

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DABICO AIRPORT SOLUTIONS INC.,
Petitioner,

v.

AXA POWER APS,
Patent Owner.

Inter Partes Review No. IPR2025-00408

U.S. Patent No. 9,771,169

PATENT OWNER'S PRELIMINARY SUR-REPLY

Petitioner was granted leave to file a Petitioner’s preliminary reply on one narrow issue—the construction of the term “cooling” in claim 2 of the ‘169 patent. Petitioner’s proposed construction, which erroneously equates adjusting “*cooling*” and adjusting “*airflow*” as the same thing, should be rejected.

First, it is a bedrock principle that “we look to the words of the claims themselves . . . to define the scope of the patented invention.” *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582 (Fed. Cir. 1996). Here, claim 2 itself distinguishes between cooling and airflow, stating:

“wherein the controller automatically adjusts the *cooling* ... *according to ... the outgoing airflow*...”

‘169 patent at claim 2. But if one accepts Petitioner’s proposed construction, where the term “cooling” can include adjusting the outgoing airflow, the claim would circularly read:

“wherein the controller automatically adjusts *the outgoing airflow* according to *the outgoing airflow*”

Such a construction is necessarily wrong. *See Becton, Dickinson & Co. v. Tyco Healthcare Grp., LP*, 616 F.3d 1249, 1255 (Fed. Cir. 2010) (“A claim construction that renders asserted claims facially nonsensical cannot be correct.”).

The specification also distinguishes between “cooling” and “airflow”, reflecting that “cooling” is referring to decreasing the temperature of the air, while “airflow” is referring to movement of the air. ‘169 patent at 3:41-44 (“The at least

one evaporator . . . for cooling of the air flow”); *id.* at 4:13 (“compressor to adjust the temperature of the airflow...”); 2:47:49 (“fan may be located adjacent an air outlet in the housing for generation of a condenser air flow out through the outlet”). Petitioner only points to where the specification refers to adjusting “cooling *capacity*” by adjusting the airflow—but cooling *capacity* (how much air can be cooled) is not cooling itself. Paper 18 at 1.

Lastly, Petitioner asserts via attorney argument that “a passenger can control the cooling of [a] car either by turning the temperature down or turning the fan up” or that a fan can cool “without air conditioning.” Paper 18 at 2. Neither is true, however. If a car passenger turns the fan up, that does not adjust how cool the car gets—it adjusts how *fast* the air in the car cools. A 65° airflow will not cool the car any lower than 65°, regardless of fan speed. Similarly, a room fan does not cool the air; rather, it increases the air circulation and promotes evaporative cooling from a person’s skin. *See, e.g.*, Exhibit 2026 (“[A] fan doesn’t reduce the temperature of the air exiting or downstream of the fan...The fast moving air increases the rate at which our bodies lose heat due to convection and evaporation.”).

The Board should reject Petitioner’s proposed construction and accord the term “cooling” its ordinary meaning, as recited by the claim itself.

Dated: June 17, 2025

/Eligio C. Pimentel/

Eligio C. Pimentel

Reg. No. 42,076

McAndrews, Held & Malloy, Ltd.

500 West Madison Street, 34th Floor

Chicago, Illinois 60661

(312) 775-8000

(312) 775-8100

CERTIFICATE OF SERVICE

I certify that the Patent Owner Preliminary Sur-Reply in connection with *Inter Partes Review* Case IPR2025-00408 and Exhibit 2026 were served on June 17, 2025 by electronic mail to:

Lead Counsel	Back-up Counsel
S. Giri Pathmanaban (Reg. No. 75,986) gpathmanaban@cgsh.com Postal & Hand-Delivery Address: Cleary Gottlieb Steen & Hamilton LLP 1841 Page Mill Road Palo Alto, California 94304 Tel: 650-815-4100 Fax: 650-815-4199	Clement Naples (Reg. No. 50,663) cnaples@cgsh.com Postal & Hand-Delivery Address: Cleary Gottlieb Steen & Hamilton LLP One Liberty Plaza New York, New York 10006 Tel: 212-225-2000 Fax: 212-225-3999

Dated: June 17, 2025

/Eligio C. Pimentel/

Eligio C. Pimentel

Reg. No. 42,076

McAndrews, Held & Malloy, Ltd.

500 West Madison Street, 34th Floor

Chicago, Illinois 60661

(312) 775-8000

(312) 775-8100

CUSTOMER NUMBER: 23446