a table of authorities. (nms) (Entered: 02/28/2022) | |
| 41 | 02/28/2022 | ORAL ORDER: The Joint Motion for Claim Construction (D.I. 40 ) is GRANTED. Each side is limited to 45 minutes for argument. Ordered by Judge Richard G. Andrews on 2/28/2022. (nms) (Entered: 02/28/2022) | |
| 42 | 02/28/2022 | NOTICE to Take Deposition of Nick Leason on date to be determined filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..(Farnan, Kelly) (Entered: 02/28/2022) | |
| 43 | 02/28/2022 | NOTICE to Take Deposition of Michael Leason on date to be determined filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..(Farnan, Kelly) (Entered: 02/28/2022) | |
| 44 | 02/28/2022 | NOTICE to Take Deposition of Stewart Wagner on date to be determined filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..(Farnan, Kelly) (Entered: 02/28/2022) | |
| 45 | 02/28/2022 | NOTICE to Take Deposition of Brent Farese on date to be determined filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..(Farnan, Kelly) (Entered: 02/28/2022) | |
| 46 | 03/01/2022 | JOINT Claim Construction Brief, filed by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/1/2022 (nms). (Entered: 03/01/2022) | |
| 47 | 03/01/2022 | NOTICE of Subpoena to Jacob Willem Langelaan, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibit 1)(Farnan, Kelly) Modified on 3/2/2022 (nms). (Entered: 03/01/2022) | |
| 48 | 03/02/2022 | NOTICE to Take Deposition of MHL Custom, Inc. on a date and location to be agreed upon by the parties filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..(Farnan, Kelly) (Entered: 03/02/2022) | |
| 49 | 03/02/2022 | MOTION for Daniel W. Redding to Withdraw as Attorney - filed by MHL Custom, Inc.. (Bennett, Blake) (Entered: 03/02/2022) | |
| | 03/03/2022 | Remark: The filing at D.I. 49 is being treated as a Notice to | |

| # | Date | Proceeding Text | Source |
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| | | Withdraw. A motion was not required as the party being represented by the attorney withdrawing is still represented by its local counsel. (nms) (Entered: 03/03/2022) | |
| 50 | 03/03/2022 | MOTION for Pro Hac Vice Appearance of Attorney Megan E. Gibson - filed by MHL Custom, Inc.. (Bennett, Blake) (Entered: 03/03/2022) | |
| | 03/04/2022 | SO ORDERED, re 50 MOTION for Pro Hac Vice Appearance of Attorney Megan E. Gibson, filed by MHL Custom, Inc.. Signed by Judge Richard G. Andrews on 3/4/2022. (nms) (Entered: 03/04/2022) | |
| | 03/04/2022 | Pro Hac Vice Attorney Mark Basanta for Shenzhen Waydoo Intelligence Technology Co., Ltd. and Waydoo USA, Inc. added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (smg) (Entered: 03/04/2022) | |
| | 03/04/2022 | Pro Hac Vice Attorney Brian P. McGraw for MHL Custom, Inc. added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (apk) (Entered: 03/04/2022) | |
| 51 | 03/07/2022 | NOTICE of Subpoena to Avante Innovations, LLC by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibit 1)(Farnan, Kelly) Modified on 3/8/2022 (nms). (Entered: 03/07/2022) | |
| 52 | 03/07/2022 | NOTICE of Subpoena to Fliteboard USA, Inc. by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibit 1)(Farnan, Kelly) Modified on 3/8/2022 (nms). (Entered: 03/07/2022) | |
| | 03/07/2022 | Pro Hac Vice Attorney Megan E. Gibson for MHL Custom, Inc. added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (srs) (Entered: 03/07/2022) | |
| 53 | 03/18/2022 | ORAL ORDER: Due to a scheduling conflict the Markman Hearing scheduled for 3/22/2022, is CANCELED. The hearing will be rescheduled for a date to be determined. Ordered by Judge Richard G. Andrews on 3/18/2022. (nms) (Entered: 03/18/2022) | |
| 54 | 03/21/2022 | ORAL ORDER: The Markman Hearing is now rescheduled for 5/3/2022, at 9:00 AM in Courtroom 6A. Ordered by Judge Richard G. Andrews on 3/21/2022. (nms) (Entered: 03/21/2022) | |
| | 04/11/2022 | CASE NO LONGER REFERRED to Magistrate Judge Hall for the purpose of exploring ADR. Please see the Court's Standing Order No. 2022-2 dated March 14, 2022. (ceg) (Entered: 04/11/2022) | |
| | 05/03/2022 | Minute Entry for proceedings held before Judge Richard G. Andrews - Markman Hearing held on 5/3/2022. Counsel for Plaintiff: B. Bennett. Counsel for Defendants: K. Farnan, D. Bordley. Plaintiff's letter due by COB on 4/13/2022. Defendant's response due by COB on 4/18/2022. (Court Reporter Heather Triozzi.) (lak) (Entered: 05/05/2022) | |
| 55 | 05/04/2022 | ORDER re 28 Order: The following procedures for discovery disputes with Judge Thynge in this matter shall replace the procedures defined in the Order at D.I. 28. Signed by Judge Mary Pat Thynge on 5/4/2022. (Taylor, Daniel) (Entered: 05/04/2022) | |
| 56 | 05/05/2022 | Stipulation and Proposed Order to Extend Discovery and Expert Disclosure Deadlines - filed by MHL Custom, Inc.. (Bennett, Blake) Modified on 5/5/2022 (nms). (Entered: 05/05/2022) | |
| | 05/05/2022 | SO ORDERED, re 56 Stipulation and Proposed Order to Extend Discovery and Expert Disclosure Deadlines. Signed by Judge Richard G. Andrews on 5/5/2022. (nms) (Entered: 05/05/2022) | |
| 57 | 05/11/2022 | NOTICE OF SERVICE of Subpoena to Testify at a Deposition in a | |

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| | | Civil Action filed by MHL Custom, Inc.. (Attachments: # 1 Exhibit)(Bennett, Blake) (Entered: 05/11/2022) | |
| 58 | 05/11/2022 | NOTICE OF SERVICE of Subpoena to Testify at a Deposition in a Civil Action filed by MHL Custom, Inc.. (Attachments: # 1 Exhibit)(Bennett, Blake) (Entered: 05/11/2022) | |
| 59 | 05/13/2022 | Letter to The Honorable Richard G. Andrews. from Blake A. Bennett. regarding submission of supplementation regarding claim construction. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C)(Bennett, Blake) Modified on 5/16/2022 (nms). (Entered: 05/13/2022) | |
| 60 | 05/13/2022 | Letter to Honorable Richard G. Andrews, from Kelly E. Farnan, regarding submission of supplementation regarding claim construction. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E)(Farnan, Kelly) Modified on 5/16/2022 (nms). (Entered: 05/13/2022) | |
| 61 | 05/18/2022 | Letter to The Honorable Richard G. Andrews, from Blake A. Bennett, regarding Plaintiff's objection to Defendants' May 13, 2022 submission (D.I. 60 ). (Bennett. Blake) Modified on 5/19/2022 (nms). (Entered: 05/18/2022) | |
| 62 | 05/18/2022 | Letter to The Honorable Richard G. Andrews, from Kelly E. Farnan, regarding Defendants limited response to Plaintiffs May 13, 2022 Submission (D.I. 59 ). (Farnan, Kelly) Modified on 5/18/2022 (nms). (Entered: 05/18/2022) | |
| 63 | 05/24/2022 | NOTICE OF SERVICE of Defendants Second Set of Interrogatories to Plaintiff (Nos. 12-13) filed by Shenzhen Waydoo Intelligence Technology Co., Ltd.. Waydoo USA, Inc..(Farnan, Kelly) (Entered: 05/24/2022) | |
| 64 | 06/23/2022 | NOTICE OF SERVICE of Plaintiff's Responses to Defendants' Second Set of Interrogatories Nos. 12-13 filed by MHL Custom, Inc..(Bennett, Blake) (Entered: 06/23/2022) | |
| 65 | 06/24/2022 | STIPULATION to Extend Discovery and Expert Disclosure Deadlines, by MHL Custom, Inc.. (Bennett, Blake) Modified on 6/24/2022 (nms). (Entered: 06/24/2022) | |
| 66 | 06/24/2022 | MEMORANDUM OPINION: Providing claim construction for multiple terms in U.S. Patent Nos. 9,359,044 and 9,586,659. Within five days the parties shall submit a proposed order consistent with this Memorandum Opinion suitable for submission to the jury. Signed by Judge Richard G. Andrews on 6/24/2022. (nms) (Entered: 06/24/2022) | |
| | 06/24/2022 | SO ORDERED, re 65 Stipulation and Proposed Order to Extend Discovery and Expert Disclosure Deadlines. Signed by Judge Richard G. Andrews on 6/24/2022. (nms) (Entered: 06/24/2022) | |
| 67 | 06/29/2022 | PROPOSED Claim Construction Order, by MHL Custom, Inc.. (Bennett, Blake) Modified on 6/30/2022 (nms). (Entered: 06/29/2022) | |
| 68 | 06/30/2022 | CLAIM CONSTRUCTION ORDER. Signed by Judge Richard G. Andrews on 6/30/2022. (nms) (Entered: 06/30/2022) | |
| 69 | 07/13/2022 | NOTICE OF SERVICE of (1) Defendants Supplement to Initial Disclosures under Fed. R. Civ. P. 26(a)(1) and (2) Defendants' Disclosure of Updated Invalidity Contentions filed by Shenzhen Waydoo Intelligence Technology Co., Ltd.. Waydoo USA, Inc..(Farnan, Kelly) (Entered: 07/13/2022) | |
| 70 | 10/18/2022 | Unopposed Motion to Clarify and Amend the Dispositive Motion Deadline - filed by MHL Custom, Inc.. (Attachments: # 1 Proposed Order)(Bennett, Blake) Modified on 10/18/2022 (nms). (Entered: 10/18/2022) | |
| 71 | 10/19/2022 | SO ORDERED Granting 70 Unopposed Motion to Clarify and Amend the Dispositive Motion Deadline (*Resetting Deadline: | |

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| | | Dispositive Motions due by 10/24/2022). Signed by Judge Richard G. Andrews on 10/19/2022. (nms) (Entered: 10/19/2022) | |
| 72 | 10/24/2022 | STIPULATION of Amendment to Protective Order, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) Modified on 10/24/2022 (nms). (Entered: 10/24/2022) | |
| 73 | 10/24/2022 | SO ORDERED Granting 72 Stipulation of Amendment to Protective Order. Signed by Judge Richard G. Andrews on 10/24/2022. (nms) (Entered: 10/24/2022) | |
| 74 | 10/24/2022 | MOTION to Exclude, In Part, the Testimony of Defendants' Expert, Mark Lanterman, under Daubert - filed by MHL Custom, Inc.. (Attachments: # 1 Proposed Order).(Bennett, Blake) Modified on 10/25/2022 (nms). (Entered: 10/24/2022) | |
| 75 | 10/24/2022 | MOTION to Exclude the Testimony of Defendants' Expert, Philip Kline, Under Daubert - filed by MHL Custom, Inc.. (Attachments: # 1 Proposed Order).(Bennett, Blake) Modified on 10/25/2022 (nms). (Entered: 10/24/2022) | |
| 76 | 10/24/2022 | MOTION to Exclude, In Part, the Testimony of Defendants' Expert, Dr. Michael Triantfyllou, under Daubert - filed by MHL Custom, Inc.. (Attachments: # 1 Proposed Order).(Bennett, Blake) Modified on 10/25/2022 (nms). (Entered: 10/24/2022) | |
| 77 | 10/24/2022 | MOTION for Partial Summary Judgment of No Invalidity - filed by MHL Custom, Inc.. (Attachments: # 1 Proposed Order)(Bennett, Blake) Modified on 10/25/2022 (nms). (Entered: 10/24/2022) | |
| 78 | 10/24/2022 | MOTION for Partial Summary Judgment of Infringement of the '044 Patent - filed by MHL Custom, Inc.. (Attachments: # 1 Proposed Order)(Bennett, Blake) Modified on 10/25/2022 (nms). (Entered: 10/24/2022) | |
| 79 | 10/24/2022 | MOTION for Partial Summary Judgment on Defendants' Lack of Standing Defense - filed by MHL Custom, Inc.. (Attachments: # 1 Proposed Order)(Bennett, Blake) Modified on 10/25/2022 (nms). (Entered: 10/24/2022) | |
| 80 | 10/24/2022 | [SEALED] OPENING BRIEF in Support re 79 MOTION for Partial Summary Judgment on Defendants' Lack of Standing Defense, 76 MOTION to Exclude, In Part, the Testimony of Defendants' Expert, Dr. Michael Triantfyllou, under Daubert, 75 MOTION to Exclude the Testimony of Defendants' Expert, Philip Kline, Under Daubert, 78 MOTION for Partial Summary Judgment of Infringement of the '044 Patent, 74 MOTION to Exclude, In Part, the Testimony of Defendants' Expert, Mark Lanterman, under Daubert, 77 MOTION for Partial Summary Judgment of No Invalidity, filed by MHL Custom, Inc..Answering Brief/Response due date per Local Rules is 11/7/2022. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18, # 19 Exhibit 19, # 20 Exhibit 20, # 21 Exhibit 21, # 22 Exhibit 22, # 23 Exhibit 23, # 24 Exhibit 24, # 25 Exhibit 25, # 26 Exhibit 26, # 27 Exhibit 27, # 28 Exhibit 28, # 29 Exhibit 29, # 30 Exhibit 30, # 31 Exhibit 31, # 32 Exhibit 32, # 33 Exhibit 33, # 34 Exhibit 34, # 35 Exhibit 35)(Bennett, Blake) Modified on 10/25/2022 (nms). (Entered: 10/24/2022) | |
| 81 | 10/24/2022 | DAUBERT Motions and Motion for Summary Judgment - filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Proposed Order).(Farnan, Kelly) Modified on 10/25/2022 (nms). (Entered: 10/24/2022) | |
| 82 | 10/24/2022 | CERTIFICATE OF SERVICE for Plaintiff's Opening Brief (D.I. 80 ), by MHL Custom, Inc.. (Bennett, Blake) Modified on 10/25/2022 | |

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| | | (nms). (Entered: 10/24/2022) | |
| 83 | 10/24/2022 | [SEALED] OPENING BRIEF in Support re 81 DAUBERT Motions and Motions for Summary Judgment, filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. Answering Brief/Response due date per Local Rules is 11/7/2022. (Farnan, Kelly) Modified on 10/25/2022 (nms). (Entered: 10/24/2022) | |
| 84 | 10/24/2022 | DECLARATION of Robert E. Colletti re 83 Opening Brief in Support, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibits 1-2, # 2 Exhibits 16-20)(Farnan, Kelly) Modified on 10/25/2022 (nms). (Entered: 10/24/2022) | |
| 85 | 10/24/2022 | [SEALED] EXHIBITS re 84 Declaration of Robert E. Colletti, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibits 3-15, # 2 Exhibits 21-26)(Farnan, Kelly) Modified on 10/25/2022 (nms). (Entered: 10/24/2022) | |
| | 10/25/2022 | The Motions filed at D.I. 74 , 75 , 76 , 77 , 78 , 79 , and 81 incorrectly referred to Magistrate Judge Mary Pat Thynge by CM/ECF are no longer referred. (nms) (Entered: 10/25/2022) | |
| 86 | 10/31/2022 | STIPULATION TO EXTEND TIME to File Redacted Public Versions to November 1, 2022 - filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) (Entered: 10/31/2022) | |
| | 11/01/2022 | SO ORDERED, re 86 Stipulation to Extend time to File Redacted Public Versions to November 1, 2022. (Notice of Compliance deadline set for 11/1/2022). Signed by Judge Richard G. Andrews on 11/1/2022. (lah) (Entered: 11/01/2022) | |
| 87 | 11/01/2022 | REDACTED VERSION of 80 Opening Brief in Support, by MHL Custom, Inc.. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18, # 19 Exhibit 19, # 20 Exhibit 20, # 21 Exhibit 21, # 22 Exhibit 22, # 23 Exhibit 23, # 24 Exhibit 24, # 25 Exhibit 25, # 26 Exhibit 26, # 27 Exhibit 27, # 28 Exhibit 28, # 29 Exhibit 29, # 30 Exhibit 30, # 31 Exhibit 31, # 32 Exhibit 32, # 33 Exhibit 33, # 34 Exhibit 34, # 35 Exhibit 35)(Bennett, Blake) Modified on 11/1/2022 (nms). (Entered: 11/01/2022) | |
| 88 | 11/01/2022 | REDACTED VERSION of 83 Opening Brief in Support, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) (Entered: 11/01/2022) | |
| 89 | 11/01/2022 | REDACTED VERSION of 85 Sealed Exhibits, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibits 3-12, # 2 Exhibits 13-15, # 3 Exhibit 21-26)(Farnan, Kelly) Modified on 11/1/2022 (nms). (Entered: 11/01/2022) | |
| 90 | 11/07/2022 | MOTION for Discovery Teleconference - filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. Motions referred to Mary Pat Thynge.(Farnan, Kelly) (Entered: 11/07/2022) | |
| | 11/07/2022 | NOTICE OF SCHEDULING: A Telephonic Discovery Conference is set for 11/15/2022 at 10:00 AM Eastern before Judge Mary Pat Thynge. Counsel for Defendants shall arrange a teleconference and share details with chambers (daniel_taylor@ded.uscourts.gov) and the court reporter (Heather Triozzi). Ordered by Judge Mary Pat Thynge on 11/7/2022. (DAT) (Entered: 11/07/2022) | |
| | 11/07/2022 | ORAL ORDER: In view of the forthcoming federal holiday on | |

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| | | Friday, November 11, 2022, the parties are reminded that letter briefs in the discovery dispute raised at D.I. 90 shall be due as follows: (1) Defendants' letter brief shall be due on 11/9/2022 by no later than 10:00 am; (2) Plaintiff's letter brief shall be due on 11/10/2022 by no later than 10:00 am. Courtesy copies shall be due in the Clerk's Office at the same time. All courtesy copies shall be single sided. Ordered by Judge Mary Pat Thynge on 11/7/2022. (DAT) (Entered: 11/07/2022) | |
| 91 | 11/07/2022 | [SEALED] ANSWERING BRIEF in Opposition re 81 Daubert Motions and Motion for Summary Judgment, filed by MHL Custom, Inc..Reply Brief due date per Local Rules is 11/14/2022. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18, # 19 Exhibit 19, # 20 Exhibit 20)(Bennett, Blake) Modified on 11/7/2022 (nms). (Entered: 11/07/2022) | |
| 92 | 11/07/2022 | CERTIFICATE OF SERVICE for Answering Brief in Opposition (D.I. 91 ), by MHL Custom, Inc.. (Bennett, Blake) Modified on 11/7/2022 (nms). (Entered: 11/07/2022) | |
| 93 | 11/07/2022 | [SEALED] ANSWERING BRIEF in Opposition re 75 MOTION to Exclude the Testimony of Defendants' Expert, Philip Kline, Under Daubert, 79 MOTION for Partial Summary Judgment on Defendants' Lack of Standing Defense, 76 MOTION to to Exclude, In Part, the Testimony of Defendants' Expert, Dr. Michael Triantfyllou, under Daubert, 78 MOTION for Partial Summary Judgment of Infringement of the '044 Patent, 74 MOTION to Exclude, In Part, the Testimony of Defendants' Expert, Mark Lanterman, under Daubert, 77 MOTION for Partial Summary Judgment of No Invalidity, filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..Reply Brief due date per Local Rules is 11/14/2022. (Farnan, Kelly) Modified on 11/7/2022 (nms). (Entered: 11/07/2022) | |
| 94 | 11/07/2022 | DECLARATION of Robert E. Colletti re 93 Answering Brief in Opposition, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibits 28, 29, 31, 34)(Farnan, Kelly) Modified on 11/7/2022 (nms). (Entered: 11/07/2022) | |
| 95 | 11/07/2022 | [SEALED] EXHIBITS to 94 Declaration of Robert E. Colletti, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibits 27, 30, 32, 33)(Farnan, Kelly) Modified on 11/7/2022 (nms). (Entered: 11/07/2022) | |
| 96 | 11/09/2022 | [SEALED] Letter to The Honorable Mary Pat Thynge, from Kelly E. Farnan, regarding discovery dispute (D.I. 90 ). (Attachments: # 1 Exhibits 1-4)(Farnan, Kelly) Modified on 11/9/2022 (nms). (Entered: 11/09/2022) | |
| 97 | 11/10/2022 | [SEALED] Letter to The Honorable Mary Pat Thynge, from Blake A. Bennett, regarding Defendants' discovery request (D.I. 96 ). (Attachments: # 1 Exhibit 1)(Bennett, Blake) Modified on 11/10/2022 (nms). (Entered: 11/10/2022) | |
| 98 | 11/10/2022 | CERTIFICATE of Service for Sealed Letter dated November 10 2022 (D.I. 97 ), by MHL Custom, Inc.. (Bennett, Blake) Modified on 11/10/2022 (nms). (Entered: 11/10/2022) | |
| 99 | 11/10/2022 | NOTICE of Appearance by Andrew Ralli on behalf of MHL Custom, Inc. (Ralli, Andrew) (Entered: 11/10/2022) | |
| 100 | 11/14/2022 | MOTION to Accept Filing in Excess of the Prescribed Page Limitations - filed by MHL Custom, Inc.. (Attachments: # 1 Proposed Order).(Bennett, Blake) Modified on 11/14/2022 (nms). | |

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| | | Modified on 11/14/2022 (nms). (Entered: 11/14/2022) | |
| | 11/14/2022 | Motions No Longer Referred: The referral of D.I. 100 MOTION to Accept Filing in Excess of the Prescribed Page Limitations to Judge Thynge has been removed. This referral was set in error by CM/ECF. (nms) (Entered: 11/14/2022) | |
| 101 | 11/14/2022 | [SEALED] REPLY BRIEF re 79 MOTION for Partial Summary Judgment on Defendants' Lack of Standing Defense. 76 MOTION to to Exclude, In Part, the Testimony of Defendants' Expert, Dr. Michael Triantfyllou, under Daubert. 75 MOTION to Exclude the Testimony of Defendants' Expert, Philip Kline, Under Daubert, 78 MOTION for Partial Summary Judgment of Infringement of the '044 Patent, 74 MOTION to Exclude, In Part, the Testimony of Defendants' Expert, Mark Lanterman, under Daubert, and 77 MOTION for Partial Summary Judgment of No Invalidity, filed by MHL Custom, Inc.. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5)(Bennett, Blake) Modified on 11/15/2022 (nms). (Entered: 11/14/2022) | |
| 102 | 11/14/2022 | REDACTED VERSION of 93 Answering Brief in Opposition,,, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Bordley, Dorronda) (Entered: 11/14/2022) | |
| 103 | 11/14/2022 | REDACTED VERSION of 95 Exhibit to a Document by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibit 27, 30, 32, 33)(Bordley, Dorronda) (Entered: 11/14/2022) | |
| 104 | 11/14/2022 | REDACTED VERSION of 91 Answering Brief in Opposition, by MHL Custom, Inc.. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10, # 11 Exhibit 11, # 12 Exhibit 12, # 13 Exhibit 13, # 14 Exhibit 14, # 15 Exhibit 15, # 16 Exhibit 16, # 17 Exhibit 17, # 18 Exhibit 18, # 19 Exhibit 19)(Bennett, Blake) Modified on 11/15/2022 (nms). (Entered: 11/14/2022) | |
| 105 | 11/14/2022 | STIPULATION TO EXTEND TIME to File Public Versions to November 15, 2022 - filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) (Entered: 11/14/2022) | |
| 106 | 11/14/2022 | [SEALED] REPLY BRIEF re 81 MOTION for Summary Judgment DAUBERT Motions filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) (Entered: 11/14/2022) | |
| 107 | 11/14/2022 | DECLARATION of Robert E. Colletti re 106 Reply Brief, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) Modified on 11/14/2022 (nms). (Entered: 11/14/2022) | |
| | 11/14/2022 | SO ORDERED, re 105 STIPULATION and Proposed Order to Extend Time to file public version to November 15, 2022. Signed by Judge Richard G. Andrews on 11/14/2022. (nms) (Entered: 11/14/2022) | |
| 108 | 11/14/2022 | [SEALED] EXHIBITS to 107 Declaration of Robert E. Colletti, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibits 35-37)(Farnan, Kelly) Modified on 11/14/2022 (nms). (Entered: 11/14/2022) | |
| | 11/14/2022 | Set Answering Brief Deadline re 100 MOTION to Accept Filing in Excess of the Prescribed Page Limitations. Answering Brief/Response due date per Local Rules is 11/28/2022. (nms) (Entered: 11/15/2022) | |
| | 11/15/2022 | Minute Entry for proceedings held before Judge Mary Pat Thynge - Telephonic Discovery Conference held on 11/15/2022. (Court Reporter Heidi Schoentube.) (DAT) (Entered: 11/15/2022) | |

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| 109 | 11/15/2022 | REDACTED VERSION of 96 Letter by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibit 1-4)(Bordley, Dorronda) (Entered: 11/15/2022) | |
| 110 | 11/15/2022 | REDACTED VERSION of 97 Letter by MHL Custom, Inc.. (Bennett, Blake) (Entered: 11/15/2022) | |
| 111 | 11/17/2022 | ORAL ORDER: The parties are in an unfortunate dispute over page lengths. Plaintiff filed an answering brief of 45 pages on November 7th. (D.I. 91 ). That was five pages too long. The parties tried to resolve the issue amicably, but that apparently has not worked out since Plaintiff has now filed a motion to extend the page limits. (D.I. 100 ). Defendant has filed a reply brief to the 45 page answering brief. (D.I. 106 ). It is going to oppose the extension of page limits. I would like to get this resolved sooner rather than later. Thus, I offer Defendant two options. One, Plaintiff can file a 40 page answering brief saying whatever it wants to say in the 40 pages, and Defendant can modify its reply brief as it sees fit. Two, I will accept the 45 page brief, and Defendant can either stand on the reply brief it has filed, or, if Defendant wants, it can file a 25 page reply brief in its place. If Defendant rejects both options, it should report that by tomorrow, and the deadline for filing its answering brief to the motion to extend page limits is also tomorrow. I will decide the motion without waiting for any reply brief from Plaintiff. Ordered by Judge Richard G. Andrews on 11/17/2022. (nms) (Entered: 11/17/2022) | |
| 112 | 11/18/2022 | REDACTED VERSION of 106 Reply Brief by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) (Entered: 11/18/2022) | |
| 113 | 11/18/2022 | REDACTED VERSION of 108 Sealed Exhibits, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibits 35-37)(Farnan, Kelly) Modified on 11/18/2022 (nms). (Entered: 11/18/2022) | |
| 114 | 11/18/2022 | Letter to The Honorable Richard G. Andrews, from Kelly E. Farnan, regarding response to the Court's Oral Order (D.I. 111 ). (Farnan, Kelly) Modified on 11/18/2022 (nms). (Entered: 11/18/2022) | |
| 115 | 11/18/2022 | ORAL ORDER: A hearing on the pending motions (D.I. 74 , 75 , 76 , 77 , 78 , 79 , 81 ) is now set for 1/4/2023, at 9:00 AM in Courtroom 6A. One week before the argument date the parties are to identify no more than three issues each that they want to argue. Ordered by Judge Richard G. Andrews on 11/18/2022. (nms) Modified on 11/18/2022 (nms). (Entered: 11/18/2022) | |
| | 11/18/2022 | CORRECTING ENTRY: The text for D.I. 115 has been corrected to reflect the correct year the hearing will be held in. (nms) (Entered: 11/18/2022) | |
| 116 | 11/18/2022 | ORAL ORDER: The light of Defendants' response (D.I. 114 ) to the Court's Oral Order (D.I. 111 ) the Motion to Accept Filing in Excess of the Prescribed Page Limitations (D.I. 100 ) is GRANTED. Ordered by Judge Richard G. Andrews on 11/18/2022. (nms) (Entered: 11/18/2022) | |
| 117 | 11/18/2022 | Official Transcript of Discovery Teleconference held on 11/15/2022 before Judge Hon. Mary Pat Thynge. Court Reporter/Transcriber Heidi Schoentube, Phone: 302-571-0510. Transcript may be viewed at the court public terminal or order/purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER Redaction Request due 12/9/2022. Redacted Transcript Deadline set for 12/19/2022. Release of Transcript Restriction set for 2/16/2023. (DAT) | |

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| | | Modified on 12/2/2022 (DAT). (Entered: 11/18/2022) | |
| | 11/21/2022 | CORRECTING ENTRY: Entry previously filed as D.I. 118 was duplicative to D.I. 117 and has been removed. (nmg) (Entered: 11/21/2022) | |
| 118 | 11/21/2022 | REDACTED VERSION of 101 Reply Brief, by MHL Custom, Inc.. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5)(Bennett, Blake) Modified on 11/21/2022 (nms). (Entered: 11/21/2022) | |
| 119 | 11/22/2022 | MOTION for Pro Hac Vice Appearance of Attorney Patrick Lavery - filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Bordley, Dorronda) (Entered: 11/22/2022) | |
| | 11/22/2022 | SO ORDERED, re 119 MOTION for Pro Hac Vice Appearance of Attorney Patrick Lavery, filed by Waydoo USA, Inc., Shenzhen Waydoo Intelligence Technology Co., Ltd.. Signed by Judge Richard G. Andrews on 11/22/2022. (nms) (Entered: 11/22/2022) | |
| | 11/22/2022 | Pro Hac Vice Attorney Patrick Lavery for Shenzhen Waydoo Intelligence Technology Co., Ltd. and Waydoo USA, Inc. added for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (mpb) (Entered: 11/22/2022) | |
| 120 | 12/01/2022 | ORDER granting D.I. 90 MOTION for Discovery Teleconference; D.I. 96 MOTION to Compel. Signed by Judge Mary Pat Thynge on 12/1/2022. (DAT) Modified on 12/15/2022 (nms). (Entered: 12/01/2022) | |
| 121 | 12/06/2022 | Emergency Motion to Stay the Court's December 1 Order - filed by MHL Custom, Inc.. (Attachments: # 1 Proposed Order)(Bennett, Blake) Modified on 12/6/2022 (nms). (Entered: 12/06/2022) | |
| 122 | 12/07/2022 | RESPONSE to 121 Emergency Motion to Stay the Court's December 1 Order, filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) Modified on 12/7/2022 (nms). (Entered: 12/07/2022) | |
| 123 | 12/07/2022 | MOTION to Intervene - filed by Intellectual Property Insurance Services Corp. (Attachments: (12) Proposed Order)(Naylor, Joseph) Modified on 12/8/2022 (nms). Modified on 12/8/2022 (nms). Modified on 12/8/2022 (nms). (Entered: 12/07/2022) | |
| 124 | 12/07/2022 | Letter to the Honorable Richard G. Andrews, dated 12/7/2022, from Joseph S. Naylor, regarding request for a stay of the Court's December 1, 2022, Order. (Attachments: # 1 Proposed Order)(Naylor, Joseph) Modified on 12/8/2022 (nms). (Entered: 12/07/2022) | |
| | 12/08/2022 | CORRECTING ENTRY: The brief and declarations with exhibits filed as attachments to the motion at D.I. 123 . Motions, briefs and declarations are to be filed independent of each other. Counsel is to refile the brief and declarations accordingly. (nms) (Entered: 12/08/2022) | |
| | 12/08/2022 | CORRECTING ENTRY: The motion filed at D.I. 123 has been unsealed. There is nothing in the caption of the filing directing that the motion is confidential or is intended to be under seal. The NEF for the filing has been regenerated. (nms) (Entered: 12/08/2022) | |
| | 12/08/2022 | CORRECTING ENTRY: D.I. 124 has been recoded and the docket text corrected to reflect the filing is a letter requesting a stay and not a motion. (nms) (Entered: 12/08/2022) | |
| | 12/08/2022 | CORRECTING ENTRY: The proposed objections filed as an attachment to the motion at D.I. 123 has been removed per the filer's request. The proposed objections will be refiled under seal. (nms) (Entered: 12/08/2022) | |
| 125 | 12/08/2022 | [SEALED] MEMORANDUM in Support re 123 MOTION to Intervene filed by Intellectual Property Insurance Services | |

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| | | Corp.Answering Brief/Response due date per Local Rules is 12/22/2022. (Attachments: # 1 Exhibit 1, # 2 Exhibit 1.1, # 3 Exhibit 1.2, # 4 Exhibit 1.3, # 5 Exhibit 2, # 6 Exhibit 3, # 7 Exhibit 3.1, # 8 Exhibit 3.2, # 9 Exhibit 3.3, # 10 Exhibit 3.4, # 11 Exhibit 3.5)(Naylor, Joseph) (Entered: 12/08/2022) | |
| 126 | 12/08/2022 | Letter to The Honorable Richard G. Andrews, from Kelly E. Farnan, regarding Shenzhen Waydoo Intelligence Technology Co., Ltd.'s opposition to stay (D.I. 124 ). (Farnan, Kelly) Modified on 12/8/2022 (nms). (Entered: 12/08/2022) | |
| 127 | 12/08/2022 | OBJECTIONS to 120 Order, by MHL Custom, Inc.. (Bennett, Blake) Modified on 12/9/2022 (nms). (Entered: 12/08/2022) | |
| 128 | 12/08/2022 | DECLARATION re 127 Objections, by MHL Custom, Inc.. (Attachments: # 1 Exhibit A , # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D, # 5 Exhibit E, # 6 Exhibit F)(Bennett, Blake) Modified on 12/9/2022 (nms). Modified on 12/9/2022 (nms). (Entered: 12/08/2022) | |
| 129 | 12/08/2022 | ORDER denying D.I. 121 Emergency Motion to Stay. Signed by Judge Mary Pat Thynge on 12/8/2022. (DAT) (Entered: 12/08/2022) | |
| 130 | 12/14/2022 | REDACTED VERSION of 125 MEMORANDUM in Support, by Intellectual Property Insurance Services Corp. (Attachments: # 1 Certificate of Service, # 2 Exhibit 1, # 3 Exhibit 1.1, # 4 Exhibit 1.2, # 5 Exhibit 1.3, # 6 Exhibit 2, # 7 Exhibit 3, # 8 Exhibit 3.1, # 9 Exhibit 3.2, # 10 Exhibit 3.3, # 11 Exhibit 3.4, # 12 Exhibit 3.5)(Naylor, Joseph) (Entered: 12/14/2022) | |
| 131 | 12/14/2022 | [SEALED] Response to 127 Objections, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibits 1-3)(Farnan, Kelly) Modified on 12/14/2022 (nms). (Entered: 12/14/2022) | |
| 132 | 12/14/2022 | NOTICE of Appearance by Kara R. Fussner on behalf of Intellectual Property Insurance Services Corp.. (Naylor, Joseph) Modified on 12/15/2022 (nms). (Entered: 12/14/2022) | |
| 133 | 12/14/2022 | MOTION for Pro Hac Vice Appearance of Attorney Rudolph A. Telscher, Jr., Esq. - filed by Intellectual Property Insurance Services Corp. (Attachments: # 1 Certificate of Admission)(Naylor, Joseph) (Entered: 12/14/2022) | |
| 134 | 12/15/2022 | ORAL ORDER: The redacted filing (D.I. 130 ) is REJECTED because parts of it are redacted in its entirety. Absent a compelling reason, supported by a statement under oath by a party, redactions in their entirety are impermissible; redactions must be done so as to redact the least possible amount of the materials submitted. Failure to make a good faith attempt at such redactions may result in sanctions, the most common of which would be simply unsealing the entire filing. Redacting in its entirety a document or even parts of it that contains publicly available materials is prima facie evidence of bad faith. A revised redacted filing is DUE within five business days. Ordered by Judge Richard G. Andrews on 12/15/2022. (nms) (Entered: 12/15/2022) | |
| | 12/15/2022 | SO ORDERED, re 133 MOTION for Pro Hac Vice Appearance of Attorney Rudolph A. Telscher, Jr., Esq., filed by Intellectual Property Insurance Services Corp. Signed by Judge Richard G. Andrews on 12/15/2022. (nms) (Entered: 12/15/2022) | |
| 135 | 12/19/2022 | REDACTED VERSION of 131 Response to Objections by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibit 1-3)(Bordley, Dorronda) (Entered: 12/19/2022) | |
| 136 | 12/21/2022 | REDACTED VERSION of 125 MEMORANDUM in Support, by Intellectual Property Insurance Services Corp. (Attachments: # 1 Certificate of Service, # 2 Exhibit 1, # 3 Exhibit 1.1, # 4 Exhibit 1.2, | |

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| | | # 5 Exhibit 1.3, # 6 Exhibit 2, # 7 Exhibit 3, # 8 Exhibit 3.1, # 9 Exhibit 3.2, # 10 Exhibit 3.3, # 11 Exhibit 3.4, # 12 Exhibit 3.5)(Naylor, Joseph) (Entered: 12/21/2022) | |
| 137 | 12/22/2022 | [SEALED] RESPONSE to 123 MOTION to Intervene, filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) Modified on 12/22/2022 (nms). (Entered: 12/22/2022) | |
| 138 | 12/22/2022 | DECLARATION of Robert E. Colletti re 137 Response to Motion, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibit 1)(Farnan, Kelly) Modified on 12/22/2022 (nms). (Entered: 12/22/2022) | |
| 139 | 12/28/2022 | Letter to The Honorable Richard G. Andrews, from Kelly E. Farnan, regarding Daubert and summary judgment arguments. (Farnan, Kelly) Modified on 12/28/2022 (nms). (Entered: 12/28/2022) | |
| 140 | 12/29/2022 | REPLY BRIEF re 123 MOTION to Intervene filed by Intellectual Property Insurance Services Corp. (Naylor, Joseph) (Entered: 12/29/2022) | |
| 141 | 12/29/2022 | REDACTED VERSION of 137 Response to Motion to Intervene, by Shenzhen Waydoo Intelligence Technology Co., Ltd.. (Bordley, Dorronda) Modified on 12/29/2022 (nms). (Entered: 12/29/2022) | |
| 142 | 01/03/2023 | ORDER: Regarding construction of "passively stable" (see Order for further details). Signed by Judge Richard G. Andrews on 1/3/2023. (nms) (Entered: 01/03/2023) | |
| 143 | 01/03/2023 | NOTICE of Change of Address by Blake A. Bennett (Bennett, Blake) (Entered: 01/03/2023) | |
| | 01/04/2023 | Minute Entry for proceedings held before Judge Richard G. Andrews - Hearing on pending motions held on 1/4/2023. Counsel for Plaintiff: A. Ralli. Counsel for Defendants: K. Farnan, D. Bordley. Defendants are directed to submit their letter by the end of next week. (Court Reporter Heather Triozzi.) (lah) (Entered: 01/04/2023) | |
| 144 | 01/04/2023 | REQUEST for Oral Argument by Intellectual Property Insurance Services Corp re 123 MOTION to Intervene. (Naylor, Joseph) (Entered: 01/04/2023) | |
| 145 | 01/13/2023 | Letter to The Honorable Richard G. Andrews, from Kelly E. Farnan, regarding response to January 4, 2023 Motions Hearing. (Farnan, Kelly) Modified on 1/13/2023 (nms). (Entered: 01/13/2023) | |
| 146 | 01/17/2023 | Letter to The Honorable Richard G. Andrews, from Blake A. Bennett, regarding response to Defendants January 13, 2023 letter (D.I. 145 ). (Bennett, Blake) Modified on 1/17/2023 (nms). (Entered: 01/17/2023) | |
| 147 | 01/19/2023 | Official Transcript of Oral Argument held on 01/04/23 before Judge Richard G. Andrews. Court Reporter Heather M. Triozzi,Email: Heather_Triozzi@ded.uscourts.gov. Transcript may be viewed at the court public terminal or order/purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER. Redaction Request due 2/9/2023. Redacted Transcript Deadline set for 2/21/2023. Release of Transcript Restriction set for 4/19/2023. (Triozzi, Heather) (Entered: 01/19/2023) | |
| 148 | 01/26/2023 | ORAL ORDER: A hearing on the motion to intervene (D.I. 123 ) and the objections (D.I. 127 ) to the Magistrate's Order (D.I. 120 ) is now set for 2/17/2023, at 9:00 AM in Courtroom 6A. Ordered by Judge Richard G. Andrews on 1/26/2023. (nms) (Entered: 01/26/2023) | |
| 149 | 01/26/2023 | NOTICE OF SERVICE of Defendants Requests for Admission | |

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| | | Propounded to Plaintiff filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..(Bordley, Dorronda) (Entered: 01/26/2023) | |
| 150 | 01/26/2023 | NOTICE OF SERVICE of MHL Custom Inc.'s Request for Admissions Propounded to Defendants filed by MHL Custom, Inc..(Bennett, Blake) (Entered: 01/26/2023) | |
| | 02/01/2023 | DEFICIENCY NOTICE issued by the Court to Plaintiff and Defendant Intellectual Property Insurance Services Corp.: Pursuant to Fed. R. Civ. P. 7.1 (b)(1), A party must: (1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court. Counsel is requested to supplement the docket with an appropriate Rule 7.1 Disclosure Statement. (nms) (Entered: 02/01/2023) | |
| 151 | 02/02/2023 | Disclosure Statement pursuant to Rule 7.1: No Parents or Affiliates Listed filed by MHL Custom, Inc.. (Bennett, Blake) (Entered: 02/02/2023) | |
| 152 | 02/02/2023 | Disclosure Statement pursuant to Rule 7.1: Identifying Corporate Parent Intellectual Property Control Corporation for Intellectual Property Insurance Services Corp filed by Intellectual Property Insurance Services Corp. (Naylor, Joseph) (Entered: 02/02/2023) | |
| 153 | 02/03/2023 | MEMORANDUM OPINION. Signed by Judge Richard G. Andrews on 2/3/2023. (nms) (Entered: 02/03/2023) | |
| 154 | 02/03/2023 | ORDER: Summary judgment of infringement of the '044 Patent (D.I. 78 ) is DENIED; Summary judgment for the '044 Patent and '659 Patent not being invalid as anticipated by the Evolo Report (D.I. 77 ) is DENIED; Summary judgment for the '044 Patent and '659 Patent not being invalid as anticipated by MHLCustom's own products (D.I. 77 ) is DISMISSED as moot; Summary judgment for Defendants' lack of standing argument (D.I. 79 ) is DISMISSED as moot. Motion for Partial Summary Judgment is resolved as follows: Summary judgment for non-infringement of the '044 Patent and '659 Patent (D.I. 81 ) is DENIED; Summary judgment for claims 16-20 of the '659 Patent being invalid for lack of written description (D.I. 81 ) is GRANTED (see Order for further details). Signed by Judge Richard G. Andrews on 2/3/2023. (nms) (Entered: 02/03/2023) | |
| 155 | 02/03/2023 | MEMORANDUM ORDER: The motion as to Defendants' computer/internet expert, Mark Lanterman (D.I. 74 ) is DENIED. The motion as to Defendants' damages expert, Philip Kline (D.I. 75 ) is DENIED. The motion as to Defendants' technical expert, Dr. Michael Triantafyllou (D.I. 76 ) is DENIED. Defendants' motions (D.I. 81 ) are GRANTED in part and DENIED in part (see Memorandum Order for further details). Signed by Judge Richard G. Andrews on 2/3/2023. (nms) (Entered: 02/03/2023) | |
| 156 | 02/03/2023 | Corrected Disclosure Statement pursuant to Rule 7.1: identifying Corporate Parent Intellectual Property Control Corporation for Intellectual Property Insurance Services Corp filed by Intellectual Property Insurance Services Corp. (Naylor, Joseph) Modified on 2/6/2023 (nms). (Entered: 02/03/2023) | |
| 157 | 02/09/2023 | MOTION for Pro Hac Vice Appearance of Attorney Jason Kanter - filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Bordley, Dorronda) (Entered: 02/09/2023) | |
| | 02/10/2023 | SO ORDERED, re 157 MOTION for Pro Hac Vice Appearance of Attorney Jason Kanter, filed by Waydoo USA, Inc., Shenzhen Waydoo Intelligence Technology Co., Ltd.. Signed by Judge Richard G. Andrews on 2/10/2023. (nms) (Entered: 02/10/2023) | |
| | 02/15/2023 | Pro Hac Vice Attorney Jason A. Kanter for Shenzhen Waydoo Intelligence Technology Co., Ltd. and Waydoo USA, Inc. added | |

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| | | for electronic noticing. Pursuant to Local Rule 83.5 (d)., Delaware counsel shall be the registered users of CM/ECF and shall be required to file all papers. (mpb) (Entered: 02/15/2023) | |
| 158 | 02/17/2023 | ORDER Granting Motion to Intervene (D.I. 123 ): Upon consideration of non- party Intellectual Property Insurance Services Corporation's Motion to Intervene, said motion is GRANTED and movant is hereby granted leave to intervene, in this case for the limited purposes of objecting to Magistrate Judge Thynge's December 1,2022 Order, granting Defendants' motion to compel (D.I. 120 ) and asserting claims of privilegeover any documents at issue in said Order. Signed by Judge Richard G. Andrews on 2/17/2023. (nms) (Entered: 02/17/2023) | |
| | 02/17/2023 | Minute Entry for proceedings held before Judge Richard G. Andrews - Hearing on the motion to intervene and the objections to the Magistrate's Order held on 2/17/2023. Counsel for Plaintiff: A. Ralli, J. Naylor. Counsel for Defendants: D. Bordley. Defendants letter is due on 2/24/2023. (Court Reporter Heather Triozzi.) (lah) (Entered: 02/17/2023) | |
| 159 | 02/21/2023 | Letter to The Honorable Richard G. Andrews, from Kelly E. Farnan, regarding expert testimony dispute (D.I. 155 ). (Farnan, Kelly) Modified on 2/21/2023 (nms). (Entered: 02/21/2023) | |
| 160 | 02/22/2023 | ORAL ORDER: The parties submitted a letter about their dispute over Mr. Barrys testimony. (D.I. 159 ). Defendants request for exclusion is DENIED. Mr. Barry cannot testify that dynamic stability has any different definition than the one I have given it. Plaintiff says Mr. Barry will comply with that requirement. The parties disagree about the role of certain motion types oscillation, aperiodic motion, perhaps others in relation to dynamic stability. That is not a definitional dispute. The experts can debate that dispute and be cross-examined about it at trial. Ordered by Judge Richard G. Andrews on 2/22/2023. (nms) (Entered: 02/22/2023) | |
| 161 | 02/23/2023 | STIPULATION and Proposed Order to Extend Time to submit letter responding to Motion to Intervene to February 27, 2023 - filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc. (Farnan, Kelly) Modified on 2/24/2023 (nms). (Entered: 02/23/2023) | |
| | 02/24/2023 | SO ORDERED, re 161 STIPULATION and Proposed Order to Extend Time to submit letter responding to Motion to Intervene to February 27, 2023. Signed by Judge Richard G. Andrews on 2/24/2023. (nms) (Entered: 02/24/2023) | |
| 162 | 02/24/2023 | NOTICE OF SERVICE of Defendants' Notice Pursuant to 35 U.S.C. § 282 regarding U.S. Patent Nos. 9,359,044 and 9,586,659 filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..(Bordley, Dorronda) (Entered: 02/24/2023) | |
| 163 | 02/27/2023 | Letter to The Honorable Richard G. Andrews, from Kelly E. Farnan, regarding response to the Court's questions at the motion to intervene hearing. (Farnan, Kelly) Modified on 2/27/2023 (nms). (Entered: 02/27/2023) | |
| 164 | 03/02/2023 | ORDER: Waydoo may maintain a copy of MHL_0103530, but is instructed either todestroy or to return all electronic and hard copies of the other documents (see Order for further details). Signed by Judge Richard G. Andrews on 3/2/2023. (nms) (Entered: 03/02/2023) | |
| | 03/02/2023 | Remark: The documents submitted for in camera review under the cover of the letter at D.I. 163 have been destroyed per the filer's authority. (nms) (Entered: 03/02/2023) | |
| 165 | 03/06/2023 | [SEALED] MOTION in Limine No. 1 - filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) Modified on 3/6/2023 (nms). (Entered: 03/06/2023) | |

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| 166 | 03/06/2023 | [SEALED] MOTION in Limine No. 2 - filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) Modified on 3/6/2023 (nms). (Entered: 03/06/2023) | |
| 167 | 03/06/2023 | [SEALED] MOTION in Limine No. 3 - filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) Modified on 3/6/2023 (nms). (Entered: 03/06/2023) | |
| 168 | 03/06/2023 | EXHIBITS 1-5 to 166 MOTION in Limine No. 2, 165 MOTION in Limine No. 1, and 167 MOTION in Limine No. 3, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) Modified on 3/6/2023 (nms). (Entered: 03/06/2023) | |
| 169 | 03/06/2023 | [SEALED] EXHIBITS 2-3 to 166 MOTION in Limine No. 2, 165 MOTION in Limine No. 1, and 167 MOTION in Limine No. 3, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) Modified on 3/6/2023 (nms). (Entered: 03/06/2023) | |
| | 03/06/2023 | CORRECTING ENTRY: Plaintiff's Motions in Limine filed as a Reply Brief at D.I. 170 has been removed from the docket. The filing was made using an incorrect code. Plaintiff is to refile its motion in limine using a motion code. (nms) (Entered: 03/06/2023) | |
| 172 | 03/06/2023 | [SEALED] Joint Pretrial Order, by MHL Custom, Inc.. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10)(Bennett, Blake) Modified on 3/7/2023 (nms). (Entered: 03/06/2023) | |
| | 03/07/2023 | CORRECTING ENTRY: The motions in limine filed at D.I. 170 have been removed from the docket. Motions in limine are to be filed separately and any supporting documents (i.e. exhibits, declarations) are to be filed separate from the motion (see Scheduling Order at D.I. 19 , paragraph 14). (nms) (Entered: 03/07/2023) | |
| | 03/07/2023 | CORRECTING ENTRY: The letter and its attachments filed at D.I. 171 has been removed from the docket. The parties are to refile the Proposed Preliminary Jury Instructions, Proposed Final Jury Instructions, Proposed Voir Dire, Plaintiff's Proposed Verdict form, and Defendants' Proposed Verdict form. Each of those filings should be filed independent of the other. (nms) (Entered: 03/07/2023) | |
| 173 | 03/07/2023 | Proposed Preliminary Jury Instructions, by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/7/2023 (nms). (Entered: 03/07/2023) | |
| 174 | 03/07/2023 | Proposed Final Jury Instructions, by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/7/2023 (nms). (Entered: 03/07/2023) | |
| 175 | 03/07/2023 | Proposed Jury Verdict Form, by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/7/2023 (nms). (Entered: 03/07/2023) | |
| 176 | 03/07/2023 | Defendants' Proposed Jury Verdict Form, by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/7/2023 (nms). (Entered: 03/07/2023) | |
| 177 | 03/07/2023 | Proposed Voir Dire by MHL Custom, Inc.. (Bennett, Blake) (Entered: 03/07/2023) | |
| 178 | 03/07/2023 | [SEALED] MOTION in Limine No. 1 - filed by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/7/2023 (nms). Modified on 3/7/2023 (nms). (Entered: 03/07/2023) | |
| 179 | 03/07/2023 | [SEALED] MOTION in Limine No. 2 - filed by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/7/2023 (nms). (Entered: 03/07/2023) | |
| 180 | 03/07/2023 | [SEALED] MOTION in Limine No. 3 - filed by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/7/2023 (nms). (Entered: 03/07/2023) | |

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| 181 | 03/07/2023 | [SEALED] Exhibits to 178 MOTION in Limine No. 1, 179 MOTION in Limine No. 2, and 180 MOTION in Limine No. 3, by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/7/2023 (nms). (Entered: 03/07/2023) | |
| 182 | 03/07/2023 | Official Transcript of Oral Argument held on 2/17/23 before Judge Richard G. Andrews. Court Reporter Heather M. Triozzi.Email: Heather_Triozzi@ded.uscourts.gov. Transcript may be viewed at the court public terminal or order/purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER. Redaction Request due 3/28/2023. Redacted Transcript Deadline set for 4/10/2023. Release of Transcript Restriction set for 6/5/2023. (Triozzi, Heather) (Entered: 03/07/2023) | |
| | 03/10/2023 | Minute Entry for proceedings held before Judge Richard G. Andrews - Pretrial Conference held on 3/10/2023. Counsel for Plaintiff: A. Ralli. Counsel for Defendants: K. Farnan, D. Bordley. The parties are directed to resubmit the pretrial order incorporating the Courts rulings made at the hearing. (Court Reporter Heather Triozzi.) (lah) (Entered: 03/10/2023) | |
| 183 | 03/10/2023 | Letter to the Honorable Richard G. Andrews, from Kelly E. Farnan, regarding Batnytt article. (Farnan, Kelly) Modified on 3/11/2023 (nms). (Entered: 03/10/2023) | |
| 184 | 03/13/2023 | ORDER AFTER PRETRIAL CONFERENCE: The Proposed Pretrial Order (D.I. 172 ) was extensively discussed and will be ADOPTED as modified. A jury trial will begin on Friday, March 24, 2023, at 10:00 a.m. Each side is allowed 11.5 hours (see Order for further details and rulings). Signed by Judge Richard G. Andrews on 3/13/2023. (nms) (Entered: 03/13/2023) | |
| 185 | 03/13/2023 | REDACTED VERSION of 165 MOTION in Limine No. 1 by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Bordley, Dorronda) (Entered: 03/13/2023) | |
| 186 | 03/13/2023 | REDACTED VERSION of 166 MOTION in Limine No. 2 by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Bordley, Dorronda) (Entered: 03/13/2023) | |
| 187 | 03/13/2023 | REDACTED VERSION of 167 MOTION in Limine No. 3 by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Bordley, Dorronda) (Entered: 03/13/2023) | |
| 188 | 03/13/2023 | REDACTED VERSION of 169 Sealed Exhibits, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Bordley, Dorronda) Modified on 3/14/2023 (nms). (Entered: 03/13/2023) | |
| 189 | 03/13/2023 | REDACTED VERSION of 178 MOTION in Limine No. 1 by MHL Custom, Inc.. (Bennett, Blake) (Entered: 03/13/2023) | |
| 190 | 03/13/2023 | REDACTED VERSION of 179 MOTION in Limine No. 2 by MHL Custom, Inc.. (Bennett, Blake) (Entered: 03/13/2023) | |
| 191 | 03/13/2023 | REDACTED VERSION of 180 MOTION in Limine No. 3 by MHL Custom, Inc.. (Bennett, Blake) (Entered: 03/13/2023) | |
| 192 | 03/13/2023 | REDACTED VERSION of 181 Sealed Exhibits, by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/14/2023 (nms). (Entered: 03/13/2023) | |
| 193 | 03/13/2023 | STIPULATION and [Proposed] Order Regarding Pretrial Conference Follow-up Submissions by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) (Entered: 03/13/2023) | |
| 194 | 03/14/2023 | SO ORDERED Granting 193 Stipulation and Order establishing schedule for pretrial order submissions (see Order for further details). Signed by Judge Richard G. Andrews on 3/14/2023. (nms) (Entered: 03/14/2023) | |

| # | Date | Proceeding Text | Source |
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| 195 | 03/14/2023 | Letter to The Honorable Richard G. Andrews, from Kelly E. Farnan, regarding response to obviousness and indefiniteness arguments. (Attachments: # 1 Exhibit A)(Farnan, Kelly) Modified on 3/15/2023 (nms). (Entered: 03/14/2023) | |
| 196 | 03/15/2023 | [SEALED] Letter to The Honorable Richard G. Andrews, from Andrew A. Ralli, regarding identifying items discussed at pretrial conference. (Attachments: # 1 Exhibit A, # 2 Exhibit B, # 3 Exhibit C, # 4 Exhibit D)(Ralli, Andrew) Modified on 3/16/2023 (nms). (Entered: 03/15/2023) | |
| 197 | 03/16/2023 | Letter to The Honorable Richard G. Andrews, from Kelly E. Farnan, regarding response to March 10th pretrial conference instructions. (Farnan, Kelly) Modified on 3/16/2023 (nms). (Entered: 03/16/2023) | |
| | 03/17/2023 | REDACTION NOTICE: In accordance with section G of the Administrative Procedures Governing Filing and Service by Electronic Means, redacted versions of sealed documents shall be filed electronically within 7 days of the filing of the sealed document. The records of this case do not reflect the filing of a redacted version of DI # 172 . (nms) (Entered: 03/17/2023) | |
| 198 | 03/17/2023 | ORAL ORDER: The Court has considered the issues raised in the proposed pretrial order (D.I. 172 at 36-37 & 40-42) about whether Defendants have disclosed the Evolo Report alone as the basis for obviousness and the inverse relationship between stability and controllability as a basis for an indefiniteness finding. The Court has reviewed Defendants' letter (D.I. 195 ) and concludes that Defendants' expert's report discloses both invalidity defenses. Therefore, they remain among the defenses Defendants may assert at trial. Ordered by Judge Richard G. Andrews on 3/17/2023. (lah) (Entered: 03/17/2023) | |
| 199 | 03/17/2023 | Letter to The Honorable Richard G. Andrews, from Andrew A. Ralli, regarding claims reduction. (Ralli, Andrew) Modified on 3/20/2023 (nms). (Entered: 03/17/2023) | |
| 200 | 03/20/2023 | Letter to The Honorable Richard G. Andrews, from Andrew A. Ralli, regarding Plaintiff claims reduction. (Ralli, Andrew) Modified on 3/20/2023 (nms). (Entered: 03/20/2023) | |
| 201 | 03/20/2023 | MEMORANDUM ORDER: Plaintiff's motion in limine (D.I. 180 ) is granted in part and denied in part. Likewise, Defendant's motion in limine (D.I. 167 ) is granted in part and denied in part (see Memorandum Order for further details). Signed by Judge Richard G. Andrews on 3/20/2023. (nms) (Entered: 03/20/2023) | |
| 202 | 03/21/2023 | NOTICE of Change of Address by Joseph S. Naylor (Naylor, Joseph) (Entered: 03/21/2023) | |
| 203 | 03/21/2023 | Letter to The Honorable Richard G. Andrews, from Kelly E. Farnan, regarding Defendants asserted defenses. (Farnan, Kelly) Modified on 3/21/2023 (nms). (Entered: 03/21/2023) | |
| 204 | 03/21/2023 | Preliminary Jury Instructions (to be read in open court). (nms) (Entered: 03/21/2023) | |
| 205 | 03/21/2023 | Voir Dire (to be read in open court). (nms) (Entered: 03/21/2023) | |
| 206 | 03/21/2023 | REDACTED VERSION of 172 Joint Pretrial Order, by MHL Custom, Inc.. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Exhibit 9, # 10 Exhibit 10)(Bennett, Blake) Modified on 3/21/2023 (nms). (Entered: 03/21/2023) | |
| 207 | 03/21/2023 | Letter to Judge Andrews, from Andrew A. Ralli, regarding Plaintiffs response to Defendants March 21, 2023 letter on reduction of defenses (D.I. 203 ). (Ralli, Andrew) Modified on 3/22/2023 (nms). (Entered: 03/21/2023) | |
| 208 | 03/22/2023 | Official Transcript of Pretrial Conference held on 3/10/23 before | |

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| | | Judge Richard G. Andrews. Court Reporter Heather M. Triozzi.Email: Heather_Triozzi@ded.uscourts.gov. Transcript may be viewed at the court public terminal or order/purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER. Redaction Request due 4/12/2023. Redacted Transcript Deadline set for 4/24/2023. Release of Transcript Restriction set for 6/20/2023. (Triozzi, Heather) (Entered: 03/22/2023) | |
| 209 | 03/23/2023 | ORAL ORDER: At the pretrial conference, the Court ordered the parties to resubmit the pretrial order. (D.I. 208 at 4:5-10). The Court referred to the expected revised pretrial order separately in its own order after the pretrial conference. (D.I. 184 ). Trial starts tomorrow, but the Court is unaware of any revised pretrial order having been submitted. By the end of the day, the parties should either submit the revised pretrial order or submit a joint letter explaining why they have not done so. Ordered by Judge Richard G. Andrews on 3/23/2023. (nms) (Entered: 03/23/2023) | |
| 210 | 03/23/2023 | Amended Final Proposed Pretrial Order, by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/23/2023 (nms). Modified on 3/24/2023 (nms). (Entered: 03/23/2023) | |
| 211 | 03/23/2023 | EXHIBITS 1-8 to 210 Amened Proposed Final Pretrial Order, by MHL Custom, Inc.. (Bennett, Blake) Modified on 3/23/2023 (nms). (Entered: 03/23/2023) | |
| 212 | 03/24/2023 | SO ORDERED as modified re 210 Amended Final Joint Pretrial Order. Signed by Judge Richard G. Andrews on 3/24/2023. (nms) (Entered: 03/24/2023) | |
| | 03/24/2023 | CORRECTING ENTRY: D.I. 210 has been unsealed per the filing at D.I. 212 . (nms) (Entered: 03/24/2023) | |
| 213 | 03/24/2023 | Letter to The Honorable Richard G. Andrews, from Andrew A. Ralli, regarding parties meet and confer status. (Ralli, Andrew) Modified on 3/27/2023 (nms). (Entered: 03/24/2023) | |
| | 03/24/2023 | Minute Entry for proceedings held before Judge Richard G. Andrews - Jury Trial day 1 held on 3/24/2023. Local Counsel for Plaintiff: A. Ralli. Local Counsel for Defendant: K. Farnan. Jury selection held: preliminary jury instructions read. (Court Reporter Deanna Warner.) (lah) (Entered: 03/27/2023) | |
| 214 | 03/25/2023 | Letter to Judge Andrews, from Kelly Farnan, regarding Waydoo's defenses (D.I. 213 ). (Farnan, Kelly) Modified on 3/27/2023 (nms). (Entered: 03/25/2023) | |
| | 03/27/2023 | REDACTION NOTICE: In accordance with section G of the Administrative Procedures Governing Filing and Service by Electronic Means, redacted versions of sealed documents shall be filed electronically within 7 days of the filing of the sealed document. The records of this case do not reflect the filing of a redacted version of DI # 196 . (nms) (Entered: 03/27/2023) | |
| | 03/27/2023 | Minute Entry for proceedings held before Judge Richard G. Andrews - Jury Trial day 2 held on 3/27/2023. Local Counsel for Plaintiff: A. Ralli. Local Counsel for Defendant: K. Farnan. Opening statements made. Witnesses: Nicholas Leason, Zhao Tao by deposition, Jacob Langelaan, Steward Wagner. (Court Reporter Heather Triozzi.) (lah) (Entered: 03/28/2023) | |
| 215 | 03/28/2023 | Proposed Final Jury Instructions, by MHL Custom, Inc. . (Bennett, Blake) Modified on 3/29/2023 (nms). (Entered: 03/28/2023) | |
| | 03/28/2023 | Minute Entry for proceedings held before Judge Richard G. Andrews - Jury Trial day 3 held on 3/28/2023. Local Counsel for Plaintiff: A. Ralli. Local Counsel for Defendant: K. Farnan. Witnesses: Christopher Barry, Wang Ping by deposition, Jeffrey Stec. (Court Reporter Heather Triozzi.) (lah) (Entered: 03/29/2023) | |

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| | 03/29/2023 | Minute Entry for proceedings held before Judge Richard G. Andrews - Jury Trial day 4 held on 3/29/2023. Local Counsel for Plaintiff: A. Ralli. Local Counsel for Defendant: K. Farnan. Witnesses: Wang Ping, Kevin Wade, Mark Lanterman, Michael Triantafyllou, Phillip Kline. (Court Reporter Heather Triozzi.) (lah) (Entered: 03/30/2023) | |
| | 03/30/2023 | SECOND REDACTION NOTICE: In accordance with section G of the Administrative Procedures Governing Filing and Service by Electronic Means, redacted versions of sealed documents shall be filed electronically within 7 days of the filing of the sealed document. The records of this case do not reflect the filing of a redacted version of DI # 196 . (nms) (Entered: 03/30/2023) | |
| 216 | 03/30/2023 | REDACTED VERSION of 196 Letter, by MHL Custom, Inc.. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit)(Ralli, Andrew) (Entered: 03/30/2023) | |
| | 03/30/2023 | Minute Entry for proceedings held before Judge Richard G. Andrews - Jury Trial day 5 held on 3/30/2023. Local Counsel for Plaintiff: A. Ralli. Local Counsel for Defendant: K. Farnan. Witnesses: Phillip Kline, Christopher Barry. (Court Reporter Heather Triozzi.) (lah) (Entered: 03/31/2023) | |
| 217 | 03/31/2023 | Final Jury Instructions (to be read into open court). (nms) (Entered: 03/31/2023) | |
| 218 | 03/31/2023 | FINAL JURY VERDICT Form. (nms) (Entered: 03/31/2023) | |
| 219 | 03/31/2023 | [SEALED] JURY VERDICT. (lah) (Entered: 03/31/2023) | |
| 220 | 03/31/2023 | REDACTED VERSION of 219 Jury Verdict. (lah) (Entered: 03/31/2023) | |
| | 03/31/2023 | Minute Entry for proceedings held before Judge Richard G. Andrews - Jury Trial day 6 completed on 3/31/2023. Final jury instructions read; closing arguments made; deliberations; verdict. (Court Reporter Heather Triozzi.) (lah) (Entered: 03/31/2023) | |
| 221 | 03/31/2023 | Exhibit List for Jury Trial held 3/24/2023 - 3/31/2023. (lah) (Entered: 03/31/2023) | |
| | 04/03/2023 | Case no longer referred to Chief Magistrate Judge Mary Pat Thynge. (nms) (Entered: 04/03/2023) | |
| 222 | 04/04/2023 | TRIAL VERDICT (see verdict for further details). Signed by Judge Richard G. Andrews on 4/4/2023. (nms) (Entered: 04/04/2023) | |
| 223 | 04/07/2023 | Joint Letter to The Honorable Richard G. Andrews, from Andrew A. Ralli, regarding post trial motions. (Ralli, Andrew) Modified on 4/7/2023 (nms). (Entered: 04/07/2023) | |
| 224 | 04/11/2023 | ORAL ORDER: The proposed schedule as set forth in D.I. 223 is APPROVED. The page limits for the briefing on the post-trial motions is limited to 20-20-10, not 40-40-20. Ordered by Judge Richard G. Andrews on 4/11/2023. (nms) (Entered: 04/11/2023) | |
| 225 | 04/12/2023 | PROPOSED Judgment on the Jury Verdict. by MHL Custom, Inc.. (Ralli, Andrew) Modified on 4/12/2023 (nms). (Entered: 04/12/2023) | |
| 226 | 04/12/2023 | SO ORDERED Granting 225 JUDGMENT on the Jury Verdict. Signed by Judge Richard G. Andrews on 4/12/2023. (nms) (Entered: 04/12/2023) | |
| | 04/17/2023 | CORRECTING ENTRY: The motion to redact filed at D.I. 227 on 4/14/2023, has been removed from the docket per discussion between counsel and chambers. Counsel will refile an amended motion. (nms) (Entered: 04/17/2023) | |
| 227 | 04/17/2023 | MOTION to Redact Trial Transcripts - filed by MHL Custom, Inc.. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7, # 8 Exhibit 8, # 9 Proposed Order)(Ralli, Andrew) Modified on 4/17/2023 (nms). | |

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| | | Modified on 4/28/2023 (nms). (Entered: 04/17/2023) | |
| | 04/18/2023 | DEFICIENCY NOTICE by the Court issued to MHL Custom, Inc. re 227 Sealed Motion to Redact Transcript. Upon review of the filing, it was determined it does not comply with Local Rule 5.2(b)(1). Plaintiff is requested to supplement the docket with a certificate of service for this motion. (nms) (Entered: 04/18/2023) | |
| 228 | 04/18/2023 | CERTIFICATE OF SERVICE for Motion to Redact Trial Transcripts (D.I. 227 ), by MHL Custom, Inc.. (Ralli, Andrew) Modified on 4/18/2023 (nms). (Entered: 04/18/2023) | |
| 229 | 04/18/2023 | ORAL ORDER: The motion to redact trial transcripts (D.I. 227 ) is DENIED. Ordered by Judge Richard G. Andrews on 4/18/2023. (nms) (Entered: 04/18/2023) | |
| | 04/28/2023 | Remark: The motion to seal (D.I. 227 ) has been unsealed per entry of the Order at D.I. 229 . (nms) (Entered: 04/28/2023) | |
| 230 | 05/02/2023 | MOTION for Permanent Injunction - filed by MHL Custom, Inc.. (Attachments: # 1 Exhibit)(Ralli, Andrew) Modified on 5/3/2023 (nms). (Entered: 05/02/2023) | |
| 231 | 05/02/2023 | MOTION for Attorneys' Fees and Expenses - filed by MHL Custom, Inc.. (Ralli, Andrew) Modified on 5/2/2023 (nms). Modified on 5/3/2023 (nms). (Entered: 05/02/2023) | |
| 232 | 05/02/2023 | MOTION for Enhanced Damages - filed by MHL Custom, Inc.. (Ralli, Andrew) Modified on 5/2/2023 (nms). Modified on 5/3/2023 (nms). (Entered: 05/02/2023) | |
| 233 | 05/02/2023 | MOTION for Supplemental and/or Ongoing Damages, and For Pre-Judgment and Post-Judgment Interest - filed by MHL Custom, Inc.. (Ralli, Andrew) Modified on 5/2/2023 (nms). Modified on 5/3/2023 (nms). (Entered: 05/02/2023) | |
| 234 | 05/02/2023 | RENEWED Motion for Judgment as a Matter of Law and Motion for a New Trial - filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Proposed Order)(Farnan, Kelly) Modified on 5/2/2023 (nms). (Entered: 05/02/2023) | |
| 235 | 05/02/2023 | [SEALED] OPENING BRIEF in Support re 232 MOTION for Enhanced Damages, 233 MOTION for Supplemental and/or Ongoing Damages, and For Pre-Judgment and Post-Judgment Interest, 231 MOTION for Attorneys' Fees and Expenses, and 230 MOTION for Permanent Injunction, filed by MHL Custom, Inc..Answering Brief/Response due date per Local Rules is 5/16/2023. (Attachments: # 1 Exhibit, # 2 Exhibit, # 3 Exhibit, # 4 Exhibit, # 5 Exhibit, # 6 Exhibit, # 7 Exhibit)(Ralli, Andrew) Modified on 5/2/2023 (nms). (Entered: 05/02/2023) | |
| 236 | 05/02/2023 | OPENING BRIEF in Support re 234 RENEWED Motion for Judgment as a Matter of Law and Motion for a New Trial, filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..Answering Brief/Response due date per Local Rules is 5/16/2023. (Farnan, Kelly) Modified on 5/2/2023 (nms). (Entered: 05/02/2023) | |
| 237 | 05/02/2023 | CERTIFICATE OF SERVICE Motion for Entry of a Permanent Injunction (D.I. 230 ); Motion for Attorneys' Fees and Expenses (D.I. 231 ); Motion for Enhance Damages (D.I. 232 ); Motion for Supplemental and/or Ongoing Damages, and For Pre-Judgment and Post-Judgment Interest (D.I. 233 ), by MHL Custom, Inc. (Ralli, Andrew) Modified on 5/3/2023 (nms). (Entered: 05/02/2023) | |
| | 05/03/2023 | CORRECTING ENTRY: The motions filed at D.I. 230 , 231 , 232 , and 233 have been unsealed. The NEFs for the filings have been regenerated. (nms) (Entered: 05/03/2023) | |
| | 05/15/2023 | REDACTION NOTICE: In accordance with section G of the Administrative Procedures Governing Filing and Service by | |

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| | | Electronic Means, redacted versions of sealed documents shall be filed electronically within 7 days of the filing of the sealed document. The records of this case do not reflect the filing of a redacted version of DI # 235 . (nms) (Entered: 05/15/2023) | |
| 238 | 05/15/2023 | REDACTED VERSION of 235 Opening Brief in Support, by MHL Custom, Inc.. (Attachments: # 1 Exhibit 1, # 2 Exhibit 2, # 3 Exhibit 3, # 4 Exhibit 4, # 5 Exhibit 5, # 6 Exhibit 6, # 7 Exhibit 7)(Ralli, Andrew) Modified on 5/15/2023 (nms). (Entered: 05/15/2023) | |
| 239 | 05/18/2023 | Official Transcript of Jury Trial - Jury Selection held on 3/24/23 before Judge Richard G. Andrews. Court Reporter Deanna Warner,Email: Deanna_Warner@ded.uscourts.gov. Transcript may be viewed at the court public terminal or order/purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER. Redaction Request due 6/8/2023. Redacted Transcript Deadline set for 6/20/2023. Release of Transcript Restriction set for 8/16/2023. (Triozzi, Heather) (Entered: 05/18/2023) | |
| 240 | 05/18/2023 | Official Transcript of Jury Trial held on 3/27/23 before Judge Richard G. Andrews. Court Reporter Heather M. Triozzi,Email: Heather_Triozzi@ded.uscourts.gov. Transcript may be viewed at the court public terminal or order/purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER. Redaction Request due 6/8/2023. Redacted Transcript Deadline set for 6/20/2023. Release of Transcript Restriction set for 8/16/2023. (Triozzi, Heather) (Entered: 05/18/2023) | |
| 241 | 05/18/2023 | Official Transcript of Jury Trial held on 3/28/23 before Judge Richard G. Andrews. Court Reporter Heather M. Triozzi,Email: Heather_Triozzi@ded.uscourts.gov. Transcript may be viewed at the court public terminal or order/purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER. Redaction Request due 6/8/2023. Redacted Transcript Deadline set for 6/20/2023. Release of Transcript Restriction set for 8/16/2023. (Triozzi, Heather) (Entered: 05/18/2023) | |
| 242 | 05/18/2023 | Official Transcript of Jury Trial held on 3/29/23 before Judge Richard G. Andrews. Court Reporter Heather M. Triozzi,Email: Heather_Triozzi@ded.uscourts.gov. Transcript may be viewed at the court public terminal or order/purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER. Redaction Request due 6/8/2023. Redacted Transcript Deadline set for 6/20/2023. Release of Transcript Restriction set for 8/16/2023. (Triozzi, Heather) (Entered: 05/18/2023) | |
| 243 | 05/18/2023 | Official Transcript of Jury Trial held on 3/30/23 before Judge Richard G. Andrews. Court Reporter Heather M. Triozzi,Email: Heather_Triozzi@ded.uscourts.gov. Transcript may be viewed at the court public terminal or order/purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER. Redaction Request due 6/8/2023. Redacted Transcript Deadline set for 6/20/2023. Release of Transcript Restriction set for 8/16/2023. (Triozzi, Heather) (Entered: 05/18/2023) | |
| 244 | 05/18/2023 | Official Transcript of Jury Trial held on 3/31/23 before Judge Richard G. Andrews. Court Reporter Heather M. Triozzi,Email: Heather_Triozzi@ded.uscourts.gov. Transcript may be viewed at the court public terminal or order/purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date, it may be obtained through PACER. Redaction Request due 6/8/2023. Redacted Transcript Deadline set for | |

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| | | 6/20/2023. Release of Transcript Restriction set for 8/16/2023. (Triozzi, Heather) (Entered: 05/18/2023) | |
| 245 | 06/07/2023 | ANSWERING BRIEF in Opposition re 234 Renewed Motion for Judgment as a Matter of Law andMotion for a New Trial filed by MHL Custom, Inc..Reply Brief due date per Local Rules is 6/14/2023. (Ralli, Andrew) (Entered: 06/07/2023) | |
| 246 | 06/07/2023 | [SEALED] ANSWERING BRIEF in Opposition re 232 Motion for Enhanced Damages, 233 Motion for Supplemental and/or Ongoing Damages, and For Pre-Judgment and Post-Judgment Interest, 231 Motion for Attorneys' Fees and Expenses, and 230 Motion for Permanent Injunction, filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc..Reply Brief due date per Local Rules is 6/14/2023. (Attachments: # 1 Exhibit 2, # 2 Exhibit 4)(Farnan, Kelly) Modified on 6/7/2023 (nms). (Entered: 06/07/2023) | |
| 247 | 06/07/2023 | EXHIBITS 1, 3, and 5 to 246 Answering Brief in Opposition, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibit 1, # 2 Exhibit 3, # 3 Exhibit 5)(Farnan, Kelly) Modified on 6/7/2023 (nms). (Entered: 06/07/2023) | |
| 248 | 06/07/2023 | EXHIBITS 6-7 to 246 Answering Brief in Opposition, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibit 6, # 2 Exhibit 7)(Farnan, Kelly) Modified on 6/7/2023 (nms). (Entered: 06/07/2023) | |
| 249 | 06/14/2023 | NOTICE of Constitutional Question by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc. (Attachments: # 1 Certificate of Service)(Bordley, Dorronda) (Entered: 06/14/2023) | |
| 250 | 06/21/2023 | [SEALED] REPLY BRIEF re 232 MOTION for Enhanced Damages, 233 MOTION for Supplemental and/or Ongoing Damages, and For Pre-Judgment and Post-Judgment Interest, 231 MOTION for Attorneys' Fees and Expenses, and 230 MOTION for Permanent Injunction, filed by MHL Custom, Inc.. (Ralli, Andrew) Modified on 6/22/2023 (nms). (Entered: 06/21/2023) | |
| 251 | 06/21/2023 | CERTIFICATE OF SERVICE of Plaintiffs Reply Brief in Support of its Post-Trial Motions for Permanent Injunction, Supplemental Damages, Ongoing Damages, Pre and Post Judgment Interest, Enhanced Damages and Attorneys Fees by MHL Custom, Inc. re 250 Reply Brief. (Ralli, Andrew) (Entered: 06/21/2023) | |
| 252 | 06/21/2023 | REPLY BRIEF re 234 Renewed Motion for Judgment as a Matter of Law andMotion for a New Trial filed by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Farnan, Kelly) (Entered: 06/21/2023) | |
| 253 | 06/23/2023 | REDACTED VERSION of 246 Answering Brief in Opposition, by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc.. (Attachments: # 1 Exhibit 2, # 2 Exhibit 4)(Farnan, Kelly) (Entered: 06/23/2023) | |
| 254 | 06/26/2023 | REQUEST for Oral Argument by Shenzhen Waydoo Intelligence Technology Co., Ltd., Waydoo USA, Inc. re 232 MOTION for Enhanced Damages, 233 MOTION for Supplemental and/or Ongoing Damages, and For Pre-Judgment and Post-Judgment Interest, 231 MOTION for Attorneys' Fees and Expenses, 230 MOTION for Permanent Injunction, 234 Renewed Motion for Judgment as a Matter of Law andMotion for a New Trial. (Farnan, Kelly) (Entered: 06/26/2023) | |
| | 07/06/2023 | REDACTION NOTICE: In accordance with section G of the Administrative Procedures Governing Filing and Service by Electronic Means, redacted versions of sealed documents shall be | |

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| | | filed electronically within 7 days of the filing of the sealed document. The records of this case do not reflect the filing of a redacted version of DI # 250 . (nms) (Entered: 07/06/2023) | |
| 255 | 07/06/2023 | REDACTED VERSION of 250 Reply Brief, by MHL Custom, Inc.. (Ralli, Andrew) Modified on 7/6/2023 (nms). (Entered: 07/06/2023) | |
| 256 | 07/31/2023 | NOTICE requesting Clerk to remove Dorronda R. Bordley as co-counsel. Reason for request: no longer with firm. (Bordley, Dorronda) (Entered: 07/31/2023) | |

## Judgments

| Date | In Favor Of | Against | Amount | Interest | Court Cost | Status | Status Date |
|---|---|---|---|---|---|---|---|
| 04/12/2023 | MHL Custom, Inc. | Shenzhen Waydoo Intelligence Technology Co., Ltd. | $ 0.00 | 0.00% | $ 0.00 | Not Yet Satisfied - SEE DOCKET | 04/12/2023 |
| 04/12/2023 | MHL Custom, Inc. | Waydoo USA, Inc. | $ 0.00 | 0.00% | $ 0.00 | Not Yet Satisfied - SEE DOCKET | 04/12/2023 |

## Patents

| Number | Title | Issued | Class | Subclass |
|---|---|---|---|---|
| 9,359,044 | Weight-shift controlled personal hydrofoil watercraft | 06/07/2016 | 1 | 1 |
| 9,586,659 | Powered hydrofoil board | 03/07/2017 | 1 | 1 |

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End of Document

# 3:20cv1648, Mhl Custom, Inc. V. Avante Innovations, Llc

US District Court Docket

United States District Court, California Southern

(San Diego)

**This case was retrieved on** 08/21/2023

## Header

**Case Number:** 3:20cv1648
**Date Filed:** 08/24/2020
**Assigned To:** Judge Roger T. Benitez
**Referred To:** Magistrate Judge William V. Gallo
**Nature of Suit:** Patent (830)
**Cause:** Patent Infringement
**Lead Docket:** None
**Other Docket:** None
**Jurisdiction:** Federal Question

**Class Code:** Closed
**Closed:** 12/11/2020
**Statute:** 28:1338pt
**Jury Demand:** Plaintiff
**Demand Amount:** $0
**NOS Description:** Patent

## Participants

### Litigants

MHL Custom, Inc.
**Plaintiff**

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## Litigants

Avante Innovations, LLC
**Defendant**

## Attorneys

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## Proceedings

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| 1 | 08/24/2020 | COMPLAINT with Jury Demand against Avante Innovations, LLC ( Filing fee $ 400 receipt number ACASDC-14383404.), filed by MHL Custom, Inc.. (Attachments: # 1 Civil Cover Sheet, # 2 Exhibits)The new case number is 3:20-cv-1648-LAB-WVG. Judge Larry Alan Burns and Magistrate Judge William V. Gallo are assigned to the case. (Lytle, Douglas)(jmr) (jms). (Entered: 08/24/2020) | |
| 2 | 08/24/2020 | REPORT on the filing or determination of an action regarding patent and/or trademark number(s) "9,359,044", "9,586,659" cc:USPTO (jmr) (jms). (Entered: 08/24/2020) | |
| 3 | 08/24/2020 | Summons Issued. Counsel receiving this notice electronically should print this summons and serve it in accordance with Rule 4, Fed.R.Civ.P and LR 4.1. (jmr) (jms). (Entered: 08/24/2020) | |
| 4 | 08/25/2020 | NOTICE of Party With Financial Interest by MHL Custom, Inc. . No Parties With Financial Interest. (Lytle, Douglas) (jdt). (Entered: 08/25/2020) | |
| 5 | 08/25/2020 | Request to Appear Pro Hac Vice ( Filing fee received: $ 206 receipt number ACASDC-14389425.) (Application to be reviewed by Clerk.) (Redding, Daniel) (rmc). (Entered: 08/25/2020) | |
| 6 | 08/25/2020 | Request to Appear Pro Hac Vice ( Filing fee received: $ 206 receipt number ACASDC-14389460.) (Application to be reviewed by Clerk.) (Theuerkauf, Robert) (rmc). (Entered: 08/25/2020) | |
| 7 | 08/25/2020 | PRO HAC APPROVED: Robert J. Theuerkauf appearing for Plaintiff MHL Custom, Inc. (no document attached) (rmc) (Entered: 08/25/2020) | |
| 8 | 08/25/2020 | PRO HAC APPROVED: Daniel W. Redding appearing for Plaintiff MHL Custom, Inc. (no document attached) (rmc) (Entered: 08/25/2020) | |
| 9 | 08/27/2020 | MINUTE ORDER. Chief Judge Larry Alan Burns has declined assignment pursuant to General Order 598. Case reassigned to Judge Roger T. Benitez for all further proceedings. The new case number is 20cv1648 BEN (WVG).(no document attached) (jcj) (Entered: 08/27/2020) | |
| 10 | 08/27/2020 | Request to Appear Pro Hac Vice ( Filing fee received: $ 206 receipt number ACASDC-14403418.) (Application to be reviewed by Clerk.) (Murrell, Dennis) (rmc). (Entered: 08/27/2020) | |
| 11 | 08/27/2020 | PRO HAC APPROVED: Dennis D. Murrell appearing for Plaintiff MHL Custom, Inc. (no document attached) (rmc) (Entered: 08/27/2020) | |
| 12 | 12/04/2020 | SUMMONS Returned Executed by MHL Custom, Inc. Avante Innovations, LLC served. (Lytle, Douglas) (tcf). (Entered: 12/04/2020) | |

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| 13 | 12/11/2020 | NOTICE of Voluntary Dismissal by MHL Custom, Inc. (Lytle, Douglas) (mme). (Entered: 12/11/2020) | |
| 14 | 12/11/2020 | REPORT of Patent and Trademark Closing, regarding patent and/or trademark number(s) 9,359,044, 9,586,659, re 13 Notice of Voluntary Dismissal. cc:USPTO (rmc) (Entered: 01/06/2021) | |

## Patents

| Number | Title | Issued | Class | Subclass |
|---|---|---|---|---|
| 9,359,044 | Weight-shift controlled personal hydrofoil watercraft | 06/07/2016 | 1 | 1 |
| 9,586,659 | Powered hydrofoil board | 03/07/2017 | 1 | 1 |

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# *3:22cv21258, Mhl Custom Inc V. Foil Boarding Company, Inc.*

US District Court Docket

United States District Court, Florida Northern

(Pensacola)

**This case was retrieved on** 08/18/2023

## Header

**Case Number:** 3:22cv21258
**Date Filed:** 10/21/2022
**Assigned To:** Judge M Casey Rodgers
**Referred To:** Magistrate Judge ZACHARY C BOLITHO
**Nature of Suit:** ***Patent*** (830)
**Cause:** ***Patent Infringement***
**Lead Docket:** None
**Other Docket:** None
**Jurisdiction:** Federal Question

**Class Code:** Open
**Statute:** 15:1126
**Jury Demand:** Both
**Demand Amount:** $0
**NOS Description:** ***Patent***

## Participants

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| FOIL BOARDING COMPANY INC<br>**Counter Claimant** | JAMES HUNTER ADAMS<br>ATTORNEY TO BE NOTICED<br>ADAMS IP LLC - MOBILE AL<br>453 Dauphin Street 2nd Floor |

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Email:Jrz@beggslane.Com

## Proceedings

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| 1 | 10/21/2022 | COMPLAINT FOR ***PATENT INFRINGEMENT*** against FOIL BOARDING COMPANY, INC. ( Filing fee $ 402 receipt number AFLNDC-7525988.), filed by MHL CUSTOM, INC.. (Attachments: # 1 Exhibit A. # 2 Exhibit B. # 3 Exhibit C) (ZOESCH, JOHN) (Entered: 10/21/2022) | |
| 2 | 10/21/2022 | CIVIL COVER SHEET. (ZOESCH, JOHN) (Entered: 10/21/2022) | |

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| 3 | 10/21/2022 | NOTICE Summons by MHL CUSTOM, INC. (ZOESCH, JOHN) (Entered: 10/21/2022) | |
| 4 | 10/24/2022 | Summons Issued as to FOIL BOARDING COMPANY INC. (mb) (Entered: 10/24/2022) | |
| 5 | 10/24/2022 | AO 120 ***Patent*** and Trademark New Case Notification. Copy sent electronically to the Director of the U.S. ***Patent*** and Trademark Office. (mb) (Entered: 10/24/2022) | |
| 6 | 11/07/2022 | AFFIDAVIT of Service for Return of Service served on Foil Boarding Company Inc on 10-26-2022, filed by MHL CUSTOM INC. (ZOESCH, JOHN) (Entered: 11/07/2022) | |
| 7 | 11/17/2022 | NOTICE of Appearance by ROBERT JAMES POWELL on behalf of FOIL BOARDING COMPANY INC (POWELL, ROBERT) (Entered: 11/17/2022) | |
| 8 | 11/17/2022 | NOTICE of Appearance by MATTHEW MCDONNELL COUCH on behalf of FOIL BOARDING COMPANY INC (COUCH, MATTHEW) (Entered: 11/17/2022) | |
| 9 | 11/18/2022 | MOTION for Extension of Time to File Response/Reply (Unopposed) by FOIL BOARDING COMPANY INC. (COUCH, MATTHEW) (Entered: 11/18/2022) | |
| | 11/18/2022 | ACTION REQUIRED BY DISTRICT JUDGE: Chambers of JUDGE M CASEY RODGERS notified that action is needed Re: 9 MOTION for Extension of Time to File Response/Reply (Unopposed) (mb) (Entered: 11/18/2022) | |
| 10 | 11/21/2022 | ORDER re 9 MOTION for Extension of Time to File Response/Reply (Unopposed) filed by FOIL BOARDING COMPANY INC, FOIL BOARDING COMPANY INC. The Defendant's deadline to respond to Plaintiff's Complaint is extended to December 21, 2022. (Answer due by 12/21/2022.) Signed by JUDGE M CASEY RODGERS on 11/21/2022. (blr) (Entered: 11/22/2022) | |
| 11 | 12/19/2022 | MOTION to Appear Pro Hac Vice by Kristopher O. Anderson.( Filing fee $ 208 receipt number AFLNDC-7606480.) by FOIL BOARDING COMPANY INC. (Attachments: # 1 Exhibit A - Certificate of Good Standing) (ANDERSON, KRISTOPHER) (Entered: 12/19/2022) | |
| | 12/20/2022 | ACTION REQUIRED BY DISTRICT JUDGE: Chambers of JUDGE M CASEY RODGERS notified that action is needed Re: 11 MOTION to Appear Pro Hac Vice by Kristopher O. Anderson.( Filing fee $ 208 receipt number AFLNDC-7606480.) (mb) (Entered: 12/20/2022) | |
| 12 | 12/21/2022 | MOTION to Appear Pro Hac Vice by J. Hunter Adams.( Filing fee $ 208 receipt number AFLNDC-7610659.) by FOIL BOARDING COMPANY INC. (Attachments: # 1 Exhibit Cert of Good Standing) (ADAMS, JAMES) (Entered: 12/21/2022) | |
| | 12/21/2022 | ACTION REQUIRED BY DISTRICT JUDGE: Chambers of JUDGE M CASEY RODGERS notified that action is needed Re: 12 MOTION to Appear Pro Hac Vice by J. Hunter Adams.( Filing fee $ 208 receipt number AFLNDC-7610659.) (mb) (Entered: 12/21/2022) | |
| 13 | 12/21/2022 | ORDER. The Motions for Admission Pro Hac Vice. ECF Nos. 11 and 12 , are GRANTED. Attorneys Kristopher O. Anderson and James Hunter Adams of Moorhead Law Group, are admitted pro hac vice to represent the Defendant, Foil Boarding Company, Inc., pursuant to Local Rule 11.1(C). (Appointed KRISTOPHER O ANDERSON, JAMES HUNTER ADAMS for FOIL BOARDING COMPANY INC). Signed by JUDGE M CASEY RODGERS on 12/21/2022. (mb) (Entered: 12/21/2022) | |
| 14 | 12/21/2022 | ANSWER to 1 Complaint , COUNTERCLAIM against MHL | |

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| | | CUSTOM INC by FOIL BOARDING COMPANY INC. (COUCH, MATTHEW) (Entered: 12/21/2022) | |
| 15 | 12/21/2022 | Corporate Disclosure Statement/Certificate of Interested Persons by FOIL BOARDING COMPANY INC. (COUCH, MATTHEW) (Entered: 12/21/2022) | |
| | 12/22/2022 | ACTION REQUIRED BY DISTRICT JUDGE: Chambers of JUDGE M CASEY RODGERS notified that action is needed Re: 14 Answer to Complaint (please see proposed ISO). (mb) (Entered: 12/22/2022) | |
| 16 | 12/23/2022 | INITIAL SCHEDULING ORDER: Fed.R.Civ.P. 7.1 Corporate Disclosure Statement Deadline set for 1/6/2023. Rule 26 Meeting Report due by 2/6/2023. Discovery due by 6/19/2023. Signed by JUDGE M CASEY RODGERS on 12/23/2022. (mb) (Entered: 12/23/2022) | |
| 17 | 12/28/2022 | Corporate Disclosure Statement/Certificate of Interested Persons by MHL CUSTOM INC. (ZOESCH, JOHN) (Entered: 12/28/2022) | |
| 18 | 01/11/2023 | ANSWER to 14 Answer to Complaint. Counterclaim by MHL CUSTOM INC. (ZOESCH, JOHN) (Entered: 01/11/2023) | |
| 19 | 02/02/2023 | REPORT of Rule 26(f) Planning Meeting. (Attachments: # 1 Exhibit Exhibit A - Proposed ESI Protocol) (ZOESCH, JOHN) (Entered: 02/02/2023) | |
| | 02/03/2023 | ACTION REQUIRED BY DISTRICT JUDGE: Chambers of JUDGE M CASEY RODGERS notified that action is needed Re: 19 Report of Rule 26(f) Planning Meeting. (mb) (Entered: 02/03/2023) | |
| 20 | 02/21/2023 | FINAL SCHEDULING ORDER AND MEDIATION REFERRAL re 19 Joint REPORT. (Discovery due by 12/22/2023. The deadline for filing potentially Dispositive Motions, as well as daubert motions, to be filed by 5/22/2024. Mediation to take place by 1/19/2024. Mediation Report due by 2/2/2024). Signed by JUDGE M CASEY RODGERS on 2/21/2023. (mb) (Entered: 02/21/2023) | |
| 21 | 02/27/2023 | MOTION to Appear Pro Hac Vice by Megan E. Gibson.( Filing fee $ 208 receipt number AFLNDC-7727898.) by MHL CUSTOM INC. (Attachments: # 1 Exhibit Exhibit A - Certificate of Good Standing) (ZOESCH, JOHN) (Entered: 02/27/2023) | |
| 22 | 02/27/2023 | MOTION to Appear Pro Hac Vice by Dennis David Murrell.( Filing fee $ 208 receipt number AFLNDC-7728094.) by MHL CUSTOM INC. (Attachments: # 1 Exhibit Exhibit A - Certificate of Good Standing) (ZOESCH, JOHN) (Entered: 02/27/2023) | |
| 23 | 02/27/2023 | MOTION to Appear Pro Hac Vice by Brian P. McGraw.( Filing fee $ 208 receipt number AFLNDC-7728095.) by MHL CUSTOM INC. (Attachments: # 1 Exhibit Exhibit A - Certificate of Good Standing) (ZOESCH, JOHN) (Entered: 02/27/2023) | |
| 24 | 02/27/2023 | MOTION to Appear Pro Hac Vice by Robert J. Theuerkauf.( Filing fee $ 208 receipt number AFLNDC-7728098.) by MHL CUSTOM INC. (Attachments: # 1 Exhibit Exhibit A - Certificate of Good Standing) (ZOESCH, JOHN) (Entered: 02/27/2023) | |
| | 02/28/2023 | ACTION REQUIRED BY DISTRICT JUDGE: Chambers of JUDGE M CASEY RODGERS notified that action is needed Re: 22 MOTION to Appear Pro Hac Vice by Dennis David Murrell.( Filing fee $ 208 receipt number AFLNDC-7728094.), 24 MOTION to Appear Pro Hac Vice by Robert J. Theuerkauf.( Filing fee $ 208 receipt number AFLNDC-7728098.) (mb) (Entered: 02/28/2023) | |
| | 02/28/2023 | ACTION REQUIRED BY DISTRICT JUDGE: Chambers of JUDGE M CASEY RODGERS notified that action is needed Re: 23 MOTION to Appear Pro Hac Vice by Brian P. McGraw.( Filing fee $ 208 receipt number AFLNDC-7728095.) (mb) (Entered: 02/28/2023) | |

| # | Date | Proceeding Text | Source |
|---|---|---|---|
| 25 | 03/07/2023 | ORDER. The Motions for Admission Pro Hac Vice. ECF Nos. 21 , 22 , 23 and 24 are GRANTED. Attorneys Megan E. Gibson, Dennis D. Murrell. Brian P. McGraw and Robert J. Theuerkauf, are admitted pro hac vice to represent the Plaintiff/Counter-Defendant, MHL Custom, Inc., pursuant to Local Rule 11.1(C). Signed by JUDGE M CASEY RODGERS on 3/7/2023. (mb) (Entered: 03/07/2023) | |
| 26 | 05/19/2023 | Joint MOTION to Stay and Notice of Potential Settlement by FOIL BOARDING COMPANY INC. (COUCH, MATTHEW) (Entered: 05/19/2023) | |
| | 05/19/2023 | ACTION REQUIRED BY DISTRICT JUDGE: Chambers of JUDGE M CASEY RODGERS notified that action is needed Re: 26 Joint MOTION to Stay and Notice of Potential Settlement (mb) (Entered: 05/19/2023) | |
| 27 | 05/22/2023 | REFERRAL AND ORDER re 26 MOTION to STAY. The Court finds, and the parties agree, that the interests of efficiency and judicial economy are best served by staying this matter. Including all discovery and proceedings, for the reasons set forth in the parties' joint motion. This case is therefore STAYED until July 16, 2023. The parties must promptly notify the Court if the case settles or is ready to proceed. (Deadline for clerk to check status of stay by 7/16/2023.) Signed by JUDGE M CASEY RODGERS on 5/22/2023. (mb) (Entered: 05/22/2023) | |
| 28 | 07/13/2023 | Second MOTION for Settlement . Joint MOTION to Stay by FOIL BOARDING COMPANY INC. (COUCH, MATTHEW) (Entered: 07/13/2023) | |
| | 07/14/2023 | ACTION REQUIRED BY DISTRICT JUDGE: Chambers of JUDGE M CASEY RODGERS notified that action is needed Re: 28 Second MOTION for Settlement and Joint MOTION to Stay. (mb) (Entered: 07/14/2023) | |
| 29 | 07/18/2023 | REFERRAL AND ORDER re 18 MOTION to Stay. The motion is GRANTED. The case is STAYED an additional 30 days, or until August 18, 2023. The parties must promptly notify the Court if the case settles or is ready to proceed. (Deadline for clerk to check status of stay by 8/18/2023.) Signed by JUDGE M CASEY RODGERS on 7/18/2023. (mb) (Entered: 07/18/2023) | |
| 30 | 08/18/2023 | NOTICE Regarding Settlement Discussions by FOIL BOARDING COMPANY INC (COUCH, MATTHEW) (Entered: 08/18/2023) | Events since last full update |

## Patents

| Number | Title | Issued | Class | Subclass |
|---|---|---|---|---|
| 9,359,044 | Weight-shift controlled personal hydrofoil watercraft | 06/07/2016 | 1 | 1 |
| ***9,586,659*** | Powered hydrofoil board | 03/07/2017 | 1 | 1 |

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☐ US9586659B2 - Powered hydrofoil board

Original

## Bibliographic information & Images

Publication number and date
US9586659B2
2017-03-07
Granted

Application number and date
US15064521 (/api/control?client=&query=AN:("US15064521")&autosearch=true)
2016-03-08

Priority number and date
US15064521 (/api/control?client=&query=PRN:("US15064521")&autosearch=true)
2016-03-08

Ultimate owner
MHL CUSTOM (/api/control?client=&query=uo:("MHL%20CUSTOM")&autosearch=true)

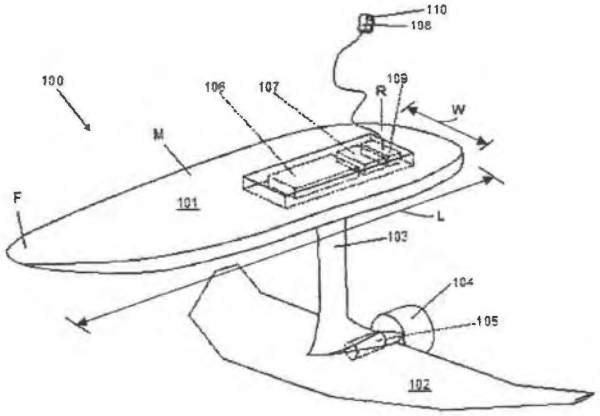
Original assignee
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1/6 Clipped image






## Abstract

A passively stable personal hydrofoil watercraft that has a flotation device, wherein a user can ride in a prone, kneeling, or standing position. The watercraft includes a strut having an upper end interconnected with the flotation device and lower end connected with a hydrofoil. The hydrofoil greatly reduces the power required to travel at higher speed. The watercraft also includes a propulsion system connected to the hydrofoil. Both longitudinal and directional control of the watercraft is via weight shift, eliminating the need of any movable surfaces. The flotation device, strut, and hydrofoil may be permanently interconnected or may be detachable.

Original

## Claims

1. A passively stable, weight-shift controlled personal hydrofoil watercraft, comprising: a flotation device that has a fore-aft length greater than a lateral width, the flotation device having a top surface and a bottom surface, wherein a user can be disposed on the top surface of the flotation device in a prone, kneeling, or standing position, the flotation device having a forward section, a middle section, and a rear section; a strut having a upper end and a lower end, the upper end fixedly interconnected with the flotation device between the middle section and the rear section of the flotation device; a hydrofoil fixedly interconnected with the lower end of the strut, the hydrofoil having no movable surface; a propulsion system for propelling the watercraft in a body of water, wherein the propulsion system is connected to the hydrofoil; and the watercraft having no movable steering system.

2. A watercraft in accordance with claim 1 , wherein the propulsion system comprises a battery, an electric motor, a motor speed controller, and a propulsor, the propulsor selected from a propeller, a ducted propeller, or a pump-jet.

3. A watercraft in accordance with claim 2 , wherein the propulsor is disposed below the hydrofoil.

4. A watercraft in accordance with claim 1 , wherein the hydrofoil is indirectly connected to the strut.

5. A watercraft in accordance with claim 4 , wherein the strut is directly connected to the propulsion system.

6. A watercraft in accordance with claim 5 , wherein a first hydrofoil wing of the hydrofoil is indirectly connected to the strut through the propulsion system.

7. A watercraft in accordance with claim 4 , wherein the hydrofoil comprises a plurality of wings that are interconnected by way of a strut.

8. A watercraft in accordance with claim 2 , wherein the battery and motor speed controller are contained in a watertight compartment integrated into the flotation device.

9. A watercraft in accordance with claim 2 , wherein the electric motor is integrated into a waterproof, streamlined pod and the watercraft comprises a cooling system for cooling the electric motor.

10. A watercraft in accordance with claim 9 , wherein the waterproof, streamlined pod is removably interconnected with the hydrofoil through a fitting.

11. A watercraft in accordance with claim 8 , further comprising a wireless handheld controller having a transmitter, and a throttle interface having a receiver, wherein the transmitter is adapted to send wireless signals to the receiver that cause an output of the propulsion system to change.

12. A watercraft in accordance with claim 1 , wherein a first hydrofoil wing of the hydrofoil is directly connected to the strut.

13. A watercraft in accordance with claim 8 , wherein the strut has an internal passage and electrical wires extend from the electric motor to the watertight compartment inside the strut through the internal passage for controlling the electric motor.

14. A watercraft in accordance with claim 13 , wherein the flotation device has a detector adapted to detect a user's presence on the flotation device and cease operation of the electric motor if the detector detects that the user is not on the flotation device.

15. A watercraft in accordance with claim 1 , wherein the propulsion system is directly or indirectly connected to the hydrofoil.

16. A personal hydrofoil watercraft, comprising: a surfboard-shaped flotation device that has a fore-aft length greater than a lateral width, the flotation device having a top surface and a bottom surface, wherein the top surface has a substantially horizontal supporting surface configured to support a user in a prone, kneeling, or standing position, the flotation device having a forward section, a middle section, and a rear section; a hydrofoil interconnected with the surfboard-shaped flotation device, the hydrofoil having a strut and a first hydrofoil wing, an upper end of the strut being fixedly interconnected with the surfboard-shaped flotation device; a propulsion system attached to the surfboard-shaped flotation device for propelling the watercraft in a body of water, the propulsion system comprising a battery, an electric motor, a motor speed controller, and a propulsor, wherein the propulsor is selected from a propeller, a ducted propeller, or a pump-jet, and the battery and motor speed controller are contained in a watertight compartment integrated into the flotation device; the watercraft having no movable steering system; a handheld controller having a throttle; and a throttle interface, wherein the throttle is adapted to send electronic signals to the throttle interface that cause an output of the propulsion system to change.

17. A watercraft in accordance with claim 16 , wherein the hydrofoil comprises a plurality of hydrofoil wings including the first hydrofoil wing and a second hydrofoil wing, the first and second hydrofoil wings being connected by way of a strut.

18. A watercraft in accordance with claim 16 , wherein the watercraft comprises a cooling system for cooling the electric motor.

19. A watercraft in accordance with claim 16 , wherein the strut has an internal passage and electrical wires extend from the electric motor to the watertight compartment inside the strut through the internal passage for controlling electric motor.

20. A watercraft in accordance with claim 16 , wherein the handheld controller comprises a wireless transmitter operatively coupled to the throttle and the throttle interface includes a receiver, the transmitter being adapted to send wireless signals to the receiver in response to actuation of the throttle that cause an output of the propulsion system to change.

Original

## Families

Display in a list (/api/control?client=&familiesSearch=_) INPADOC

This section contains all family relations of this particular document. For more information about the different families, refer to the User Manual (Glossary/Families).

| Extended (6) Priority date/claims | Complete (2) Priority date/claims | Main (2) Priority date/claims | Domestic (2) Priority date/claims | Publication number | Application number | Title | Status |
|---|---|---|---|---|---|---|---|

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 2014-10-08<br><br>US14509289<br>US15064521<br>US15429535<br>US61889071 | 2017-02-10<br><br>US14509289<br>US15064521<br>US15429535<br>US61889071 | 2017-02-10<br><br>US14509289<br>US15064521<br>US15429535<br>US61889071 | 2017-02-10 | ☐ | US20170283015A1 | US15429535 | POWERED HYDROFOIL BOARD | Filed |
| | 2016-03-08<br><br>US14509289<br>US15064521<br>US61889071 | 2016-03-08<br><br>US14509289<br>US15064521<br>US61889071 | 2016-03-08 | ☐ | US9586659B2 | US15064521 | Powered hydrofoil board | Granted |
| | | | | ☐ | US20160185430A1 | US15064521 | Powered Hydrofoil Board | Granted |
| | 2014-10-08<br><br>US14509289<br>US61889071 | 2014-10-08<br><br>US14509289<br>US61889071 | 2014-10-08 | ☐ | US9359044B2 | US14509289 | Weight-shift controlled personal hydrofoil watercraft | Granted |
| | | | | ☐ | US9278729B2 | US14509289 | Weight-shift controlled personal hydrofoil watercraft | Granted |
| | | | | ☐ | US20150104985A1 | US14509289 | WEIGHT-SHIFT CONTROLLED PERSONAL HYDROFOIL WATERCRAFT | Granted |

Description

## CROSS-REFERENCE TO RELATED APPLICATION

[0001] This application is a continuation of U.S. Ser. No. 14/509,289, filed Oct. 8, 2014, which claims priority to U.S. Provisional Patent Application Ser. No. 61/889,071, filed Oct. 10, 2013, the contents of which are incorporated herein in their entireties.

## FIELD OF THE INVENTION

[0002] The present invention relates to personal watercraft; specifically, an electrically powered hydrofoil surfboard that is controlled by weight shift.

## BACKGROUND OF THE INVENTION

[0003] Hydrofoils have been used on surfboards (U.S. Pat. No. 5,062,378 A, Bateman; U.S. Pat. No. 3,747,138, Morgan; U.S. Pat. No. 7,144,285 B1, Tareah), sailboards (U.S. Pat. No. 4,508,046 Shannon), water skis (U.S. Pat. No. 7,232,355, Woolley), and devices for swimmers (U.S. Pat. No. 2,931,332, Hebrank) as well as ships and boats (e.g. U.S. Pat. No. 3,227,123 A Voigt). The purpose of hydrofoils on surfboards is typically to enable higher speeds and to lift the surfboard above the choppy, turbulent surface of the water, thus enabling surfing on larger waves. On sailboards and kiteboards, hydrofoils enable higher speeds; and on water skis hydrofoils enable new forms of trick skiing.

[0004] Powered surfboards have been developed for reducing the effort required in paddling (U.S. Pat. No. 7,731,555 B2 Railey) and as personal watercraft (U.S. Pat. No. 6,702,634 B2 Jung, U.S. Pat. No. 3,262,413 A Bloomingdale et al., U.S. Pat. No. 6,192,817 B1 Dec, U.S. Pat. No. 4,971,586 A Walsh, U.S. Pat. No. 4,274,357 A Dawson). A particularly well-designed example of this type is the Jet-Surf (http://www.jet-surf.es). However, significant power is required to achieve speeds typical of surfing (up to ten horsepower to achieve thirty miles per hour), precluding the use of battery-powered motors for operationally useful periods.

[0005] A major factor that distinguishes surfboards from other watercraft is that control (both speed and directional) is affected via weight shift rather than by moveable surfaces (such as rudders) or thrust vectoring. Indeed, other methods of transport (skateboards and snowboards) also rely heavily on weight shift, and this method of control is central to the experience of surfing, snowboarding, and skateboarding.

[0006] An electrically powered hydrofoil device is described in Chen (U.S. Pat. No. 7,047,901 B2). The watercraft in that disclosure has two main disadvantages. First, the device in Chen requires a stabilizing component that controls the depth of the hydrofoil. Second, a steering mechanism is used for directional control. Therefore it does not (and cannot) accurately mimic the experience of surfing or snowboarding.

[0007] A need therefore exists for a personal watercraft that provides improved control and performance while providing a "surfing feel." In addition, this personal watercraft should be mechanically simple, easy to transport, and easy to maintain.

## SUMMARY OF THE INVENTION

[0008] Embodiments of the present invention improve upon the powered surfboard by incorporating a hydrofoil. The hydrofoil greatly reduces the power required to travel at "fun" speeds (ranging from twenty to thirty miles per hour, but can be higher or lower depending on the user), so that a battery-powered electric motor (rather than an internal combustion engine) can be used to power the propulsion system. This results in reduced noise and vibration as well as reduced environmental impact.

[0009] Embodiments of the present invention also improve upon the powered hydrofoil surfboard. The hydrofoil of the present invention has been designed to provide passive stability in the longitudinal direction, making traditional altitude control systems based on moveable surfaces unnecessary. Further, both longitudinal and directional control of the board is via weight shift, so that riding the board is similar in feel to surfing or snowboarding, and the lack of a mechanical steering system makes the craft lighter, reduces parts count, and reduces the likelihood of a mechanical failure. Speed control is provided through a combination of throttle and weight shift.

[0010] The prior art in powered hydrofoil surfboards have all relied on moveable surfaces for control, and have ignored the possibility of designing the hydrofoil for passive static stability. The watercraft of the present invention is specifically designed to achieve desired levels of stability and controllability without the need for moveable surfaces. This is done through a combination of airfoil design, planform design, and tailoring the span-wise twist distribution to achieve desired outcomes.

[0011] Specific hydrofoils can be designed for different purposes: a larger foil results in lower speeds, more suitable for training; smaller foils operate at higher speeds for more advanced user; and tuning of the specific profile, twist, and dihedral can also be used to tailor the board to the user. A fixed canard or horizontal tail surface can also be added to further improve passive longitudinal stability as a training aid while still requiring the use of weight shift for control. A fixed vertical tail can be added to improve lateral stability as a training aid while still requiring the use of weight shift for control.

## BRIEF DESCRIPTION OF THE DRAWINGS

[0012] FIG. 1 is a perspective view of a personal hydrofoil watercraft in accordance with the present invention;

[0013] FIG. 2 is an exploded perspective view showing one embodiment of the hydrofoil and propulsion system assembly;

[0014] FIG. 3 is a perspective view from underneath a personal hydrofoil watercraft in accordance with the present invention;

[0015] FIG. 4 is an exploded perspective view showing an alternate embodiment of the hydrofoil and propulsion system assembly;

[0016] FIG. 5 is a perspective view from underneath a personal hydrofoil watercraft with the hydrofoil and propulsion system of FIG. 4;

[0017] FIG. 6 is a perspective view of an embodiment of the hydrofoil and propulsion system as an integrated body;

[0018] FIG. 7 is a perspective view from underneath a personal hydrofoil watercraft with the hydrofoil and propulsion system of FIG. 6;

[0019] FIG. 8 shows perspective views of alternate examples of hydrofoil planform designs;

[0020] FIG. 9 is a schematic illustrating hydrofoil flow definitions; and

[0021] FIG. 10 is a schematic showing hydrofoil geometry parameters

## DETAILED DESCRIPTION OF THE INVENTION

[0022] Referring to FIG. 1, a perspective view of a hydrofoil watercraft **100** in accordance with an embodiment of the present invention is shown. Watercraft **100** may include a flotation board **101**, a hydrofoil **102** spaced below the flotation board, a strut **103** connecting the hydrofoil to the board, a propulsion system **104**, an electric motor **105**, a battery **106**, a motor speed controller **107**, a throttle system **108**, a throttle interface **109**, and a spring-loaded trigger **110**.

[0023] The flotation board **101** of FIG. 1 is similar to those used in surfing or sailboarding. In the illustrated embodiment, the flotation board has a fore-aft length L that is greater than its lateral width W. Generally, the ratio of lateral width W to length L may be between 0.2 and 0.5. The length L will generally be in the range of 5 to 8 feet and the width W will generally be in the range of 1.5 to feet. The primary function of the flotation board is to provide flotation at low speeds, and it is preferentially configured with a flat upper surface to allow an adult human to lie prone, sit, kneel or stand on it and an opposed bottom surface facing the water. The lower surface may be almost flat to permit good hydroplaning.

[0024] The flotation board **101** can be made of foam, fiber-reinforced epoxy (using glass, carbon, or Kevlar fibers), or other suitable materials known to those of skill in the art. It may have a watertight compartment defined therein to contain the battery **106**, motor speed controller **107** and throttle interface **109**. The flotation board **101** provides an attachment structure for attaching the strut **103**. The attachment structure may be a releasable mechanism to permit easy assembly and dis-assembly for transport. The flotation board **101** may be said to have a forward section F at the front end, a rear section R at the rear end and a middle section M intermediate the front and rear ends. Element M may also represent a midpoint that is halfway between the front and rear ends. As shown, the strut **103** is connected to the flotation board between the middle section M and the rear section R. The connection is behind the midpoint M and centered side to side. A throttle cable may connect the throttle module **108** to the throttle interface **109** or wireless communication may be provided between the throttle module **108** and throttle interface **109**. In an alternate arrangement, the batteries **106** may be contained in the strut **103** or embedded in the hydrofoil **102**. Each configuration has advantages and disadvantages ranging from ease of access for charging (in the case of a compartment in the flotation board) to reduction in the length of wires needed to connect the battery to the motor (in the case of containment in the strut or hydrofoil).

[0025] The strut **103** can be made of extruded aluminum, fiber-reinforced epoxy (using glass, carbon, or Kevlar fibers), or other suitable materials known to those of skill in the art. As shown, the strut is streamlined in cross-section to minimize drag. The strut may be constructed so as to allow passage of electrical wires from the motor speed controller **107** to the electric motor **105**, such as inside or attached to the strut. The primary function of the strut is to rigidly connect the hydrofoil **102** at a fixed distance H from the board **101**. The distance H will generally be in the range of 1 to 4 feet. In an alternative embodiment, more than one strut may be used or the strut may be shaped differently than shown.

[0026] The hydrofoil **102** of FIG. 1 is specifically designed to be statically stable in the longitudinal degrees of freedom via a combination of airfoil design, planform design and span-wise twist distribution. The hydrofoil **102** has a wingspan S (see FIG. 2). The wingspan will generally be in the range of 1 to 4 feet. It is also designed to be stable in sideslip ("weathercock stability") either via planform design or via the addition of small vertical foils (winglets or fins). In some cases it may be advantageous to add a fixed canard or horizontal tail to further enhance static longitudinal stability (for example, for training purposes). The fixed distance H (see FIG. 2) of the strut **103** may be greater than the wingspan S of the hydrofoil **102** so that the hydrofoil remains fully submerged even when the user is leaning to turn.

[0027] The propulsion system **104** (discussed in more detail below) may comprise a ducted propeller or pump-jet, or may be of another type. The propulsion system is driven by the electric motor **105**.

[0028] The electric motor **105** is connected to the motor speed controller **107** using wires sized to carry the required voltage and current. The motor speed controller **107** may include other functionality such as a low-voltage alarm or other protective circuitry for the battery **106**; alternately, such circuitry may be included in the throttle interface **109**. The main function of the throttle interface is to connect the motor speed controller **107** to the throttle module **108**.

[0029] The throttle module **108** may be a hand-held device with a spring-loaded trigger **110** (so the throttle disengages automatically when it is released). Pulling or depressing the trigger causes the motor to turn a propeller or impeller in the propulsion system **104**, with motor speed being proportional to the degree the trigger is pulled or depressed. The throttle module communicates the degree of trigger pull/depression to the throttle interface **109** via a cable or wirelessly. The throttle module may take other forms, such as being operated by other body parts.

[0030] The throttle interface **109** may in addition include circuitry and connections to permit charging of the battery **106**. This would include battery protection circuits. The throttle interface may also include a means to display battery information to the user (for example, via LEDs to indicate charge state). Alternately, such information may be displayed on the throttle module **108**.

[0031] To operate the watercraft **100**, a user initially lies prone on the flotation board **101**. The throttle is engaged, causing the craft to accelerate. As the craft gains speed the user may move to a kneeling or standing position. As the craft further gains speed the hydrofoil generates sufficient lift to raise the board above the water. The user controls altitude of the board by leaning back (to go up) and forward (to go down). The user can steer left

or right by leaning in the appropriate direction. Releasing the throttle causes the motor to stop, reducing speed. The watercraft **100** may have other safety devices and features which causes the electric motor **105** to stop when the rider falls off the flotation board **101**. These devices may monitor the presence of a user on the flotation board **101**.

[0032] FIG. 2 shows an exploded perspective view of one embodiment of the hydrofoil **102**, strut **103**, propulsion system **104**, and electric motor **105**. The electric motor **105** and propulsion system **104** are integrated into a waterproof, streamlined pod **201** that is designed to be embedded in the hydrofoil **102**. The pod **201** also defines the lower end of the strut **103**. The streamlined pod performs two main structural functions: it transmits propulsion forces to the strut **103** and it transmits lift forces from the hydrofoil **102** to the strut **103**. It may also contain provisions for cooling the electric motor **105**. The pod **201** is connected to the hydrofoil **102** either by a fitting (so that the hydrofoil can be easily removed) or it is integrally manufactured with the hydrofoil **102**.

[0033] In its preferential form the electric motor **105** is a high efficiency brushless motor. A gearbox may be provided to ensure that the propeller or impeller of the propulsion system **104** operates over an appropriate range of speeds.

[0034] The strut **103** contains at its upper end a fitting **202** to attach the strut to the flotation board **101** of FIG. 1. This fitting fits into a complementary slot in flotation board **101** and may use one of several methods to attach the strut **103** to the flotation board **101**: examples include bolts, pins, or latches. Any other attachment approach may be used, or the strut and/or foil and/or flotation board may be integrally formed or permanently interconnected.

[0035] FIG. 3 shows a perspective view of the watercraft **100** from below. In its preferred form the propulsion system **104** comprises a propeller **104*a*** and a duct **104*b***. The duct has two purposes: it acts as a propeller guard and it is designed to increase propeller thrust. In an alternate form the propulsion system may comprise a pump-jet.

[0036] FIG. 4 shows an exploded perspective view of an alternative embodiment of the hydrofoil **102**, strut **103**, electric motor **105** and propulsion system **401**. In this embodiment the propulsion system comprises a long duct and may contain a stator assembly. The duct functions both as a guard for the propeller (shown in FIG. 3) and to improve hydrodynamic efficiency. A stator (not shown) aft of the propeller can also be included to improve propulsive efficiency. In this embodiment the electric motor **105** is enclosed in a streamlined pod embedded in the propulsion system. In the embodiment of FIG. 4, the propulsion system is mounted below the hydrofoil **102**. FIG. 5 shows a perspective view of the watercraft **100** from below with the propulsion system **401** mounted below the hydrofoil **102**.

[0037] FIG. 6 shows a perspective view of an alternative embodiment of the hydrofoil **102**, strut **103**, and propulsion system **601**. In this embodiment the propulsion system is integrated in the hydrofoil so that the inlet is at or near the forward (leading) edge of the hydrofoil and the outlet is at or near the rear (trailing) edge of the hydrofoil. As in the embodiments of FIG. 2, FIG. 3, FIG. 4 and FIG. 5, the propulsion system comprises a duct, a propeller, electric motor, and may include a stator.

[0038] FIG. 7 shows a perspective view of the watercraft **100** from below with the propulsion system of FIG. 6 integrated in the hydrofoil.

[0039] FIG. 8 shows perspective views of alternative embodiments of the hydrofoil planform. Hydrofoil **801** includes a fixed canard that increases stability (suitable for training). Note that this canard is fixed, not movable: control still occurs through weight shift. Hydrofoil **102** is shown in earlier drawings, and can be considered a baseline "all around" hydrofoil (suitable for a wide range of abilities). Foils **802** and **803** are progressively higher performance, permitting higher speeds and/or greater maneuverability. Foil **803** includes winglets, which increase directional stability and decrease drag. Foil **804** includes a horizontal tail, which improves longitudinal stability (similar to **801**, it is suitable for training). Foil **805** includes both a horizontal tail and a vertical tail, improving longitudinal stability and directional stability (suitable for training). These tails may be considered a secondary hydrofoil. Note that other versions of the hydrofoil are possible: the key is designing the hydrofoil for passive static stability via planform design, airfoil design, and span-wise twist distribution.

[0040] Preferred embodiments of the present invention provide a hydrofoil watercraft with a fixed hydrofoil connected to a flotation board by one or more struts, with the fixed hydrofoil having no movable or adjustable surfaces. No movable hydrofoil is provided, but secondary hydrofoils on one or more struts (as shown in **801**, **804**, and **805**) may be included. Additionally, no movable steering system is provided, as the watercraft is maneuvered by weight shifts.

[0041] This invention exploits passive stability to obviate the necessity for mechanisms or active control systems to provide stability. This passive stability allows the watercraft to be controlled by weight shift rather than by mechanical systems. FIG. 9 and FIG. 10 show the hydrofoil flow definitions and hydrofoil geometry parameters respectively. For the hydrofoil, longitudinally trimmed motion occurs when the total pitching moment is zero. This trim condition is stable if a disturbance results in a restoring moment that returns the hydrofoil to its original condition. The pitching moment coefficient can be written as $C_m=C_{m0}+C_{m\alpha}\alpha+C_{mQ}Q$ where $C_{m0}$ is the pitching moment coefficient at zero angle of attack and zero pitch rate, $C_{m\alpha}$ is the derivative of pitching moment coefficient with respect to angle of attack (called pitch stiffness), $\alpha$ is the angle of attack (the angle between the flow direction and the chord of the hydrofoil), $C_{mQ}$ is the derivative of pitching moment coefficient with respect to pitch rate (called pitch damping), and Q is the pitch rate. To ensure a trimmable, stable hydrofoil, the following conditions must be true: $C_{m0}>0$, $C_{m\alpha}<0$, $C_{mQ}<0$. This is achieved with a combination of airfoil selection, hydrofoil sweep and span-wise twist. The exact ratios of wing sweep and twist are dependent on the degree of stability desired and are also affected by the pitching moment characteristics of the airfoil. The derivative $C_{mQ}$ determines the "quickness" of the longitudinal response. Typically it will lie between −2 and −20, with more negative values leading to a "sluggish" feel. In the steady state (when Q=0) the angle of attack (and thus speed) at which trim occurs is a function of $C_{m0}$ and $C_{m\alpha}$.

[0042] $$\alpha_{trim} = -\frac{C_{m0}}{C_{m_\alpha}}$$

$C_{m0}$ is defined entirely by hydrofoil design parameters; $C_{m\alpha}$ is defined by a combination of hydrofoil design parameters and the location of the center of gravity: this is the means by which weight shift enables longitudinal control of the hydrofoil watercraft.

[0043] Similarly for lateral motion, trim occurs when the yawing moment and rolling moment are zero. It is further desirable that this occurs at zero sideslip angle, so the hydrofoil "tracks straight" through the water. When the yaw rate is zero, rolling moment coefficient and yawing moment coefficient can be written as $Cl=Cl0+Cl\beta\beta+ClpP$ $Cn=Cn0+Cn\beta\beta+CnpP$ where $C_{l0}$ and $C_{n0}$ are the roll rate and yaw rate at zero slideslip, respectively, $C_{l\beta}$ and $C_{n\beta}$ are the derivatives of roll rate and yaw rate with respect to sideslip angle, respectively, $C_{lp}$ and $C_{np}$ are the derivatives of roll rate and yaw rate with respect to roll rate, respectively. Note that $C_{n\beta}$ is sometimes called weathercock stiffness and $C_{lp}$ is sometimes called roll damping. Trimmable, stable motion at zero sideslip is achieved by ensuring that the following conditions are true: $Cl0=0$ $Cn0=0$ $Cl\beta<0$ $Cn\beta>0$ $Clp<0$ This is achieved through a combination of sweep and dihedral and can also be influenced with the addition of winglets or a fin. The practical upper limit of $C_{n\beta}$ and practical lower limits of $C_{l\beta}$ and $C_{lp}$ are determined by the practicality of hydrofoil design. For example, sweep angles greater that 60 degrees are unlikely to lead to useable designs and twist of greater than 15 degrees is unlikely to lead to useable designs. Given these geometric limits and the subjective judgment of "ride quality" on the part of a user, bounds on the roll and yaw derivatives exist but are not quantifiable to a useful degree of precision.

[0044] Directional control is achieved by the weight shift and the weathercock stability stiffness. Shifting weight to one side causes the watercraft to roll to that side; this causes sideslip in the direction of the weight shift, and the $C_{n\beta}$ term causes the vehicle to turn in the direction of the lean. It should be noted that there is a trade-off between stability and maneuverability. More experienced users generally want a watercraft that is somewhat less stable to provide greater maneuverability. In contrast, less experienced users may want a watercraft that has more stability, and this may be done through appropriate design of the hydrofoil to give the desired stability and maneuverability characteristics.

[0045] As will be clear to those of skill in the art, the herein described embodiments of the present invention may be altered in various ways without departing from the scope or teaching of the present invention. It is the following claims, including all equivalents, which define the scope of the invention.

Original

## Classifications

| IPC | CPC |
|---|---|
| B63B1/24 | B63H21/17 |
| B63B35/79 | B63H21/21 |
| B63H1/16 | B63H5/14 |
| B63H5/14 | B63H11/04 |
| B63H11/04 | B63H1/16 |
| B63H21/17 | B63B32/10 |
| B63H21/21 | B63B32/50 |
| | B63B32/66 |
| | B63B32/40 |
| | B63B32/64 |

## Persons

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## Legal information

**Standardized** Post issuance INPADOC

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| Event | Date | Description |
|---|---|---|
| Granted | 2017-03-07 | GRANTED |
| Filed | 2016-03-08 | FILED |

### Designated states

| Date | Event code | Description |
|---|---|---|

### Ownership




### Payment status

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|---|---|---|---|
| 2020-03-17 | Fee paid | M2551 | PAYMENT OF MAINTENANCE FEE, 4TH YR, SMALL ENTITY. |

## Litigation/Opposition

| Docket number | Docket description | Court | Date Filed |
|---|---|---|---|
| 3:20cv1648 | Mhl Custom, Inc. V. Avante Innovations, Llc | | 2020-08-23 |
| 3:22cv21258 | Mhl Custom Inc V. Foil Boarding Company, Inc. | | 2022-10-20 |
| 1:21cv91 | Mhl Custom, Inc. V. Waydoo Usa, Inc. Et Al | | 2021-01-26 |

Page: 1

## Pharmaceuticals



| Product | Type | Active Ingredient | Applicant | Application No. | Application Type | Approval Date | Patent Expiry Date | Patent usage code | Exclusivity Code | Exclusivity Date | Dosage | Strength | Product Number | Route | RLD | Pa Re |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|

No pharmaceuticals data

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### ☐ POWERED HYDROFOIL BOARD

Publication number US20170283015A1
Publication date 2017-10-05
Application date 2017-02-10

A passively stable personal hydrofoil watercraft that has a flotation device, wherein a user can ride in a prone, kneeling, or standing position. The watercraft includes a strut having an upper end interconnected with the flotation device and lower end connected with a hydrofoil. The hydrofoil greatly reduces the power required to travel at higher speed. The watercraft also includes a propulsion system connected to the hydrofoil. Both longitudinal and directional control of the watercraft is via weight shift, eliminating the need of any movable surfaces. The flotation device, strut, and hydrofoil may be permanently interconnected or may be detachable.

### ☐ Weight-shift controlled personal hydrofoil watercraft

Publication number US9278729B2
Publication date 2016-03-08
Application date 2014-10-08

A passively stable personal hydrofoil watercraft that has a flotation device, wherein a user can ride in a prone, kneeling, or standing position. The watercraft includes a strut having an upper end interconnected with the flotation device and lower end connected with a hydrofoil. The hydrofoil greatly reduces the power required to travel at higher speed. The watercraft also includes a propulsion system connected to the hydrofoil. Both longitudinal and directional control of the watercraft is via weight shift, eliminating the need of any movable surfaces. The flotation device, strut, and hydrofoil may be permanently interconnected or may be detachable.

### ☐ Weight-shift controlled personal hydrofoil watercraft

Publication number US9359044B2
Publication date 2016-06-07
Application date 2014-10-08

A passively stable personal hydrofoil watercraft that has a flotation device, wherein a user can ride in a prone, kneeling, or standing position. The watercraft includes a strut having an upper end interconnected with the flotation device and lower end connected with a hydrofoil. The hydrofoil greatly reduces the power required to travel at higher speed. The watercraft also includes a propulsion system connected to the hydrofoil. Both longitudinal and directional control of the watercraft is via weight shift, eliminating the need of any movable surfaces. The flotation device, strut, and hydrofoil may be permanently interconnected or may be detachable.

### ☐ WEIGHT-SHIFT CONTROLLED PERSONAL HYDROFOIL WATERCRAFT

Publication number US20150104985A1
Publication date 2015-04-16
Application date 2014-10-08

A passively stable personal hydrofoil watercraft that has a floation device, wherein a user can ride in a prone, kneeling, or standing position. The watercraft includes a strut having an upper end interconnected with the flotation device and lower end connected with a hydrofoil. The hydrofoil greatly reduces the power required to travel at higher speed. The watercraft also includes a propulsion system connected to the hydrofoil. Both longitudinal and directional control of the watercraft is via weight shift, eliminating the need of any movable surfaces. The floation device, strut, and hydrofoil may be permanently interconnected or may be detachable.

### ☐ STEERABLE HYDROFOIL WATERCRAFT

Publication number WO2023283274A1
Publication date 2023-01-12
Application date 2022-07-06

A steering system for a hydrofoil watercraft, wherein a user may ride in a seated, prone, kneeling, or standing position while steering the watercraft without the use of his or her body weight. Vertical elevation, left and right roll, and longitudinal direction control of the watercraft is accomplished via steering, resulting in movement of the control surfaces (fins) on the hydrofoil, thus eliminating the need for weight shifting on the flotation device. An electronic remote and/or mounted joystick steering system can be operated either electronically or through direct mechanical linkage to control the direction of the watercraft. The steering system can include an unmanned remote controlled drone hydrofoil watercraft that can be operated remotely.

☐ STEERABLE HYDROFOIL WATERCRAFT

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| Publication number | US20230009310A1 |
| Publication date | 2023-01-12 |
| Application date | 2022-07-06 |

A steering system for a hydrofoil watercraft, wherein a user may ride in a seated, prone, kneeling, or standing position while steering the watercraft without the use of his or her bodyweight. Vertical elevation, left and right roll, and longitudinal direction control of the watercraft is accomplished via steering, resulting in movement of the control surfaces (fins) on the hydrofoil, thus eliminating the need for weight shifting on the flotation device. An electronic remote and/or mounted joystick steering system can be operated either electronically or through direct mechanical linkage to control the direction of the watercraft. The steering system can include an unmanned remote controlled drone hydrofoil watercraft that can be operated remotely.

☐ Personal hydrofoil water craft

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| Publication number | US20020124783A1 |
| Publication date | 2002-09-12 |
| Application date | 2002-01-29 |

A hull-less personal water craft is provided which reduces air, water, noise, and wake pollution over personal water craft presently on the market. The craft includes a strut assembly having forward and rearward ends, with an operator platform attached at the rearward end, and having at least one hydrofoil positioned below the operator platform. A propulsion system is provided, as is a control column which provides the operator interface when the craft operator is kneeling, standing or sitting on the operator platform. The hydrofoil provides substantially all of the lift for the craft when in operation, and the elimination of a hull greatly reduces the power requirements and wake generated by the craft in operation.

☐ A PERSONAL HYDROFOIL WATERCRAFT WITH A CONTROLLABLY ADJUSTABLE CENTER OF GRAVITY

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| Publication number | CA3146763A1 |
| Publication date | 2022-07-27 |
| Application date | 2022-01-26 |

A novel a personal hydrofoil watercraft for being used within a body of water with a controllably adjustable center of gravity is disclosed. The personal hydrofoil watercraft is formed from an enclosed hull having a flotation volume with a seating assembly for accommodating a buttocks of a human rider and with a handle assembly for being held onto by hands of the human rider. The personal hydrofoil watercraft further including a center of gravity shifting assembly for shifting a center of gravity of the personal hydrofoil watercraft through a center of gravity shifting assembly motion platform for shifting a center of gravity of the personal hydrofoil watercraft in one of a bow to stern direction and the bow and stern direction and also in a port and starboard direction. A strut is interconnected with a proximal end releasably coupled with the center of gravity shifting assembly motion platform and a hydrofoil assembly fixedly interconnected with the distal end of the strut with a propulsion system disposed proximate the distal end of the strut for propelling the watercraft in the body of water and for at least a portion of the personal hydrofoil watercraft to lift itself out of the water when in use and for a weight of the personal hydrofoil watercraft to be supported by the hydrofoil assembly disposed below a water surface.

☐ Personal hydrofoil water craft

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|---|---|
| Publication number | US20010007235A1 |
| Publication date | 2001-07-12 |
| Application date | 2001-01-30 |

A hull-less personal water craft is provided which reduces air, water, noise, and wake pollution over personal water craft presently on the market. The craft includes a strut assembly having forward and rearward ends, with an operator platform attached at the rearward end, and having at least one hydrofoil positioned substantially underneath the operator platform at a predetermined distance. A propulsion system is provided at the forward end of the strut, and is operatively coupled to a control column which provides the operator interface when the craft operator is kneeling or standing on the operator platform. The hydrofoil provides substantially all of the lift for the craft when in operation, and the elimination of a hull greatly reduces the power requirements and wake generated by the craft in operation.

☐ Personal hydrofoil water craft

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|---|---|
| Publication number | US6178905B1 |
| Publication date | 2001-01-30 |
| Application date | 1998-10-23 |

A hull-less personal water craft is provided which reduces air, water, noise, and wake pollution over personal water craft presently on the market. The craft includes a strut assembly having forward and rearward ends, with an operator platform attached at the rearward end, and having at least one hydrofoil positioned substantially underneath the operator platform at a predetermined distance. A propulsion system is provided at the forward end of the strut, and is operatively coupled to a control column which provides the operator interface when the craft operator is kneeling or standing on the operator platform. The hydrofoil provides substantially all of the lift for the craft when in operation, and the elimination of a hull greatly reduces the power requirements and wake generated by the craft in operation.

Neutral
As of: August 21, 2023 10:40 AM Z

# MHL Custom, Inc. v. Waydoo USA, Inc.

United States District Court for the District of Delaware

February 2, 2023, Decided; February 3, 2023, Filed

Civil Action No. 21-0091-RGA

**Reporter**
2023 U.S. Dist. LEXIS 19476 *; __ F.Supp.3d __

MHL CUSTOM, INC., Plaintiff, v. WAYDOO USA, INC. and SHENZHEN WAYDOO INTELLIGENCE TECHNOLOGY CO., LTD., Defendants.

**Prior History:** MHL Custom, Inc. v. Waydoo USA, Inc., 2022 U.S. Dist. LEXIS 111958, 2022 WL 2290860 (D. Del. June 24, 2022)

## Core Terms

stability, ***patent***, static, stable, watercraft, specification, preamble, hydrofoil, dynamic, invention, products, summary judgment, infringement, flotation, passive, invalid, surface, written description, argues, parties, discloses, recites, anticipated, skill, non-infringement, genuine issue of material fact, summary judgment motion, original condition, weight-shift, eigenvalue

**Counsel:** **[*1]** For Plaintiff: Blake A. Bennett, COOCH AND TAYLOR, P.A., Wilmington, DE; Dennis D. Murrell, Robert J. Theuerkauf (argued), Brian P. McGraw (argued), Megan E. Gibson, MIDDLETON REUTLINGER, Louisville, KY.

For Defendants: Kelly E. Farnan, Dorronda R. Bordley, RICHARDS, LAYTON & FINGER, P.A., Wilmington, DE; Edgar H. Haug, Robert E. Colletti (argued), Mark Basanta, Roman Khasidov, HAUG PARTNERS LLP, New York, NY.

**Judges:** Richard G. Andrews, United States strict Judge.

**Opinion by:** Richard G. Andrews

## Opinion

**MEMORANDUM OPINION**

/s/ Richard G. Andrews

**ANDREWS, UNITED STATES DISTRICT JUDGE:**

Before me are Plaintiff MHL Custom's ("MHL") and Defendants Waydoo USA's and Shenzhen Waydoo Intelligence Technology's (collectively, "Waydoo") motions for partial summary judgment. The parties have fully briefed the motions. (D.I. 80, 83, 91, 93, 101, 106). I heard oral argument on January 4, 2023.

**I. BACKGROUND**

Plaintiff alleges that Defendants infringe two of Plaintiff's ***patents***. Those ***patents*** are U.S. ***Patent*** Nos. 9,359,044 (the, "'044 ***Patent***") and ***9,586,659*** (the, "'659 ***Patent***") (collectively, the "Asserted ***Patents***"). The Asserted ***Patents*** relate to a personal hydrofoil watercraft. The Asserted ***Patents*** share a common specification.

Plaintiff asserts that Defendants' products infringe all claims **[*2]** of the '044 ***Patent*** (claims 1-22) and '659 ***Patent*** (claims 1-20). Defendants counterclaimed. (D.I. 13). The parties agree claim 1 of the '044 ***Patent*** and claims 1 and 16 of the '659 ***Patent*** are representative of the other claims for purposes of the pending motions.[1]

Plaintiff has moved for summary judgment of (1) direct infringement of claim 1 of the '044 ***Patent***, (2) the '044 ***Patent*** and '659 ***Patent*** are not anticipated, and (3) Plaintiff has standing. (D.I. 77, 78, 79). Defendants have moved for summary judgment of (1) claims 16-20 of the '659 ***Patent*** are invalid for lack of written description, (2) non-infringement of the '044 ***Patent***, and (3) non-

[1] These three claims are the independent claims in the two ***patents***. For purposes of the pending motions, Parties agree that the other elements of the dependent claims are met and only dispute as to whether all the claim elements as listed in the three independent claims are infringed by Defendants' products.

infringement of claims 1-15 of the '659 ***Patent***. (D.I. 81).

## II. LEGAL STANDARD

"The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." *Fed. R. Civ. P. 56(a)*. Material facts are those "that could affect the outcome" of the proceeding. *Lamont v. New Jersey, 637 F.3d 177, 181 (3d Cir. 2011)* (quoting *Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986)*). "[A] dispute about a material fact is 'genuine' if the evidence is sufficient to permit a reasonable jury to return a verdict for the nonmoving party." *Id.* The burden on the moving party may be discharged by pointing out to the district court that there is an absence of evidence supporting the non-moving party's case. **[*3]** *Celotex Corp. v. Catrett, 477 U.S. 317, 323, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986)*.

The burden then shifts to the non-movant to demonstrate the existence of a genuine issue for trial. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87, 106 S. Ct. 1348, 89 L. Ed. 2d 538 (1986)*; *Williams v. Borough of West Chester, 891 F.2d 458, 460-61 (3d Cir. 1989)*. A non-moving party asserting that a fact is genuinely disputed must support such an assertion by: "(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations . . . , admissions, interrogatory answers, or other materials; or (B) showing that the materials cited [by the opposing party] do not establish the absence . . . of a genuine dispute . . . ." *Fed. R. Civ. P. 56(c)(1)*. The non-moving party's evidence "must amount to more than a scintilla, but may amount to less (in the evaluation of the court) than a preponderance." *Williams, 891 F.2d at 460-61*.

When determining whether a genuine issue of material fact exists, the court must view the evidence in the light most favorable to the non-moving party and draw all reasonable inferences in that party's favor. *Scott v. Harris, 550 U.S. 372, 378, 127 S. Ct. 1769, 167 L. Ed. 2d 686 (2007)*; *Wishkin v. Potter, 476 F.3d 180, 184 (3d Cir. 2007)*. If the non-moving party fails to make a sufficient showing on an essential element of its case with respect to which it has the burden of proof, the moving party is entitled to judgment as a matter of law. *See Celotex, 477 U.S. at 322*.

## III. DISCUSSION

### A. INFRINGEMENT OF CLAIMS 1-15 OF THE '659 *PATENT*

Defendants **[*4]** have moved for summary judgment on non-infringement of claims 1-15 of the '659 ***Patent*** (D.I. 80 at 20-26; D.I. 83 at 29-32). The dispute focuses on whether Defendants infringe claim 1 of the '659 ***Patent***. Claims 2-15 depend on claim 1. The claim reads as follows:

> 1. A passively stable, weight-shift controlled personal hydrofoil watercraft, comprising:
> a flotation device that has a fore-aft length greater than a lateral width, the flotation device having a top surface and a bottom surface, wherein a user can be disposed on the top surface of the flotation device in a prone, kneeling, or standing position, the flotation device having a forward section, a middle section, and a rear section;
> a strut having a upper end and a lower end, the upper end fixedly interconnected with the flotation device between the middle section and the rear section of the flotation device;
> a hydrofoil fixedly interconnected with the lower end of the strut, the hydrofoil having no movable surface;
> a propulsion system for propelling the watercraft in a body of water, wherein the propulsion system is connected to the hydrofoil; and
> the watercraft having no movable steering system.

('659 ***Patent***, cl. 1). The parties agree that the preamble of the '659 ***Patent***—A passively **[*5]** stable, weight-shift controlled personal hydrofoil watercraft—is limiting. (D.I. 83 at 30; D.I. 91 at 41). The parties dispute whether the "stable" aspect of the limitation is met. (D.I. 83 at 29-32; D.I. 91 at 43-45).

There are two issues to this dispute.

The first issue is whether "stable" includes both static stability — having an initial tendency to return to an original condition when disturbed — and dynamic stability — eventually returning to an original condition when disturbed. (D.I. 60-2, Ex. B at 602). Defendants argue both are included; Plaintiff, only static stability. I previously construed this term to have its plain and ordinary meaning but permitted the parties to readdress the issue at this stage of the case. (D.I. 66 at 9). Because there is a dispute over the scope of the claim

term, I must construe the term before addressing the question of infringement. *O2 Micro Int'l Ltd. v. Beyond Innovation Tech. Co., 521 F.3d 1351, 1361 (Fed. Cir. 2008)* ("A determination that a claim term 'needs no construction' or has the 'plain and ordinary meaning' may be inadequate . . . when reliance on a term's 'ordinary' meaning does not resolve the parties' dispute.").

The second issue is whether Defendants infringe the stability limitation as construed.

**1. Claim Construction [*6]**

"It is a bedrock principle of ***patent*** law that the claims of a ***patent*** define the invention to which the patentee is entitled the right to exclude." *Phillips v. AWH Corp., 415 F.3d 1303, 1312 (Fed. Cir. 2005)* (en banc) (internal quotation marks omitted). "'[T]here is no magic formula or catechism for conducting claim construction.' Instead, the court is free to attach the appropriate weight to appropriate sources 'in light of the statutes and policies that inform ***patent*** law.'" *SoftView LLC v. Apple Inc., 2013 U.S. Dist. LEXIS 125893, 2013 WL 4758195, at *1 (D. Del. Sept. 4, 2013)* (quoting *Phillips, 415 F.3d at 1324*) (alteration in original). When construing ***patent*** claims, a court considers the literal language of the claim, the ***patent*** specification, and the prosecution history. *Markman v. Westview Instruments, Inc., 52 F.3d 967, 977-80 (Fed. Cir. 1995)* (en banc), *aff'd, 517 U.S. 370, 116 S. Ct. 1384, 134 L. Ed. 2d 577 (1996)*. Of these sources, "the specification is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term." *Phillips, 415 F.3d at 1315* (internal quotation marks omitted).

"[T]he words of a claim are generally given their ordinary and customary meaning. . . . [Which is] the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the ***patent*** application." *Id. at 1312-13* (citations and internal quotation marks omitted). "[T]he ordinary meaning **[*7]** of a claim term is its meaning to [an] ordinary artisan after reading the entire ***patent***." *Id. at 1321* (internal quotation marks omitted). "In some cases, the ordinary meaning of claim language as understood by a person of skill in the art may be readily apparent even to lay judges, and claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood words." *Id. at 1314*.

When a court relies solely upon the intrinsic evidence—the ***patent*** claims, the specification, and the prosecution history—the court's construction is a determination of law. *See Teva Pharms. USA, Inc. v. Sandoz, Inc., 574 U.S. 318, 331, 135 S. Ct. 831, 190 L. Ed. 2d 719 (2015)*. The court may also make factual findings based upon consideration of extrinsic evidence, which "consists of all evidence external to the ***patent*** and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises." *Phillips, 415 F.3d at 1317-19* (internal quotation marks omitted). Extrinsic evidence may assist the court in understanding the underlying technology, the meaning of terms to one skilled in the art, and how the invention works. *Id.* Extrinsic evidence, however, is less reliable and less useful in claim construction than the ***patent*** and its prosecution history. *Id.*

Defendants argue that "stable" **[*8]** should mean being statically stable and dynamically stable. Defendants cite to the ***patent*** specification and textbooks for support that a person of ordinary skill in the art ("POSA") would read "stable" to require static and dynamic stability. (D.I. 83 at 4-7).

Plaintiff argues that "stable" should be interchangeable with statically stable or having static stability, and therefore, does not require that the watercraft have dynamic stability. (D.I. 91 at 22). Plaintiff cites to their expert, Mr. Barry, for support that 'stable' and 'static stability' are 'commonly used interchangeably with respect to aircraft and hydrofoil stability.' (D.I. 91 at 18 (citing D.I. 80-31, ¶ 12)). Mr. Barry also expressed an opinion that the ***patent*** uses the terms interchangeably. (*Id.* at 19).

I agree with Defendants that "stable" should mean having both static stability and dynamic stability. I previously rejected Plaintiff's argument that "stable" and "static stability" could be used interchangeably. (D.I. 66 at 9). Plaintiff has not provided compelling intrinsic or extrinsic evidence to convince me to deviate from my initial view. Furthermore, the ***patent*** specification recites, "This trim condition is stable **[*9]** if a disturbance results in a restoring moment that returns the hydrofoil to its original condition." ('659 ***Patent***, col. 6:14-16). The hydrofoil returning to its original condition is a description of dynamic stability, not static stability. Therefore, the ***patent*** specification indicates that stable and statically stable (or static stability) are not interchangeable.

Therefore, I will construe "A passively stable, weight-

shift controlled personal hydrofoil watercraft" to mean "a weight-shift controlled personal watercraft having a hydrofoil that does not have any moveable components and which, when disturbed, (1) has an initial tendency to return to its original condition and (2) eventually returns to its original condition."[2]

**2. Non-Infringement by the Accused Products**

The remaining issue is whether the accused products have static stability and dynamic stability. Defendants argue that their products are dynamically unstable (or lack dynamic stability) and Plaintiff has provided no evidence to show the accused products are dynamically stable. Thus, Defendants argue there is no genuine issue of material fact that precludes summary judgment that the accused products do not infringe claims 1-15 of the **[*10]** '659 ***Patent***.

Defendants contend that the only evidence Plaintiff has that shows Defendants' products are dynamically stable are "eigenvalue" analyses of some of the accused products. (D.I. 83 at 31). The parties agree that this type of analysis can be used to assess whether a watercraft is dynamically stable. (D.I. 83 at 31; D.I. 91 at 43). "If an eigenvalue analysis reports a positive 'sigma value,' it indicates that [a watercraft] is unstable." (D.I. 83 at 3). Defendants assert, because "[a]ll of Mr. Barry's eigenvalue analyses for [Defendants'] products report positive sigma values," Plaintiff's own expert shows conclusively that Defendants' products do not have dynamic stability. (D.I. 83 at 32).

Plaintiff argues that Defendants are not entitled to summary judgment because there still exists a genuine issue of material fact as to whether Defendants' products are dynamically stable. Plaintiff cites to Mr. Barry's deposition where he testified that he did not believe his analyses showed the products were dynamically unstable. (D.I. 91 at 44). Plaintiff contends that: (1) while Mr. Barry's eigenvalue analysis showed the watercrafts to be dynamically unstable, the results were "close" to showing **[*11]** dynamic stability, and (2) when Mr. Barry viewed the accused products operating in the real world, he concluded that they were dynamically stable, notwithstanding the eigenvalue analysis. (*Id.; see* D.I. 85-1, Ex. 6, 402:8-403:23 (stating positive eigenvalues did not indicate dynamic instability in part because the software was "an approximation" and did not account for all effects)). Plaintiff, therefore, argues that the eigenvalue analysis is not conclusive when considering Mr. Barry's testimony and other analyses.

Plaintiff also relies on Mr. Barry's statements that the Athena Vortex Lattice (AVL) software he used to analyze the stability of the watercrafts understated the stability of the accused products.[3] Mr. Barry stated that the AVL software does not account for additional stabilizing factors that "exist once the effect of the water in which the hydrofoil is operating in is considered," such as "damping, free surface, added mass, and viscosity". (D.I. 91 at 44; *see, e.g.*, D.I. 80-33, Ex. 31, ¶¶ 23 (free surface), 55 (damping, added mass and viscosity effects)). Therefore, Plaintiff contends that Mr. Barry's testimony about his different analyses and his conclusions raises a genuine **[*12]** dispute as to whether the accused products are dynamically stable.

I agree with Plaintiff that there is a genuine dispute whether the accused products are dynamically stable. Defendants are correct that the eigenvalue analyses of the watercrafts show at least one positive sigma value for each product analyzed, which Plaintiff does not dispute, indicating dynamic instability. Those analyses, however, are not the only evidence in the record. The record also includes testimony by Mr. Barry, in which he concludes that the watercraft are dynamically stable based on analyzing the stability derivatives using the AVL software and observation of the watercraft in the real world. (D.I. 91 at 44; *see, e.g.*, D.I. 80-33, ¶¶ 26-28, 53-55). Taking the evidence in the light most favorable to Plaintiff, as I am required to do, I determine that a reasonable jury could conclude that the accused products have dynamic stability and therefore do infringe.

Therefore, I will deny summary judgment of infringement of claims 1-15 of the '659 ***Patent***.

**B. INFRINGEMENT OF THE '044 *PATENT***

The parties have cross-moved for summary judgment on infringement of claims 1-22 of the '044 ***Patent*** (D.I. 80 at 20-26; D.I. 83 at 29-32). The parties agree **[*13]**

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[2] I proposed this construction prior to oral argument. (D.I. 142).

[3] Mr. Barry used the AVL software to analyze the pitch stability derivative, directional stability derivative, and roll stability derivative to assess watercraft stability. Mr. Barry also used the AVL software to analyze the eigenvalues for his eigenvalue analysis. (*See, e.g.*, D.I. 85-1, Ex. 3, ¶¶ 95-96, 155-156)

that whether either side is entitled to summary judgment comes down to whether there is a genuine issue of material fact that Defendants infringe claim 1 of the '044 ***Patent***. The claim reads as follows:

> 1. A passively stable, weight-shift controlled personal hydrofoil watercraft, comprising:
> a flotation device that has a fore-aft length greater than a lateral width, the flotation device having a top surface and a bottom surface, wherein a user can be disposed on the top surface of the flotation device in a prone, kneeling, or standing position, the flotation device having a forward section, a middle section, and a rear section, and the flotation device being controlled via weight shift of the user;
> a strut having an upper end and a lower end, the upper end fixedly interconnected with the flotation device between the middle section and the rear section of the flotation device;
> a hydrofoil fixedly interconnected with the lower end of the strut, the hydrofoil having no movable surface and designed to provide passive static stability controlled solely by weight shift of the user;
>
> a propulsion system for propelling the watercraft in a body of water, wherein the propulsion system is connected to the hydrofoil; **[*14]** and
> the watercraft having no movable steering system.

('044 ***Patent***, cl. 1). There are two disputes at issue here. First, the parties dispute whether the preamble of claim 1 is limiting. Plaintiff argues it is not; Defendants, that it is. Second, the parties dispute whether Defendants' products satisfy the stability limitations of claim 1. Resolving the second issue necessarily depends on the outcome of the first issue.

**1. Whether the Preamble of Claim 1 is Limiting**

As an initial matter, it is proper for me to determine whether the preamble of claim 1 is limiting or not. Plaintiff argues that this is a determination to be left for the jury. (D.I. 91 at 41). Plaintiff is mistaken. Determining the effect of preamble language is a claim-construction issue. *See* *Cochlear Bone Anchored Solutions AB v. Oticon Medical AB, 958 F.3d 1348, 1354 (Fed. Cir. 2020)*. Claim construction and resolving the scope of asserted claims are questions of law left to the court. *See* *Every Penny Counts, Inc. v. American Express Co., 563 F.3d 1378, 1383* (citing *O2 Micro Int'l Ltd. v. Beyond Innovation Tech. Co., 521 F.3d 1351, 1361-62 (Fed. Cir. 2008)*). Therefore, I find it is necessary for me to make this determination now.[4]

"[A]s a general rule preamble language is not treated as limiting." *Aspex Eyewear, Inc. v. Marchon Eyewear, Inc., 672 F.3d 1335, 1347 (Fed. Cir. 2012)*. "Whether to treat a preamble as a limitation is 'determined on the facts of each case in light of the overall form of the claim, and the invention as described in the specification and illuminated **[*15]** in the prosecution history.'" *Deere & Co. v. Bush Hog, LLC, 703 F.3d 1349, 1357 (Fed. Cir. 2012)* (quoting *Applied Materials, Inc. v. Advanced Semiconductor Materials Am., Inc., 98 F.3d 1563, 1572-73 (Fed. Cir. 1996)*). "In general, a preamble limits the invention if it recites essential structure or steps, or if it is necessary to give life, meaning, and vitality to the claim." *Catalina Mktg. Int'l, Inc. v. Coolsavings.com, Inc., 289 F.3d 801, 808 (Fed. Cir. 2002)* (citation and quotation marks omitted). "The preamble may be limiting to the extent it is 'necessary to provide antecedent basis for the body of the claim.'" *Cochlear Bone, 958 F.3d at 1355* (quoting *Symantec Corp. v. Computer Assoc. Int'l, Inc., 522 F.3d 1279, 1288 (Fed. Cir. 2008)*). In addition, the preamble may be limiting when the preamble "is essential to understand limitations or terms in the claim body," recites "additional structure or steps underscored as important by the specification," or there was "clear reliance on the preamble during prosecution to distinguish the claimed invention from the prior art." *Catalina, 289 F.3d at 808*. In other words, there are numerous exceptions to the default rule that a preamble is not limiting.

Plaintiff contends that the preamble is not limiting because there is a presumption against reading a preamble as limiting and this case does not present one of the recognized exceptions to that presumption. Specifically, Plaintiff argues that the "preamble does not: (1) recite essential structure; (2) provide antecedent basis to the claim term at issue; and (3) is not essential to **[*16]** understand limitations or terms in the claim body." (D.I. 91 at 42).

Plaintiff further argues that there was no reliance on the preamble during prosecution. (*Id.* at 43). Plaintiff cites to the fact the preamble was present in the original claim as filed, and the static stability limitation was added to overcome prior art. (D.I. 146 at 2). Plaintiff contends that this shows that neither the inventor nor Examiner relied

[4] While I have construed identical preamble language in the context of claim 1 of the '659 ***Patent*** as limiting, both parties agreed the preamble was limiting in that ***patent***.

on the preamble during prosecution because the addition of the static stability limitation would be unnecessary if the preamble were limiting. (*Id.* at 2).

Defendants argue the preamble should be limiting because claim 1 of the '659 ***Patent***, which is part of the same ***patent*** family and has an identical specification, recites identical language and both parties agree the preamble is limiting in that context. Defendants contend that there is "no technical or legal justification for why identical preambles should be treated differently." (D.I. 83 at 30). Defendants further argue that the preamble "is limiting because it recites an 'essential' element not found in the body of the claim (i.e., dynamic stability)." (D.I. 106 at 15). To put it another way, Defendants argue that the ***patent*** specification **[*17]** "repeatedly defines the invention as an overall stable watercraft," and therefore the preamble should be limiting because only the preamble specifies that the invention is dynamically stable. (D.I. 145 at 3).

I agree with Plaintiff that the preamble is not limiting. As an initial matter, I am not aware of any case law that states a preamble must be limiting in one ***patent*** because the identically worded preamble is limiting in another ***patent*** belonging to the same ***patent*** family. Defendants have also not supplied any such case law, despite being given additional time to do so. (D.I. 145 at 1).

The proposed identically-worded-preamble rule is inconsistent with the case law.[5] The Federal Circuit has stated "[w]hether to treat a preamble as a limitation is determined on the facts of each case in light of the overall form of the claim[] and the invention as described in the specification and illuminated in the prosecution history." *Cochlear Bone*, 958 F.3d at 1364 (quoting *Deere & Co.*, 703 F.3d at 1357). I am thus required to analyze the form of claim 1 of the '044 ***Patent***, which has significant differences from the form of claim 1 of the '659 ***Patent***, when determining whether the preamble is limiting. Therefore, I do not believe that the presumption against reading a preamble **[*18]** as non-limiting is overcome just because the same preamble is limiting in claim 1 of the '659 ***Patent***.

I do not find that dynamic stability is an "essential" element that requires the preamble to be limiting. Nor do I think dynamic stability is "underscored as important by the specification." *Catalina*, 289 F.3d at 808. Nowhere in the '044 ***Patent*** is the term "dynamic stability" or "dynamically stable" used.

The '044 ***Patent*** specification does repeatedly describe the invention as being "stable" or having "passive stability," and dynamic stability is a component of those terms. *See* Section III.A.1 *supra*. "But not every preamble reference to additional structure is limiting, even when the structure is noted in the specification—even, indeed, when the structure is 'underscored as important by the specification.'" *Arctic Cat Inc. v. GEP Power Products, Inc.*, 919 F.3d 1320, 1329 (Fed. Cir. 2019) (quoting *Catalina*, 289 F.3d at 808 ("[W]hen reciting additional structure or steps underscored as important by the specification, the preamble may operate as a claim limitation."). Furthermore, even though the specification references the importance of stability, it similarly does so with respect to static stability. *See* '044 ***Patent*** 2:17-20 ("The prior art in powered hydrofoil surfboards have all relied on moveable surfaces for control, **[*19]** and have ignored the possibility of designing the hydrofoil for passive static stability."); 5:50-54 ("Note that other versions of the hydrofoil are possible: the key is designing the hydrofoil for passive static stability via planform design, airfoil design, and span-wise twist distribution."). Therefore, I read the specification as underscoring the importance that the watercraft have static stability.

The body of claim 1 of the '044 ***Patent*** addresses this essential, static stability element of the invention by reciting "a hydrofoil . . . designed to provide passive static stability." ('044 ***Patent***, cl. 1). Because having static stability is already an explicit limitation in the body of the claim, I do not read the preamble as supplying an essential element for claim 1 of the '044 ***Patent***.[6]

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[5] Furthermore, I have not applied such a rule even when the claims sharing the identical preamble are part of the same ***patent***. *See Takeda Pharma. Co. v. Actavis Lab'ys FL, Inc.*, 2018 U.S. Dist. LEXIS 73121, 2018 WL 3193188, at *6 n.6, *7 n.7, *7-8 (D. Del. June 6, 2018) (independently analyzing whether identical preamble language is limiting in two separate claims of the same ***patent***), *aff'd in part, rev'd in part sub nom. Natarajan Pharms., Inc. v. Actavis Lab'ys FL, Inc.*, 934 F.3d 1344 (Fed. Cir. 2019).

[6] It is this explicit recitation of static stability in the body of the claim 1 of the '044 ***Patent*** that differentiates the effect of the preamble in claim 1 of the '044 ***Patent*** from the effect of the preamble in claim 1 of the '659 ***Patent***. The body of claim 1 of the '659 ***Patent*** does not contain any limitations pertaining to stability. As already discussed, the shared ***patent*** specification underscores the importance of the watercraft having static stability. Therefore, the preamble is providing an essential element in claim 1 of the '659 ***Patent*** by stating that the

Accordingly, I conclude that the preamble of claim 1 of the '044 ***Patent*** is not limiting.

**2. Non-Infringement of the '044 *Patent***

Defendants' motion for summary judgment of non-infringement of the '044 ***Patent*** is premised on the preamble of claim 1 of the '044 ***Patent*** being limiting and requiring the additional limitation of dynamic stability. (D.I. 83 at 29-31). Because I have determined that the preamble to claim 1 is not limiting, there is no dynamic stability limitation in the **[*20]** claims of the '044 ***Patent***. Therefore, Defendants' motion for summary judgment of non-infringement of the '044 ***Patent*** is denied.

**3. Infringement of the '044 *Patent***

Plaintiff moves for summary judgment that Defendants infringe claim 1 of the '044 ***Patent***, and, by extension, all other claims of the '044 ***Patent***, on the ground that there is no genuine issue of fact that Defendants' accused products are statically stable.[7] Plaintiff argues that the testimony of its expert witness, Mr. Barry, and the analysis he conducted of the accused products, demonstrates that the accused products are passively statically stable. (D.I. 80 at 24-26). Plaintiff contends that because Defendants have not produced any affirmative evidence to dispute that the accused products are passively statically stable, there is no disputed fact in the record that prevents finding that the accused products infringe the '044 ***Patent***. (*Id.* at 25-26).

Defendants argue, "There is a genuine dispute as to whether [Plaintiff] has evidence sufficient to meet its burden for showing even static stability." (D.I. 93 at 25). Defendants contend that their expert witness, Dr. Triantafyllou, has "explained that in trying to show static stability of the Accused Products, Mr. Barry concocted his own stability **[*21]** standard rather than assess them according to the standard set out in the Asserted ***Patents***." (*Id.* at 26). Defendants further argue, "Without undisputed evidence that the Accused Products meet the standard set out in the Asserted ***Patents***—which [Plaintiff] does not have because Mr. Barry did not so opine—summary judgment of infringement is improper." (*Id.*). Defendants also argue that summary judgment is improper because Mr. Barry did not examine all of the accused products for infringement. (*Id.*).

I agree with Defendants that there exists a genuine issue of material fact. Plaintiff has provided evidence through Mr. Barry's testimony and analysis to show that Defendants' accused products are statically stable. Defendants' expert responded by noting that Mr. Barry's analysis deviates from that included in the asserted ***patents***, and the reason for doing so goes unexplained. (D.I. 85-1, Ex. 8, ¶ 17). A reasonable juror could weigh the testimony by the parties' experts and reach the conclusion that Plaintiff has not carried its burden to show that Defendants' products are statically stable.

Therefore, I will deny summary judgment as to infringement of the '044 ***Patent***.

**C. WRITTEN DESCRIPTION OF CLAIMS 16-20 [*22] OF THE '659 *PATENT***

Defendants move for summary judgment of invalidity for lack of written description for claims 16-20 of the '659 ***Patent***. Claim 16, which is representative of the other claims,[8] reads as follows:

16. A personal hydrofoil watercraft, comprising:
a surfboard-shaped flotation device that has a fore-aft length greater than a lateral width, the flotation device having a top surface and a bottom surface, wherein the top surface has a substantially horizontal supporting surface configured to support a user in a prone, kneeling, or standing position, the flotation device having a forward section, a middle section, and a rear section;
a hydrofoil interconnected with the surfboard-shaped flotation device, the hydrofoil having a strut and a first hydrofoil wing, an upper end of the strut being fixedly interconnected with the surfboard-shaped flotation device;

a propulsion system attached to the surfboard-shaped flotation device for propelling the watercraft in a body of water, the propulsion system comprising a battery, an electric motor, a motor speed controller, and a propulsor, wherein the

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watercraft needs to be "stable." Since the preamble is limiting, the full scope of "stable" becomes a limitation.

[7] The parties agree that the only claim limitation in question is whether Defendants' products meet the stability limitation of claim 1. As discussed above, claim 1 of the '044 ***Patent*** only requires static stability because the preamble is not limiting.

[8] Claims 17-20 are dependent claims that depend on claim 16.

> propulsor is selected from a propeller, a ducted propeller, or a pump-jet, and the battery and motor speed controller **[*23]** are contained in a watertight compartment integrated into the flotation device;
> the watercraft having no movable steering system;
> a handheld controller having a throttle; and
> a throttle interface, wherein the throttle is adapted to send electronic signals to the throttle interface that cause an output of the propulsion system to change.

('659 ***Patent***, cl. 16). Defendants assert the claims are invalid for lack of written description because they do not contain a stability limitation (i.e., do not require the watercraft to be statically stable, dynamically stable, or both), but the specification of the Asserted ***Patents*** "clearly discloses the alleged invention as being a stable hydrofoil watercraft, and never suggests that the alleged invention can be anything other than stable." (D.I. 83 at 26). Defendants further contend that the file history of the '044 ***Patent*** shows the ***patent*** examiner "explicitly relied on the hydrofoil providing static stability in allowing the '044 [P]atent." (*Id.*). Defendants analogize the present case to *ICU Medical, Inc. v. Alaris Medical Sys., Inc., 558 F.3d 1368, 1377-79 (Fed. Cir. 2009)*.

Plaintiff does not dispute that neither static stability nor dynamic stability (or both together) are limitations of the claims 16-20 of the '659 ***Patent***. Plaintiff asserts the written description requirement **[*24]** is met because the ***patent*** specification does not limit the invention to a "stable" watercraft. Plaintiff analogizes the present case to *ScriptPro LLC v. Innovation Assoc., Inc., 833 F.3d 1336, 1340-42 (Fed. Cir. 2016)*. Plaintiff argues that a stable watercraft is just one purpose of the invention and claims 16-20 of the '659 ***Patent*** are written to address other purposes of the invention, such as not having a movable steering system, providing a "surfing feel," and being easy to transport and maintain. (D.I. 91 at 39).

The written description requirement contained in *35 U.S.C. § 112* requires that the specification "clearly allow persons of ordinary skill in the art to recognize that [the inventor] invented what is claimed." *Ariad Pharms., Inc. v. Eli Lilly & Co., 598 F.3d 1336, 1351 (Fed. Cir. 2010)* (en banc) (alteration in original). "In other words, the test for sufficiency is whether the disclosure of the application relied upon reasonably conveys to those skilled in the art that the inventor had possession of the claimed subject matter as of the filing date." *Id.* "When determining whether a specification contains adequate written description, one must make an 'objective inquiry into the four corners of the specification from the perspective of a person of ordinary skill in the art.'" *Bos. Sci. Corp. v. Johnson & Johnson, 647 F.3d 1353, 1366 (Fed. Cir. 2011)* (quoting *Ariad, 598 F.3d at 1351*).

The written description inquiry is a question of fact. *Ariad, 598 F.3d at 1351*. Although **[*25]** it is a question of fact, "[c]ompliance with the written description requirement . . . is amenable to summary judgment in cases where no reasonable fact finder could return a verdict for the non-moving party." *PowerOasis, Inc. v. T-Mobile USA, Inc., 522 F.3d 1299, 1307 (Fed. Cir. 2008)*. "A party must prove invalidity for lack of written description by clear and convincing evidence." *Vasudevan Software, Inc. v. MicroStrategy, Inc., 782 F.3d 671, 682 (Fed. Cir. 2015)*.

I find that Defendants are entitled to summary judgment that claims 16-20 of the '659 ***Patent*** are invalid for lack of written description. The ***patent*** specification does not disclose that the patentee possessed a personal hydrofoil watercraft that lacks both static and dynamic stability. There is no genuine disputed fact about this.

The specification of the '659 ***Patent*** only, and repeatedly, describes the invention as being a watercraft that is either stable or at least has static stability. For example, the abstract of the ***patent*** recites, "A passively stable personal hydrofoil watercraft . . . ." ('659 ***Patent*** at Abstract). The ***patent*** specification further recites, "The hydrofoil of the present invention has been designed to provide passive stability in the longitudinal direction, making traditional altitude control systems based on moveable surfaces unnecessary." (*Id.* at col. 2:8-12).

Static stability distinguishes **[*26]** the invention from the prior art. The specification recites, "The prior art in powered hydrofoil surfboards have all relied on moveable surfaces for control, and have ignored the possibility of designing the hydrofoil for passive static stability. . . . [T]he present invention is specifically designed to achieve desired levels of stability and controllability without the need for moveable surfaces." (*Id.* at col. 2:20-26). The ***patent*** specification further emphasizes that the hydrofoil should be designed to provide static stability to the watercraft, even for undisclosed embodiments. (*Id.* at col. 5:62-65 ("Note that other versions of the hydrofoil are possible: the key is designing the hydrofoil for passive static stability via planform design, airfoil design, and span-wise twist distribution.")). The ***patent*** specification attributes the ability to be controlled by weight shift to the stability of

the watercraft. The specification states, "This invention exploits passive stability to obviate the necessity for mechanisms or active control systems to provide stability. This passive stability allows the watercraft to be controlled by weight shift rather than by mechanical systems." (*Id.* **[*27]** at col. 6:7-11). There is nothing in the ***patent*** specification to suggest that a watercraft that is both statically and dynamically unstable is part of the disclosure. *See LizardTech, Inc. v. Earth Resource Mapping, Inc.*, 424 F.3d 1336, 1346 (Fed. Cir. 2005).

I agree with Defendants that the present case is similar to *ICU Medical*. In *ICU Medical*, the ***patent*** at issue claimed medical valves with spikes and without spikes (i.e., valves without the spike limitation). The specification of the ***patent***, however, only described "medical valves with spikes." *Id.* at 1378. The Federal Circuit upheld the district court's grant of summary judgment that the "spikeless" claims were invalid for lack of written description because a POSA would not have understood the patentee to have invented a "spikeless" medical valve. *Id.* at 1378-79.

Similarly, in the present case, the '659 ***Patent*** only discusses a watercraft that is at least statically stable. There is nothing in the specification that would signal to a POSA that the patentee invented a watercraft that is statically unstable. Furthermore, at oral argument, Plaintiff failed to point to any disclosure in the ***patent*** specification of a description or embodiment of a watercraft that was not at least statically stable. (D.I. 147 at 73:9-23). *See ICU Medical*, 558 F.3d at 1379.

While Plaintiff argues that this case is more analogous **[*28]** to *ScriptPro LLC v. Innovation Assocs., Inc.*, 833 F.3d 1336 (Fed. Cir. 2016), I disagree. In *ScriptPro*, the Federal Circuit reversed the district court's ruling that claims without a limitation of employing a "sorting and storage scheme based on patient-identifying information" were invalid for lack of written description. *Id.* at 1341. The Federal Circuit noted that while the ***patent*** specification "focuses on embodiments employing a sorting and storage scheme based on patient-identifying information," it is not a limitation of the invention because the invention is used to solve many problems, not all of which involve using a scheme based on patient-identifying information. *Id.* Specifically, the Federal Circuit cautioned that "a specification's focus on one particular embodiment or purpose cannot limit the described invention where the specification expressly contemplates other embodiments or purposes." *Id.* at 1341.

Plaintiff's arguments that watercraft stability is just one solution the invention addresses, like the scheme in *ScriptPro*, misses the mark. First, in *ScriptPro*, the Federal Circuit stated that the "***patent***'s express disclosure that sorting and storing can be done in a number of ways distinguishes this case from . . . *ICU Medical*." *Id.* Specifically, the Federal Circuit **[*29]** found that the invention was not limited to using a patient-identifying information sorting scheme because the ***patent*** specification disclosed that "any predetermined storage scheme will do." *Id.* Unlike in *ScriptPro*, there is no such express disclosure in the '659 ***Patent*** specification that the watercraft can be statically and dynamically unstable. Nor is there anything that could reasonably be interpreted as an implied disclosure.

Second, the Federal Circuit noted that the ***patent*** in *ScriptPro* was aimed at addressing multiple problems and that the different claims were directed at "covering these different aspects of the invention." *Id.* at 1342. In this case, however, the ***patent*** specification clearly describes static stability as a limitation of the invention as a whole, not an aspect of some embodiments or one purpose. *See* p.19 *supra*. The ***patent*** specification is not just describing some embodiments as stable or having static stability. (*See, e.g.*, '659 ***Patent***, col. 2:9-12; 2:23-25, 5:62-65). Nor is the specification describing stability as just one purpose of the invention. The ***patent*** specification, instead, is emphasizing that it is the stability of the watercraft — or at the least static stability provided by the **[*30]** hydrofoil — that permits the invention to achieve the full scope of its purposes such as not having a moveable steering system. (*See id.* at col. 6:7-11).

Therefore, I find that Defendants are entitled to summary judgment that claims 16-20 of the '659 ***Patent*** are invalid for lack of written description.

### D. ANTICIPATION OF THE '044 *PATENT* AND '659 *PATENT*

Plaintiff moves for summary judgment on Defendants' counterclaims that the Asserted ***Patents*** are invalid as anticipated by Plaintiff's products. (DI. 80 at 26-37; *see also* D.I. 13 at 13-14). Defendants concede that they are not arguing that Plaintiff's own products invalidate the Asserted ***Patents***. (D.I. 93 at 27 ("Waydoo is not asserting that the Asserted ***Patents*** are invalid over MHL's own products.")). Therefore, this issue is moot and Plaintiff's motion is dismissed.

Plaintiff also moves for summary judgment on

Defendants' counterclaims that the Asserted ***Patents*** are invalid as anticipated by the Evolo Report. The Evolo Report is a 554 page report from "a graduate-level student project that was completed in 2009 by naval architecture students at the Royal Institute of Technology in Stockholm, Sweden." (D.I. 80 at 26-37). [9]

There are two issues to this dispute.

The first issue **[*31]** is whether the Evolo Report discloses the static stability limitation of the claims 1-22 of the '044 ***Patent*** and claims 1-15 of the '659 ***Patent***.[10] Plaintiff argues it does not; Defendants argue it does.

The second issue is whether the Evolo Report is a printed publication. Plaintiff argues the Evolo Report is not because it was not publicly accessible before the priority date of the Asserted ***Patents***. Defendants argue there is a genuine issue of material fact as to whether the Evolo Report was publicly accessible.

I address each issue in turn.

**1. Does the Evolo Report Disclose the Static Stability Limitation?**

"To show that a ***patent*** claim is invalid as anticipated, the accused infringer must show by clear and convincing evidence that a single prior art reference discloses each and every element of a claimed invention." *Silicon Graphics, Inc. v. ATI Techs., Inc.*, 607 F.3d 784, 798 (Fed. Cir. 2010). "[E]very element of the claimed invention [must be described], either expressly or inherently, such that a person of ordinary skill in the art could practice the invention without undue experimentation." *Callaway Golf Co. v. Acushnet Co.*, 576 F.3d 1331, 1346 (Fed. Cir. 2009). As with infringement, the court construes the claims and compares them against the prior art. *See Enzo Biochem, Inc. v. Applera Corp.*, 599 F.3d 1325, 1332 (Fed. Cir. 2010). "While anticipation is a question of fact, it may be decided on summary judgment if **[*32]** the record reveals no genuine dispute of material fact." *Encyclopaedia Britannica, Inc. v. Alpine Elecs. of Am., Inc.*, 609 F.3d 1345, 1349 (Fed. Cir. 2010).

Plaintiff argues that the Evolo Report does not disclose a statically stable watercraft. Specifically, Plaintiff argues that Defendants cannot meet their burden because Dr. Triantafyllou did not mathematically assess the stability of the watercraft disclosed in the Evolo Report. (D.I. 80 at 34-35). Plaintiff also cites to Mr. Barry's expert report to show that the Evolo Report discloses a statically unstable watercraft (*Id.* at 35-36).

Defendants argue that there is a material issue of fact as to whether the Evolo Report discloses a statically stable watercraft because Dr. Triantafyllou concluded that the Evolo Report discloses a statically stable watercraft. (D.I. 93 at 32 (citing D.I. 85-1, Ex. 7, ¶¶ 220-241)). Defendants contend that Dr. Triantafyllou responded to the arguments raised by Plaintiff's expert, Mr. Barry. (D.I. 93 at 32 (citing D.I. 85-1, Ex. 9, ¶¶ 71-77)).

I find there are genuine issues of material fact as to whether the Evolo Report discloses a statically stable watercraft. Both parties rely on the testimony of their expert witnesses to establish their positions. A reasonable juror could weigh the testimony by **[*33]** the parties' experts and reach the conclusion that Defendants have shown that the Evolo Report discloses a statically stable watercraft.

**2. Is the Evolo Report a Printed Publication?**

"Whether a reference qualifies as a "printed publication" under *§ 102(b)* is a legal conclusion based on underlying factual findings." *Jazz Pharm., Inc. v. Amneal Pharm., LLC*, 895 F.3d 1347, 1356 (Fed. Cir. 2018). "A reference is considered publicly accessible if it was disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art, exercising reasonable diligence, can locate it." *Acceleration Bay, LLC v. Activision Blizzard Inc.*, 908 F.3d 765, 772 (Fed. Cir. 2018) (citation and internal quotation marks omitted). "The test for public accessibility is not 'has the reference been indexed?'" *Id.* at 774. Instead, "the ultimate question is whether the reference was 'available to the extent that persons interested and ordinarily skilled in the subject matter or art[,] exercising reasonable diligence, can

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[9] Plaintiff argue that Defendants improperly combine multiple Evolo-related references into one anticipation analysis. Defendants argue in their briefing that the Evolo Report itself is the single prior art reference that anticipates the Asserted ***Patents***. (D.I. 93 at 30). Therefore, for purposes of this motion, I focus only on the Evolo Report.

[10] Plaintiff also argues that claims 16-20 of the '659 ***Patent*** are not invalidated by anticipation because the Evolo Report does not disclose a motor speed controller, but this issue is moot as I have found claims 16-20 of the '659 ***Patent*** to be invalid for lack of written description. *See* Section III.C *supra*.

locate it.'" *Voter Verified, Inc. v. Premier Election Sols., Inc., 698 F.3d 1374, 1380 (Fed. Cir. 2012)* (quoting *SRI Int'l, Inc. v. Internet Sec. Sys., Inc., 511 F.3d 1186, 1194 (Fed. Cir. 2008)*).

Plaintiff argues the Evolo Report was not publicly accessible before the priority date of the Asserted ***Patents***. (D.I. 80 at 30-32). Plaintiff specifically contends that there is no evidence that the Evolo website, which contained a link to the Evolo Report, was indexed by Google, would turn up on **[*34]** a Google search in 2013, or was otherwise accessible to a POSA before the Asserted ***Patents***' priority date. (D.I. 32).

Defendants argue that Plaintiff is not entitled to summary judgment because there is evidence that the Evolo Report was publicly accessible before the Asserted ***Patents***' priority date. Therefore, there is a disputed material of fact, making summary judgment inappropriate. Defendants argue that the record contains evidence that the Evolo Report was downloaded in the United States before the priority date of the Asserted ***Patents***; that their expert Mr. Lanterman concluded that the Evolo website was likely indexed by Google and had regular activity, and that an article published in the Swedish magazine Batnytt ("Boat News") in August 2009 detailed the Evolo project and contained a link to the Evolo website. (D.I. 93 at 28-30).

I find there is a genuine issue of material fact as to whether the Evolo Report was publicly accessible to a POSA prior to October 2013. Plaintiff concedes that there was at least one user in the United States (or at least outside of Sweden and Switzerland) who downloaded the Evolo Report. (D.I. 80 at 16, n.7). Further, the article in Batnytt may also **[*35]** have served as a publicly accessible "research aid" that would have led a POSA to the Evolo website, which contained the Evolo Report. *See, e.g., Blue Calypso, LLC v. Groupon, Inc., 815 F.3d 1331, 1350 (Fed. Cir. 2016); Bruckelmyer v. Ground Heaters, Inc., 445 F.3d 1374, 1379 (Fed. Cir. 2006)*. For these reasons, I find a reasonable jury could determine that the Evolo Report was publicly accessible before the Asserted ***Patents***' priority date.

Therefore, I find Plaintiff is not entitled to summary judgment on Defendants' counterclaims that the Asserted ***Patents*** are anticipated by the Evolo Report.

### E. PLAINTIFF'S STANDING

Plaintiff moved for summary judgment on Defendants' affirmative defense that Plaintiff lacks standing. (D.I. 79). After oral argument, Defendants stated they are not challenging standing. (D.I. 145).

Therefore, I will dismiss Plaintiff's motion for summary judgment on standing as moot.

## IV. CONCLUSION

For the reasons stated above, I deny Plaintiff's motion for summary judgment for infringement of the '044 ***Patent***, deny Plaintiff's motion for summary judgment for the Asserted ***Patents*** not being invalid as anticipated by the Evolo Report, and dismiss Plaintiff's motion for summary judgment on Defendants' lack of standing argument.

I deny Defendants' motion for summary judgment for non-infringement of the '044 ***Patent*** and '659 ***Patent*** and grant Defendants' motion **[*36]** for summary judgment of invalidity for lack of written description for claims 16-20 of the '659 ***Patent***.

An appropriate order will issue.

## ORDER

For the reasons stated in the accompanying memorandum opinion, IT IS HEREBY ORDERED that Plaintiff's Motion for Partial Summary Judgment is resolved as follows: summary judgment of infringement of the '044 ***Patent*** (D.I. 78) is DENIED; summary judgment for the '044 ***Patent*** and '659 ***Patent*** not being invalid as anticipated by the Evolo Report (D.I. 77) is DENIED; summary judgment for the '044 ***Patent*** and '659 ***Patent*** not being invalid as anticipated by MHL Custom's own products (D.I. 77) is DISMISSED as moot; summary judgment for Defendants' lack of standing argument (D.I. 79) is DISMISSED as moot.

Defendants' Motion for Partial Summary Judgment is resolved as follows: summary judgment for non-infringement of the '044 ***Patent*** and '659 ***Patent*** (D.I. 81) is DENIED; summary judgment for claims 16-20 of the '659 ***Patent*** being invalid for lack of written description (D.I. 81) is GRANTED.

As used in the asserted claims of the '659 ***Patent***, the term "A passively stable, weight-shift controlled personal hydrofoil watercraft" is construed to mean "a weight-shift controlled personal watercraft having a hydrofoil that does not have any moveable components and which,

when disturbed, **[*37]** (1) has an initial tendency to return to its original condition and (2) eventually returns to its original condition."

As used in the preamble of the asserted claims of the '044 ***Patent***, the term "A passively stable, weight-shift controlled personal hydrofoil watercraft" is construed not to be limiting.

IT IS SO ORDERED this 2nd day of February 2023.

/s/ Richard G. Andrews

United States strict Judge

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As of: August 21, 2023 10:40 AM Z

# MHL Custom, Inc. v. Waydoo USA, Inc.

United States District Court for the District of Delaware

June 24, 2022, Decided; June 24, 2022, Filed

Civil Action No. 21-91-RGA

**Reporter**
2022 U.S. Dist. LEXIS 111958 *; 2022 U.S.P.Q.2D (BNA) 586; 2022 WL 2290860

MHL CUSTOM, INC., Plaintiff; v. WAYDOO USA, INC, and SHENZHEN WAYDOO INTELLIGENCE TECHNOLOGY CO., LTD, Defendants.

**Subsequent History:** ***Patent*** interpreted by, Summary judgment denied by, Summary judgment dismissed by, As moot, Summary judgment granted by *MHL Custom, Inc. v. Waydoo USA, Inc., 2023 U.S. Dist. LEXIS 19476, 2023 WL 1768325 (D. Del. Feb. 2, 2023)*

Motion granted by, in part, Motion denied by, in part *MHL Custom, Inc. v. Waydoo USA, Inc., 2023 U.S. Dist. LEXIS 46139, 2023 WL 2572285 (D. Del., Mar. 20, 2023)*

## Core Terms

hydrofoil, flotation, surface, stability, user, proposed construction, watercraft, ***patent***, top, kneeling, static, prone, passive, standing position, ordinary meaning, specification, propulsion, positions, interconnected, stable, strut, upper end, weight-shift, propelling, disturbed, tailoring, disposed, throttle, fixedly, movable

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**Judges:** Richard G. Andrews, UNITED STATES DISTRICT JUDGE.

**Opinion by:** Richard G. Andrews

## Opinion

MEMORANDUM OPINION

June 24, 2022

/s/ Richard G. Andrews

**ANDREWS, UNITED STATES DISTRICT JUDGE:**

Before me is the issue of claim construction of multiple terms in U.S. ***Patent*** Nos. 9,359,044 ("the '044 ***Patent***") and ***9,586,659*** ("the '659 ***Patent***"). I held a claim construction hearing on May 3, 2022 and requested supplemental briefing on several questions. I have considered the parties' joint and supplemental briefing. (D.I. 46, 59, 60, 62).

### I. LEGAL STANDARD

"It is a bedrock principle of ***patent*** law that the claims of a ***patent*** define the invention to which the patentee is entitled the right to exclude." *Phillips v. AWH Corp., 415 F.3d 1303, 1312 (Fed. Cir. 2005)* (en banc) (cleaned up). "'[T]here is no magic formula or catechism for conducting claim construction.' Instead, the court is free to attach the appropriate weight to appropriate sources 'in light of the statutes **[*2]** and policies that inform ***patent*** law.'" *SoftView LLC v. Apple Inc., 2013 U.S. Dist. LEXIS 125893, 2013 WL 4758196, at *1 (D. Del. Sept. 4, 2013)* (quoting *Phillips, 415 F.3d at 1324*) (alteration in original). When construing ***patent*** claims, a court considers the literal language of the claim, the ***patent*** specification, and the prosecution history. *Markman v. Westview Instruments, Inc., 52 F.3d 967, 977-80 (Fed. Cir. 1995)* (en banc), *aff'd, 517 U.S. 370, 116 S. Ct. 1384, 134 L. Ed. 2d 577 (1996)*. Of these sources, "the specification is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term." *Phillips, 415 F.3d at 1315* (cleaned up).

"[T]he words of a claim are generally given their ordinary and customary meaning.... [Which is] the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the ***patent*** application." *Id. at 1312-13* (citations and internal quotation marks omitted). "[T]he ordinary meaning of a claim term is its meaning to [an] ordinary artisan after reading the entire ***patent***." *Id. at 1321* (internal quotation marks omitted). "In some cases, the ordinary meaning of claim language as understood by a person of skill in the art may be readily apparent even to lay judges, and claim construction in such cases involves little more than the application of the widely accepted meaning of commonly understood **[*3]** words." *Id. at 1314*.

When a court relies solely upon the intrinsic evidence—the ***patent*** claims, the specification, and the prosecution history—the court's construction is a determination of law. *See Teva Pharms. USA, Inc. v. Sandoz, Inc., 574 U.S. 318, 331, 135 S. Ct. 831, 190 L. Ed. 2d 719 (2015)*. The court may also make factual findings based upon consideration of extrinsic evidence, which "consists of all evidence external to the ***patent*** and prosecution history, including expert and inventor testimony, dictionaries, and learned treatises." *Phillips, 415 F.3d at 1317-19* (cleaned up). Extrinsic evidence may assist the court in understanding the underlying technology, the meaning of terms to one skilled in the art, and how the invention works. *Id.* Extrinsic evidence, however, is less reliable and less useful in claim construction than the ***patent*** and its prosecution history. *Id.*

## II. BACKGROUND

The ***patents*** claim a "personal hydrofoil"—a surfboard-like device that achieves a hovering effect by using a fin that glides under the surface of the water. This fin—the hydrofoil—"enable[s] higher speeds and to lift the surfboard above the choppy, turbulent surface of the water, thus enabling surfing on larger waves." '044 ***Patent***, 1:26-28.

The '044 ***patent*** application was filed October 8, 2014. The '659 ***patent*** application was filed March 8, 2016 and is a continuation of **[*4]** the '044 ***patent***. The '044 and '659 ***patents*** share a specification. The parties agree that the following claims are representative for their respective ***patents***. The disputed claim language is italicized.

'044 ***Patent***, Claim 1:

> A passively stable, weight-shift controlled personal hydrofoil watercraft, comprising:
>
> a flotation device that has a fore-aft length greater than a lateral width, the flotation device having a top surface and a bottom surface, *wherein a user can be disposed on the top surface of the flotation device in a prone, kneeling, or standing position*, the flotation device having a forward section, a middle section, and a rear section, and the flotation device being controlled via weight shift of the user;
> a strut having an upper end and a lower end, the upper end fixedly interconnected with the flotation device between the middle section and the rear section of the flotation device;
>
> a hydrofoil fixedly interconnected with the lower end of the strut, the hydrofoil having no movable surface and *designed to provide passive static stability* controlled solely by weight shift of the user;
>
> a propulsion system for propelling the watercraft in a body of water, wherein the propulsion system is connected to the hydrofoil; and **[*5]**
> the watercraft having no movable steering system.

'044 ***Patent***, Claim 5:

> A watercraft in accordance with claim 1, wherein *the design for providing the passive static stability is achieved through a combination of airfoil design, planform design and tailoring of span-wise twist distribution.*

'659 ***Patent***, Claim 1:

> *A passively stable, weight-shift controlled personal hydrofoil watercraft*, comprising:
>
> a flotation device that has a fore-aft length greater than a lateral width, the flotation device having a top surface and a bottom surface, *wherein a user can be disposed on the top surface of the flotation device in a prone, kneeling, or standing position*, the flotation device having a forward section, a middle section, and a rear section;
> a strut having a upper end and a lower end, the upper end fixedly interconnected with the flotation device between the middle section and the rear section of the flotation device;
> a hydrofoil fixedly interconnected with the lower end of the strut, the hydrofoil having no movable surface;
> a propulsion system for propelling the watercraft in a body of water, wherein the propulsion system is

connected to the hydrofoil; and
the watercraft having no movable steering system.

'659 ***Patent***, Claim 16:

A personal **[*6]** hydrofoil watercraft, comprising:

a surfboard-shaped flotation device that has a fore-aft length greater than a lateral width, the flotation device having a top surface and a bottom surface, *wherein the top surface has a substantially horizontal supporting surface configured to support a user in a prone, kneeling, or standing position*, the flotation device having a forward section, a middle section, and a rear section;
a hydrofoil interconnected with the surfboard-shaped flotation device, the hydrofoil having a strut and a first hydrofoil wing, an upper end of the strut being fixedly interconnected with the surfboard-shaped flotation device;
a propulsion system attached to the surfboard-shaped flotation device for propelling the watercraft in a body of water, the propulsion system comprising a battery, an electric motor, a motor speed controller, and a propulsor, wherein the propulsor is selected from a propeller, a ducted propeller, or a pump jet, and the battery and motor speed controller are contained in a watertight compartment integrated into the flotation device;
the watercraft having no movable steering system;
a handheld controller having a throttle; and

a throttle interface, wherein **[*7]** the throttle is adapted to send electronic signals to the throttle interface that cause an output of the propulsion system to change.

## III. CONSTRUCTION OF DISPUTED TERMS

### A. Term 1: "wherein a user can be disposed on the top surface of the flotation device in a prone, kneeling, or standing position" ('044 ***Patent***, Cl. 1; '659 ***Patent***, Cl. 1)

1. *Plaintiff's proposed construction:* "Wherein a user can be disposed on the top surface of the flotation device in each of the following positions: lying chest down; kneeling; or standing."

2. *Defendants' proposed construction:* Plain and ordinary meaning.

3. *Court's construction:* "'Prone, kneeling, or standing' are alternatives. Only one of them is required."

Plaintiff argues that the top surface of the board must allow the user to use the device in each listed position (prone, kneeling, and standing). Defendants disagree, arguing that the use of the word "or" in the claim limitation means that the board must allow a user to "be in any (or all) of the three positions." (D.I. 62 at 4).

"Or" usually designates alternatives. *See Kustom Signals, Inc. v. Applied Concepts, Inc., 264 F.3d 1326, 1331 (Fed. Cir. 2001)*. To deviate from the usual interpretation, a party must show that the deviation is "clearly explained in the ***patent*** documents." *Id.* Here, I do not think **[*8]** that the ***patent*** documents show that "or" has anything other than its common usage.

The claim describes "a flotation device ... wherein a user can be disposed on the top surface of the flotation device in a prone, kneeling, or standing position ...." '044 ***Patent***, Cl. 1. Plaintiff argues, "The conjunction 'or' is necessary because a user cannot be in all three positions at once ...." (D.I. 46 at 14). I do not think that "or" was "necessary"—the patentee could have drafted the claim with more clarity to claim a board that must support all three positions. The claim language, as drafted, claims a top surface that supports a user in a prone position, a kneeling position, or a standing position.

The specification does not clearly explain that "or" ought to be given anything other than its usual meaning. Plaintiff cites an embodiment in support of its proposed construction. (D.I. 46 at 12-14). The embodiment describes a "flotation board ... similar to those used in surfing or sailboarding." '044 ***Patent***, 3:7-8. Figure 1 shows the flotation board to be "substantially flat." (D.I. 46 at 12). The specification further describes, "To operate the watercraft 100, a user initially lies prone on the flotation board 101. **[*9]** The throttle is engaged, causing the craft to accelerate. As the craft gains speed the user may move to a kneeling or standing position." '044 ***Patent***, 4:33-36.

Defendants argue that Plaintiff seeks to import limitations from embodiments into the claims. (D.I. 46 at 18). I agree. As Defendants argue, "claim 1 (of both ***patents***) and claim 16 (of the '659 ***patent***) are each directed to a 'personal hydrofoil watercraft,' of which a surfboard is just one example." (D.I. 46 at 19). The Figure 1 embodiment, far from clearly explaining that the top surface of the claimed device must support a

user in all three positions, suggests that a "flat upper surface to allow an adult human to lie prone, sit, kneel or stand" is merely "preferential[.]" ('044 ***patent***, 3:13-17).

Thus, I reject Plaintiff's proposed construction. I will give "or" its customary meaning of designating alternatives. The claimed top surface must support a user in at least one of the three listed positions, but it need not support a user in more than one of the three.

**B. Term 2: "wherein the top surface has a substantially horizontal supporting surface configured to support a user in a prone, kneeling, or standing position" ('659 *Patent*, Cl. 16)**

1. *Plaintiff's proposed construction:* ***[*10]*** "Wherein the top surface has a substantially horizontal supporting surface configured to support a user in each of the following positions: lying chest down; kneeling; or standing."

2. *Defendants' proposed construction:* Plain and ordinary meaning.

3. *Court's construction:* 'Prone, kneeling, or standing' are alternatives. Only one of them is required."

For the reasons stated in Section III.A, I reject Plaintiff's proposed construction.

**C. Term 3: "designed to provide passive static stability" ('044 *Patent*, Cl. 1)**

1. *Plaintiff's proposed construction:* "Designed such that the hydrofoil has an initial tendency to return to its original condition when disturbed without the hydrofoil having any moveable components."

2. *Defendants' proposed construction:* Indefinite or, in the alternative, "designed to provide stability without mechanisms or active control systems."

3. *Court's construction:* "Designed such that the hydrofoil has an initial tendency to return to its original condition when disturbed without the hydrofoil having any moveable components."

Defendants argue this term is indefinite. (D.I. 46 at 38). This is because, according to Defendants, the specification treats stability as simply a "personal preference" **[*11]** and a person of skill in the art ("POSA") would be unable to determine whether "any particular personal hydrofoil watercraft falls inside or outside the scope of the claims." (*Id.* at 39.). Plaintiff responds that there are criteria listed in the specification for determining stability and point to the expert opinion of Mr. Barry. (*Id.* at 46-50). I agree with Plaintiff. The concept of stability appears to be well-known in the art. (*See* D.I. 59, 60). Plaintiffs expert, who considers himself a POSA, has explained how the ***patents*** use the term. (D.I. 39-1, Ex. A ¶¶ 71, 77-79). Thus, I reject Defendants' argument that the term is indefinite.

Defendants also dispute Plaintiff's proposed construction. The dispute is over the role of "static" in the term "passive static stability." Defendants argue for the construction, "designed to provide stability without mechanisms or active control systems" while Plaintiff has proposed the construction "Designed such that the hydrofoil has an initial tendency to return to its original condition when disturbed without the hydrofoil having any moveable components." I requested supplemental letters providing definitions of "stability" from sources such as **[*12]** textbooks. The letters were helpful. Stability in the field of aerodynamics has two categories: static and dynamic. Static stability "deals with the *initial* tendency of a vehicle to return to equilibrium ... after being disturbed. It says nothing about whether it ever reaches its equilibrium position or how it gets there. Such matters are the realm of dynamic stability." (D.I. 60-2, Ex. B at 602).

Defendants' proposed construction does not account for the fact that static stability is a sub-category of stability. Plaintiff's proposed construction, on the other hand, captures the concept of static stability. Thus, I will adopt Plaintiff's proposed construction.

**D. Term 4: "A passively stable, weight-shift controlled personal hydrofoil watercraft" ('659 *Patent*, Cl. 1)**

1. *Plaintiff's proposed construction:* "A watercraft having a hydrofoil, the hydrofoil having an initial tendency to return to its original condition when disturbed without the hydrofoil having any moveable components and that is controlled by weight-shift of the user."

2. *Defendants' proposed construction:* Indefinite or, in the alternative, "A weight-shift controlled personal hydrofoil watercraft that is stable without mechanisms or active **[*13]** control systems."

3. *Court's construction:* Plain and ordinary meaning.

Unlike the last claim term, this term does not specify "static" stability. As discussed *supra*, stability incorporates both static and dynamic stability. Plaintiff asserts that a person of skill in the art would find "passively stable" and "passive static stability" to be interchangeable. (D.I. 46 at 36). I doubt that. Thus, I reject Plaintiff's proposition that the term here ought to have substantially the same construction as the last term. Defendants' proposed construction, however, does not construe "stable" at all. For now, I will construe the term to have its plain and ordinary meaning. The parties may readdress this issue, if it is important, in case dispositive motions.

**E. Term 5: "wherein the design for providing the passive static stability is achieved through a combination of airfoil design, planform design and tailoring of span-wise twist distribution" ('044 *Patent*, Cl. 5)**

1. *Plaintiff's proposed construction:* "The design for providing the passive static stability is achieved through a combination of:

- a geometry of a cross-section of the hydrofoil;
- a shape of the hydrofoil as viewed from above; and
- a measure of rotation **[*14]** of a hydrofoil section along the span of the hydrofoil."

2. *Defendants' proposed construction:* "This claim term is not limiting or, in the alternative, no construction is needed at this time."

3. *Court's construction:* Plain and ordinary meaning.

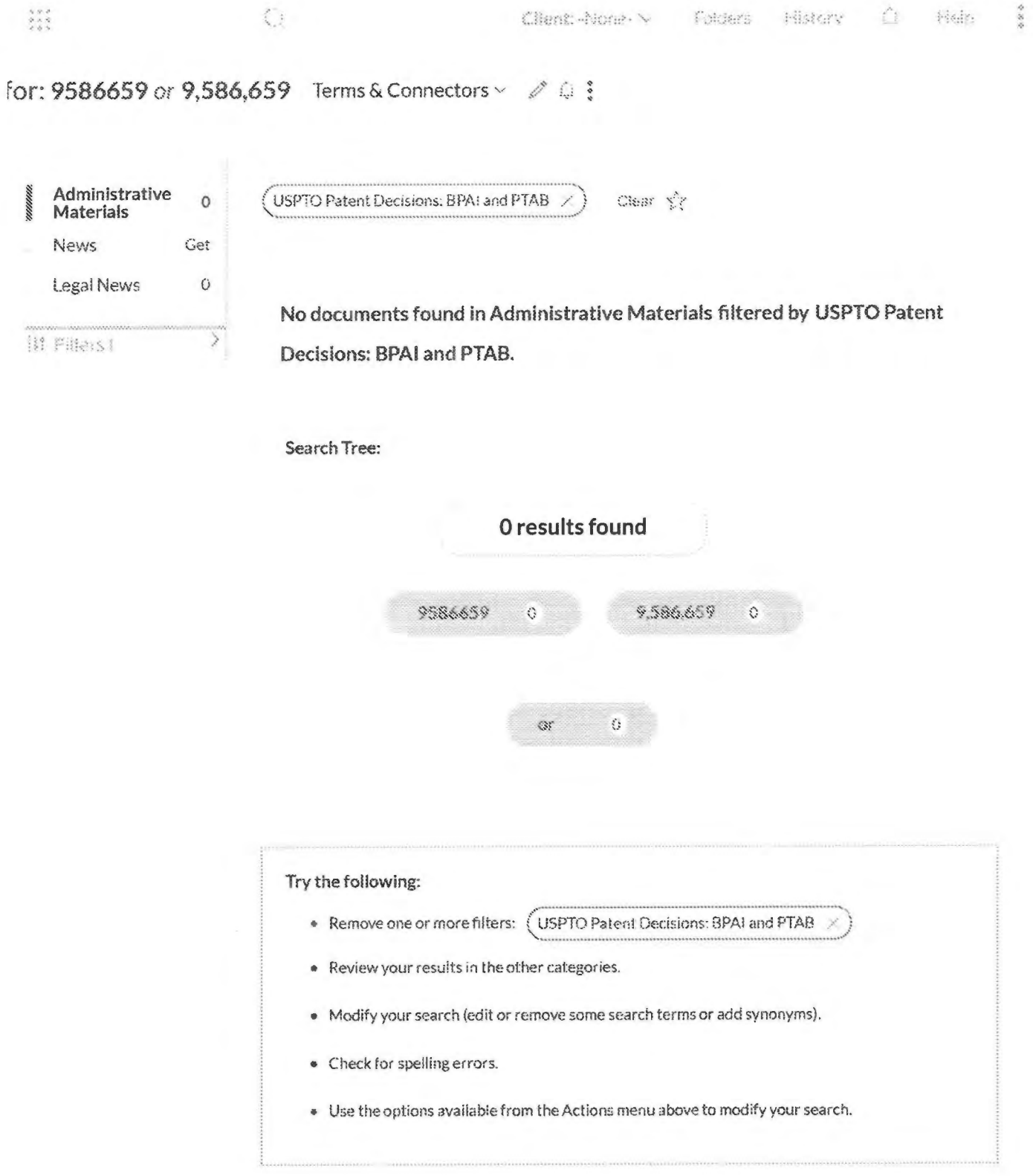
Plaintiff's position is that airfoil design, planform design, and tailoring of span-wise twist distribution are "structural characteristics." (D.I. 46 at 53). Defendants argue that they are methods of design, not structure. (*Id.* at 58). The parties dispute, for instance, whether "tailoring" describes an act or a structure.

"Tailoring" and "design" could be a structure, as Plaintiff argues. At this point, however, I am not convinced that the term means anything other than its plain and ordinary meaning. In support of their proposed construction, Plaintiff largely cites to its expert's declaration, but I give that no weight. (D.I. 46 at 53-57). Neither party has made a strong claim construction argument based on the intrinsic record. The parties are free to address the construction of this term again, if it is important, in case dispositive motions.

## IV. CONCLUSION

Within five days the parties shall submit a proposed order consistent with this Memorandum **[*15]** Opinion suitable for submission to the jury.

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# US Patent Issued on March 7 for "Powered hydrofoil board" (Pennsylvania Inventor)

US Fed News

March 10, 2017 Friday 11:38 AM EST

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**Length:** 226 words

**Dateline:** ALEXANDRIA, Va.

## Body

ALEXANDRIA, Va., March 10 -- United States ***Patent*** no. ***9,586,659***, issued on March 7.

"Powered hydrofoil board" was invented by Jacob Willem Langelaan (State College, Pa.). According to the abstract* released by the U.S. ***Patent*** & Trademark Office: "A passively stable personal hydrofoil watercraft that has a flotation device, wherein a user can ride in a prone, kneeling, or standing position. The watercraft includes a strut having an upper end interconnected with the flotation device and lower end connected with a hydrofoil. The hydrofoil greatly reduces the power required to travel at higher speed. The watercraft also includes a propulsion system connected to the hydrofoil. Both longitudinal and directional control of the watercraft is via weight shift, eliminating the need of any movable surfaces. The flotation device, strut, and hydrofoil may be permanently interconnected or may be detachable." The ***patent*** was filed on March 8, 2016, under Application No. 15/064,521. *For further information, including images, charts and tables, please visit:

*http://patft.uspto.gov/netacgi/nph-Parser?Sect1=PTO2&Sect2=HITOFF&p=1&u=%2Fnetahtml%2FPTO%2Fsearch-bool.html&r=1&f=G&l=50&co1=AND&d=PTXT&s1=9586659&OS=9586659&RS=9586659* For any query with respect to this article or any other content requirement, please contact Editor at *htsyndication@hindustantimes.com*

**Load-Date:** March 10, 2017

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# *Langelaan Jacob Willem Secures Patent on Powered Hydrofoil Board*

Global IP News. Shipping and Marine Patent News

March 8, 2017 Wednesday

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## Body

**FULL TEXT**

**Publication Name:** Shipping and Marine ***Patent*** News***Patent*** **Application Number:** 15/064,521***Patent*** **Publication Number:** ***9,586,659*****International** ***Patent*** **Classification Codes:** B63B 35/79 (20130101), B63B 1/248 (20130101), B63B 35/7926 (20130101), B63B 35/7943 (20130101), B63H 1/16 (20130101), B63H 5/14 (20130101), B63H 11/04 (20130101), B63H 21/17 (20130101), B63H 21/21 (20130101)***Patent*** **Status:** Granted

Alexandria, March 8 -- Langelaan Jacob Willem has secured a ***patent*** on powered hydrofoil board. The ***patent*** application number is 15/064.521. The International ***Patent*** Classification codes are B63B 35/79 (20060101), B63H 5/14 (20060101), B63H 21/21 (20060101), B63H 21/17 (20060101), B63H 11/04 (20060101), B63H 1/16 (20060101) and B63B 1/24 (20060101). Cooperative ***Patent*** Classification codes are B63B 35/79 (20130101), B63B 1/248 (20130101), B63B 35/7926 (20130101), B63B 35/7943 (20130101), B63H 1/16 (20130101), B63H 5/14 (20130101), B63H 11/04 (20130101), B63H 21/17 (20130101) and B63H 21/21 (20130101).

The abstract released by U.S. ***Patent*** and Trademark Office states, "A passively stable personal hydrofoil watercraft that has a flotation device, wherein a user can ride in a prone, kneeling, or standing position. The watercraft includes a strut having an upper end interconnected with the flotation device and lower end connected with a hydrofoil. The hydrofoil greatly reduces the power required to travel at higher speed. The watercraft also includes a propulsion system connected to the hydrofoil. Both longitudinal and directional control of the watercraft is via weight shift, eliminating the need of any movable surfaces. The flotation device, strut, and hydrofoil may be permanently interconnected or may be detachable."

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**Load-Date:** March 9, 2017

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