

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KLIPSTA PTY LTD,
Petitioner,

v.

LINDSAY ALBANESE,
Patent Owner.

IPR2025-00346
Patent 10,413,047 B2

Before ANNETTE R. REIMERS, KARA L. SZPONDOWSKI, and
BRENT M. DOUGAL, *Administrative Patent Judges*.

REIMERS, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314, 37 C.F.R. § 42.4

I. INTRODUCTION

Klipsta PTY LTD (“Petitioner”) filed a Petition for *inter partes* review of claims 1–18 (“the challenged claims”) of U.S. Patent No. 10,413,047 B2 (Ex. 1001, “the ’047 Patent”). Paper 1 (“Pet.”). Lindsay Albanese (“Patent Owner”) filed a Patent Owner’s Notice and Waiver of Preliminary Response. Paper 7 (“Notice”). Patent Owner states that although “it is not abandoning the contest,” it “declines to present claims and defenses [in] this *inter partes* review.” *Id.* at 2. Patent Owner further states that it “has determined to simply accept the Board’s final written decision in the event that the Board determines that Petitioner has proven unpatentability by a preponderance of the evidence.” *Id.*

Prior to the due date for filing the Preliminary Response in this proceeding, the Acting Director of the U.S. Patent and Trademark Office issued a memorandum titled “Interim Processes for PTAB Workload Management.” *See* Memorandum from Coke Morgan Stewart to All PTAB Judges (Mar. 26, 2025), *available at* <https://www.uspto.gov/sites/default/files/documents/InterimProcesses-PTABWorkloadMgmt-20250326.pdf> (“Interim Process Memo”). Under the Interim Process, decisions on whether to institute *inter partes* review are bifurcated between (1) discretionary considerations and merits and other non-discretionary considerations. Patent Owner had the opportunity to file a brief arguing for discretionary denial, but Patent Owner declined to file such a brief by the due date. Interim Process Memo 2. Afterwards, the proceeding was referred to this panel. Paper 8.

We have authority to determine whether to institute an *inter partes* review. 35 U.S.C. § 314(b) (2018); 37 C.F.R. § 42.4(a) (2024). An *inter partes* review may not be instituted “unless . . . the information presented in

the petition . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). Upon consideration of the Petition and the evidence of record, we conclude that the information demonstrates a reasonable likelihood that Petitioner would prevail in showing the unpatentability of at least one of the challenged claims. Accordingly, we institute an *inter partes* review as to the challenged claims of the ’047 Patent.

II. BACKGROUND

A. The ’047 Patent

The ’047 Patent “relate[s] to . . . a fashionable hat holder of simple construction” that “is particularly suitable for keeping a hat close at hand without cumbersome hat boxes.” Ex. 1001, 1:11–16. The ’047 Patent purports to resolve the problem of “how to carry or store a hat when it is not being worn,” especially when a wearer is outside or traveling such that “it can be cumbersome to accommodate or store a hat without damaging it.” *Id.* at 1:21–26, 1:42–45. Thus, the ’047 Patent provides a hat holder that is compact in size for portability, fashionable, can accommodate a variety of hats, and can securely retain a hat while also easily stored when not in use. *Id.* at 1:53–63.

Figure 7 shows an exemplary hat holder in use with a hat, and is reproduced below. Ex. 1001, 3:1–2.

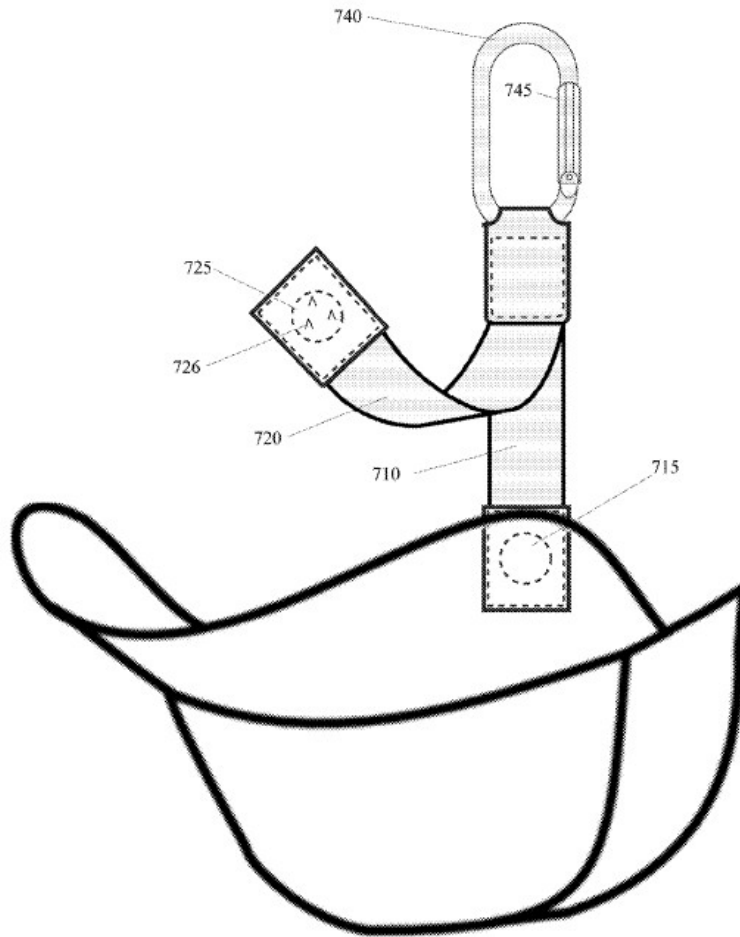


FIG. 7

Figure 7 above illustrates a hat being held by a hat holder in an embodiment in which the hat holder is “carabiner-style.” *Id.* at 13:15–16. The hat holder includes rear strap 710, front strap 720, and carabiner hook 740. *Id.* at 13:17–18. Rear strap 710 includes ferromagnetic member 715 and gripping member 726¹ and front strap 720 includes ferromagnetic member 725. *Id.* at 13:18–23. As an example, each of ferromagnetic member 715 and ferromagnetic member 725 is a neodymium magnet. *Id.* In this embodiment, the hat holder has a hook in the form of a carabiner 740 that

¹ Figure 7 shows gripping member 726 residing on front strap 720 rather than on rear strap 710.

has gate 745. *Id.* To hold a hat, the brim of the hat is positioned between ferromagnetic member 715 and ferromagnetic member 725 such that the force of the magnetic attraction between the two ferromagnetic members, along with gripping member 726, retain the brim of the hat therebetween. *Id.* at 13:24–33. Carabiner hook 740 along with its gate 745 can securely attach to another object, such as a beltloop, an eyelet of a purse, or a strap or a handle of a luggage or a bag. *Id.* at 13:46–49.

The '047 Patent discloses that “although the rear strap 110 and the front strap 120 are referred throughout the specification as separate straps, those of skill in the art will appreciate that the rear strap 110 and the front strap 120 can be formed from a single piece of material.” Ex. 1001, 3:40–44; *see also id.* at 5:24–32, 10:18–25, Figs. 5A–5B. In addition, even though the hook is described in some embodiment as having a gate, in other embodiments, the hook comprises a single strap with ends that can be connected together via a closure, such as a snap button or Velcro. *Id.* at 8:25–33, Figs. 3A–3C; *see also id.* at 6:58–7:3.

B. Illustrative Claims

Petitioner challenges claims 1–18 of the '047 Patent. Pet. 6, 12. Claims 1 and 16 are independent. Claim 1 is illustrative of the challenged claims and is reproduced below.

1. A system for holding a hat, the system comprising:
the hat;
a first strap having a first end and a second end;
a second strap having a first end and a second end, the second strap joined to the first strap;
a first ferromagnetic member disposed at the first end of the first strap;

a second ferromagnetic member disposed at the first end of the second strap;

a hook coupled to the first strap;

wherein the first strap and the second strap are configured to be separably joined at their respective first ends by a force of magnetic attraction between the first ferromagnetic member and the second ferromagnetic member; and

wherein the first strap and the second strap are configured to retain a portion of the hat therebetween.

Ex. 1001, 14:6–22.

C. Related Proceedings

The parties indicate that there are no other judicial or administrative matters that would affect, or be affected by, a decision in this proceeding.

Pet. 62; Paper 5, 2.

D. Asserted Grounds of Unpatentability

The Petition relies on the following prior art references:

Name ²	Reference	Exhibit
Hsu	US 2009/0106944 A1, published April 30, 2009	1004
Hornik	US 2,615,227, issued October 28, 1952	1005
Smith-Reynolds	US 9,408,992 B2, issued August 9, 2016	1006
KR '458	KR 10-1457458 B1, published November 5, 2014	1008
JP '655	JP 2011-87644 A, published May 6, 2011	1009
Davison	US 3,529,328, issued September 22, 1970	1010
DE '216	DE 29717216 U1, published August 1, 1998	1015
KR '278	KR 10-2013-0061278 A, published June 11, 2013	1016
KR '332	KR 20-2010-0009332 U, published September 27, 2010	1017

² Each of Exhibits 1008, 1009, and 1015–1017 include an English-language translation.

Name²	Reference	Exhibit
Liao	US 2014/0367986 A1, published December 18, 2014	1018
Lloyd	US 2013/0133160 A1, published May 30, 2013	1019
Glasmire	US 6,836,899 B1, issued January 4, 2005	1020
Smithers	US 2005/0263226 A1, published December 1, 2005	1021

Petitioner asserts the following grounds of unpatentability:

Claim(s) Challenged	35 U.S.C. §	Reference(s)
1–4, 9, 11, 13, 14, 16	102	KR '458
1, 2, 4, 11, 16	102	JP '655
1, 16	102	DE '216
1, 16	103	DE '216
16	102	Davison
16	103	Davison
16	102	KR '278
16	103	KR '278
16	102	KR '332
16	103	KR '332
16	102	Liao
16	103	Liao
16	102	Lloyd
16	103	Lloyd
5–8, 18	103	KR '458, Hsu
5–8, 18	103	KR '458, Hornik
5–8, 18	103	KR '458, Hsu, Hornik
5–8, 18	103	JP '655, Hsu
5–8, 18	103	JP '655, Hornik
5–8, 18	103	JP '655, Hsu, Hornik
10	103	KR '458, Glasmire

Claim(s) Challenged	35 U.S.C. §	Reference(s)
12	103	KR '458, Smith-Reynolds
12	103	JP '655, Smith-Reynolds
15	103	KR '458, Liao
15	103	JP '655, Liao
17	103	KR '458, Smithers
17	103	JP '655, Smithers

Pet. 22–62.

III. ANALYSIS

A. Summary of Asserted Prior Art Reference

Summary of KR '458

KR '458 “relates to a rack for hanging a hat . . . that not only allows for carrying the hat . . . by forming a hat holder for carrying the hat,” but also provides “a fastening device that can be attached to and detached from a bag’s connecting ring, enabling convenient hanging of the hat.” Ex. 1008 ¶ 1. KR '458 discloses that “storing a hat in the bag’s storage compartment can cause the hat’s shape to deform” and “carrying a hat by hand can be inconvenient as it restricts the use of one’s hands.” *Id.* ¶ 3. KR '458 addresses these problems by providing a holder portion that allows a hat to be carried by hanging an adjustment portion of the hat on a hat holder. *Id.* ¶ 8.

Figure 3 is a perspective view of an exemplary hat holder and Figure 4 is a perspective view of the hat holder in use with a hat, both of which are reproduced below. Ex. 1008 ¶ 17.

FIG. 3

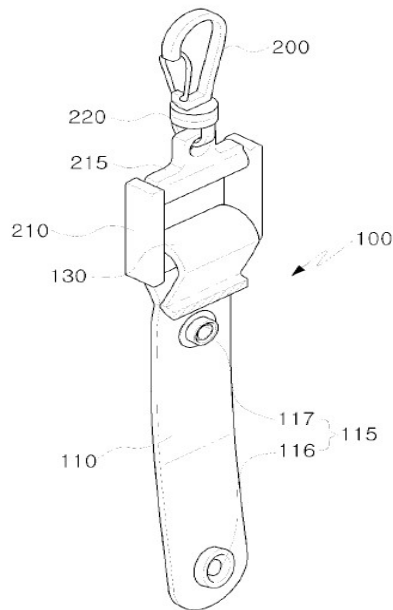
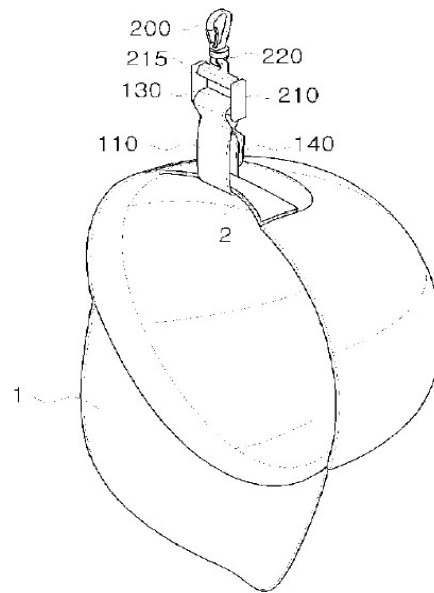


FIG. 4



Figures 3 and 4 above illustrate a rack having holder portion 100 and fastening device 200. *Id.* ¶ 24. Holder portion 100 includes hat holder 110 for carrying hat 1. *Id.* ¶ 25. Figure 3 shows holder portion 100 connected to fastening device 200 via rectangular ring 210. *Id.* ¶ 33. Hat holder 110 is a narrow and elongated band “with the lower and upper surfaces folded to come into contact with each other” to form a folded inner space such that hat 1 is carried by hanging an adjustment portion 2 of hat 1 in the folded inner space as shown in Figure 4. *Id.* ¶ 26. Hat holder 110 includes fastening member 115 such as a snap button having concave member 116 and convex member 117. *Id.* ¶¶ 26–27. Fastening member 115 “can also be formed using a Velcro tape [or] a fixed magnet.” *Id.* ¶ 27.

Fastening device 200 “is provided to hang holder portion 100 on a bag and is combined with holder portion 100 and rectangular ring 210.” *Id.* ¶ 32, Fig. 6. Further, fastening device 200 “can be provided as a wire-gate carabiner type, or alternatively, it can be provided as an O-shaped, D-shaped

carabiner, or other types of fastening devices 200 such as a clip type.”

Id. ¶ 31.

B. Legal Standards for Anticipation

“Under 35 U.S.C. § 102 a claim is anticipated ‘if each and every limitation is found either expressly or inherently in a single prior art reference.’” *King Pharm., Inc. v. Eon Labs, Inc.*, 616 F.3d 1267, 1274 (Fed. Cir. 2010) (quoting *Celeritas Techs. Ltd. v. Rockwell Int’l Corp.*, 150 F.3d 1354, 1360 (Fed. Cir. 1998)). “Anticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim.” *Therasense, Inc. v. Becton, Dickinson & Co.*, 593 F.3d 1325, 1332 (Fed. Cir. 2010) (quoting *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548 (Fed. Cir. 1983)).

C. Level of Ordinary Skill in the Art

In determining the level of ordinary skill in the art, various factors may be considered, including the “type of problems encountered in the art; prior art solutions to those problems; rapidity with which innovations are made; sophistication of the technology; and educational level of active workers in the field.” *In re GPAC Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995).

Petitioner contends that a person having ordinary skill in the art at the time of the invention (“POSITA”) “would be a regular consumer/shopper with a rudimentary knowledge of the use of magnetic clips and a basic understanding of clip construction.” Pet. 13.

We find, for purposes of this Decision, that the ’047 Patent and the cited prior art references reflect the appropriate level of skill at the time of the claimed invention and that the level of skill reflected in these references and in the ’047 Patent is consistent with the definition of a person of

ordinary skill in the art proposed by Petitioner. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001).

D. Claim Construction

In this proceeding, we construe claims using the same claim construction standard that would be used to construe the claims in a civil action under 35 U.S.C. § 282(b). *See* 37 C.F.R. § 42.100(b). The claim construction standard includes construing claims in accordance with the ordinary and customary meaning of such claims as understood by one of ordinary skill in the art at the time of the invention. *See id.*; *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–14 (Fed. Cir. 2005) (en banc). In construing claims in accordance with their ordinary and customary meaning, we take into account the specification and prosecution history. *Phillips*, 415 F.3d at 1315–17.

Petitioner proposes that we construe the terms “the second strap joined to the first strap,” “a first ferromagnetic member,” “a hook coupled to the first strap,” and “wherein the first strap and the second strap are configured to retain a portion of the hat therebetween.” Pet. 14–16. For purposes of this decision, we need construe only “the second strap joined to the first strap” and a “hook.”

“the second strap joined to the first strap” (claims 1 and 16)

Petitioner contends that “the second strap joined to the first strap” includes “a single piece of material.” Pet. 14 (citing Ex. 1001, 3:37–44). Petitioner further contends that “[t]his interpretation was confirmed and reasserted . . . in ‘Patent Owner’s Initial Written Submission’ in an Amazon Neutral Evaluation proceeding submitted to Amazon on August 15, 2023.” *Id.* at 14–15 (citing Ex. 1007, 5:16–18). We note that Petitioner does not argue for explicit claim construction of the term “the second strap joined to

the first strap,” only that it should be construed broadly enough to include “a single piece of material.”

The ’047 Patent discloses that in addition to being separate straps, the rear strap and the front strap “can be formed from a single piece of material.” Ex. 1001, 3:40–44, 5:24–32, 10: 18–25. In particular, Figures 5A–5B of the ’047 Patent illustrate rear strap 510 and front strap 520 as being “formed from a single piece of material that is folded approximately in half where a first half can be the rear strap 510 and a second half can be the front strap 520.” *Id.* at 10:18–21, Figs. 5A–5B. Indeed, Patent Owner acknowledges “[i]t should be noted that forming the first and second straps from a single piece of material is well within the scope of the claimed invention.” Ex. 1007, 5 (citing the ’047 Patent at 3:37–44). Moreover, we note the positions taken by the parties are consistent with the fact that claim 13, which depends from claim 1, recites “wherein the first strap and the second strap are formed from a single folded strap.” Ex. 1001, 14:47–48.

We, therefore, adopt Petitioner’s construction of “the second strap joined to the first strap” to include “a single piece of material.”

“a first ferromagnetic member” (claim 1)

Petitioner argues that “a first ferromagnetic member” “should be given its ordinary meaning” in which “ferromagnetic” has an ordinary meaning of “a material having a high susceptibility to magnetization.” Pet. 15. As there is no dispute as to the plain meaning of the term “ferromagnetic,” we need not construe “a first ferromagnetic member.”

“a hook coupled to the first strap” (claim 1)

Petitioner contends that “a hook coupled to the first strap” should be construed “more broadly than the ordinary term.” Pet. 15–16 (citing Ex. 1001, 4:57–60, Figs. 1A–1C, 2A–2B, 3A–3C). In particular, Petitioner

contends that the term “hook” should be construed as a “structure that serves to attach the hat holder to another object.” *Id.* at 16.

The ’047 Patent discloses that the hook is used to attach the hat holder to another object. Ex. 1001, 8:31–33. In reference to Figures 3A–3C, the ’047 Patent discloses that “the hook 340 is formed from a strap of flexible material. The flexible material can be, for example, nylon, leather or leatherette. The hook 340 can be formed from the same material as the front or rear straps 310 and 320, respectively.” *Id.* at 8:26–31, Figs. 3A–3C; *see also id.* at 6:58–7:3. This disclosure is indicative that the term “hook” can be a strap in contrast to a structure that is typically regarded as being a hook, as shown in Figures 1A–1C, 2A–2C, 4A–4B, 6A–6B, 7, 8 of the ’047 Patent. Additionally, we note that consistent with the above disclosure, claim 10, which depends from claim 1, recites “wherein the hook is [a] flexible strap having a closure.” Ex. 1001, 14:41–42.

We, therefore, adopt Petitioner’s construction of a “hook” to include “structure that serves to attach the hat holder to another object.”

“wherein the first strap and the second strap are configured to retain a portion of the hat therebetween” (claims 1 and 16)

Petitioner argues that “wherein the first strap and the second strap are configured to retain a portion of the hat therebetween” “should be construed as requiring the force of magnetic attraction between the ferromagnetic members to be sufficient to substantially hold the hat between the ferromagnetic members.” Pet. 16 (citing Ex. 1001, 4:15–19). Petitioner argues that “[t]he phrase thus refers to the force of magnetic attraction between the ferromagnetic members sufficient to ‘substantially hold the hat between the ferromagnetic members.’” *Id.*

As there is no dispute as to the plain meaning of the term “ferromagnetic member,” which stands on its own, we need not construe “wherein the first strap and the second strap are configured to retain a portion of the hat therebetween.”

E. Alleged Anticipation by KR '458

Petitioner contends that KR '458 anticipates claims 1–4, 9, 11, 13, 14, and 16 of the '047 Patent. Pet. 22–27, 55–60.

1. Independent Claim 1

Petitioner contends that each of the limitations of claim 1 is disclosed by KR '458. Pet. 24–25.

a) The Preamble and the Hat Recitation

Petitioner contends that KR '458 discloses “[a] system for holding a hat, the system comprising: the hat”³ in Figures 2–4. Pet. 24.

Figures 2 and 3 of KR '458 illustrate a rack having holder portion 100 and fastening device 200 and Figure 4 illustrates holder portion 100 holding hat 1. Ex. 1008 ¶¶ 24–25, Figs. 2–4.

On the present record, we are persuaded that KR '458 discloses “[a] system for holding a hat, the system comprising: the hat,” as recited in the preamble of independent claim 1.

b) The First Strap Recitation

Petitioner contends that KR '458 discloses “a first strap having a first end and a second end,” in which the first strap is the portion of hat holder 110 shown in Figure 3 from its horizontal center line downward to its lower

³ We note that claim 1 being directed to a system *for holding a hat* (sub-combination) is in conflict with the system requiring the hat itself (combination).

end that has concave member 116 and its second end being the end at the center line. Pet. 24.

Figure 3 of KR '458 illustrates hat holder 110 is a narrow and elongated band that includes concave member 116 at its lower end. Ex. 1008 ¶¶ 26–27, Fig. 3.

As explained above (*supra* Section III.D), for purposes of this Decision we agree with Petitioner that “the second strap joined to the first strap” includes “a single piece of material” and on the present record, we are persuaded that KR '458 discloses “a first strap having a first end and a second end,” as recited in independent claim 1.

c) The Second Strap Recitation

Petitioner contends that KR '458 discloses “a second strap having a first end and a second end, the second strap joined to the first strap,” in which the second strap is the portion of hat holder 110 shown in Figure 3 from its horizontal center line upward to its upper end that has convex member 117, and its second end being the end at the center line. Pet. 24.

Figure 3 of KR '458 illustrates hat holder 110 is a narrow and elongated band and includes convex member 117 near its upper end. Ex. 1008 ¶¶ 26–27, Fig. 3.

As explained above (*supra* Section III.D), for purposes of this Decision we agree with Petitioner that “the second strap joined to the first strap” includes “a single piece of material” and on the present record, we are persuaded that KR '458 discloses “a second strap having a first end and a second end, the second strap joined to the first strap,” as recited in independent claim 1.

d) The Ferromagnetic Members Recitations

Petitioner contends that KR '458 discloses “a first ferromagnetic member disposed at the first end of the first strap” and “a second ferromagnetic member disposed at the first end of the second strap” in that KR '458 discloses that magnets can replace the snap button. Pet. 24–25 (citing Ex. 1008 ¶ 27).

KR '458 discloses that hat holder 110 includes fastening member 115 such as a snap button having concave member 116 and convex member 117. Ex. 1008 ¶¶ 26–27. KR '458 further discloses fastening member 115 “can also be formed using a Vecro tape [or] a fixed magnet.” *Id.* ¶ 27.

On the present record, we are persuaded that KR '458 discloses “a first ferromagnetic member disposed at the first end of the first strap” and “a second ferromagnetic member disposed at the first end of the second strap,” as recited in independent claim 1.

e) The Hook Recitation

Petitioner contends that KR '458 discloses “a hook coupled to the first strap” because KR '458's rectangular ring 210 or fastening device 200 is coupled to hat holder 110, which includes the corresponding first strap. Pet. 25.

KR '458 discloses that fastening device 200 allows holder portion 100 to be hung on a bag. Ex. 1008 ¶¶ 31, 34. As shown in Figure 3 of KR '458, fastening device 200 attaches to holder portion 100 of hat holder 110, a portion of which corresponds to the first strap, via rectangular ring 210. *Id.* ¶¶ 31–33. Fastening device 200 can be in the form of a carabiner, similar to carabiner hook 740 of the '047 Patent. *Id.* ¶ 31; Ex. 1001, Fig. 7.

As explained above (*supra* Section III.D), for purposes of this Decision we agree with Petitioner's construction of the term “hook” as a

“structure that serves to attach the hat holder to another object” and on the present record, we are persuaded that KR ’458 discloses “a hook coupled to the first strap,” as recited in independent claim 1.

f) The Magnetic Attraction Recitation

Petitioner contends that KR ’458 discloses “the first strap and the second strap are configured to be separably joined at their respective first ends by a force of magnetic attraction between the first ferromagnetic member and the second ferromagnetic member” because the magnets at the respective ends of the corresponding straps serve to join the ends. Pet. 25.

As discussed above, KR ’458 discloses that each of concave member 116 and convex member 117, which together operate as a snap button, can be replaced with a fixed magnet. Ex. 1008 ¶¶ 26–27.

On the present record, we are persuaded that KR ’458 discloses “the first strap and the second strap are configured to be separably joined at their respective first ends by a force of magnetic attraction between the first ferromagnetic member and the second ferromagnetic member,” as recited in independent claim 1.

g) The Retaining Recitation⁴

Petitioner contends that KR ’458 discloses “the first strap and the second strap are configured to retain a portion of the hat therebetween” as shown in Figure 4. Pet. 25.

⁴ In Patent Owner’s Notice and Waiver of Preliminary Response, Patent Owner states, “Petitioner’s primary reference, KR 101457458, fails to disclose retaining a hat between magnets as would be required by the claim construction set forth in the Petition.” Notice 3. We note Patent Owner has waived filing a Preliminary Response. Further, as discussed above, Figure 4 of KR ’458 illustrates hat holder 110, which corresponds to the claimed first

Figure 4 of KR '458 illustrates hat holder 110, which corresponds to the claimed first strap and second strap, retaining hat 1 at the adjustment portion 2 of hat 1. Ex. 1008 ¶ 26, Fig. 4.

On the present record, we are persuaded that KR '458 discloses “the first strap and the second strap are configured to retain a portion of the hat therebetween,” as recited in independent claim 1.

h) Conclusion

For the foregoing reasons, based on our findings at this stage of the proceeding, we determine that Petitioner has established a reasonable likelihood of prevailing on its assertion that claim 1 is anticipated by KR '458.

2. Claims 2–4, 9, 11, 13, 14, and 16

Petitioner additionally contends that claims 2–4, 9, 11, 13, 14, and 16 are anticipated by KR '458. Pet. 25–27, 55–60. Because we have determined above, at this stage of the proceeding and on the present record, that the information presented in the Petition shows that there is a reasonable likelihood that Petitioner would prevail with respect to at least one claim based on alleged anticipation by KR '458, we need not address, in this Decision, Petitioner's challenges of these claims. *See* 35 U.S.C. § 314(a).

F. Additional Grounds

Petitioner further contends that the claims are either anticipated by or would have been obvious over the various combinations of prior art references in the twenty-six additional grounds. Pet. 28–62. Because we have determined above, at this stage of the proceeding and on the present

strap and second strap, retaining hat 1 at the adjustment portion 2 of hat 1. Ex. 1008 ¶ 26, Fig. 4.

record, that the information presented in the Petition shows that there is a reasonable likelihood that Petitioner would prevail with respect to at least one claim based on alleged anticipation by KR '458, we need not address, in this Decision, Petitioner's additional challenges. *See* 35 U.S.C. § 314(a).

IV. CONCLUSION

For the foregoing reasons, we determine that the information presented establishes a reasonable likelihood that Petitioner would prevail in showing that at least one of the challenged claims of the '047 Patent is unpatentable. At this preliminary stage, we have not made a final determination with respect to the patentability of the challenged claims or any underlying factual and legal issues. *See TriVascular, Inc. v. Samuels*, 812 F.3d 1056, 1068 (Fed. Cir. 2016) (noting that “there is a significant difference between a petitioner’s burden to establish a ‘reasonable likelihood of success’ at institution, and actually proving invalidity by a preponderance of the evidence at trial”).

Accordingly, *inter partes* review is instituted as to all challenged claims and all proposed grounds of unpatentability. *See SAS*, 138 S. Ct. at 1359–60; *see also PGS Geophysical AS v. Iancu*, 891 F.3d 1354, 1360 (Fed. Cir. 2018) (interpreting the statute to require “a simple yes-or-no institution choice respecting a petition, embracing all challenges included in the petition”); CTPG 64 (“The Board will not institute on fewer than all claims or all challenges in a petition.”).

V. ORDER

Accordingly, it is:

ORDERED that pursuant to 35 U.S.C. § 314(a), an *inter partes* review of claims 1–18 of the '047 Patent is instituted with respect to all grounds set forth in the Petition; and

FURTHER ORDERED that, pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial, which commences on the entry date of this decision.

IPR2025-00346
Patent 10,413,047 B2

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