

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

HAPPY PRODUCTS, INC.,

Plaintiff,

v.

ONTEL PRODUCTS CORPORATION

Defendant.

Civil Action No. 2:24-cv-09819-EP-JRA

**PLAINTIFF HAPPY PRODUCTS, INC.’S L. PAT. R. 3.4A RESPONSES
TO DEFENDANT ONTEL PRODUCTS CORPORATION’S
INVALIDITY CONTENTIONS FOR U.S. PATENT NO. RE48,479**

Pursuant to the Pretrial Scheduling Order (ECF No. 54) and Local Patent Rule 3.4A, Plaintiff Happy Products, Inc. (“HPI” or “Plaintiff”) provides the following Responses to the Invalidity Contentions of Defendant Ontel Products Corporation (“Defendant” or “Ontel”) for the asserted claims of U.S. Patent No. RE48,479 (“’479 patent” or “Asserted Patent”) that were served June 30, 2025 (“Invalidity Contentions”).

These Responses are based on HPI’s good faith attempt to understand Ontel’s theories and arguments as set forth in its Invalidity Contentions, as well as HPI’s current knowledge, information, and good-faith belief as to the patent claims and prior art at issue in this case. In summary, HPI responds that the asserted claims of the ’479 patent are neither anticipated under 35 U.S.C. § 102 nor rendered obvious under 35 U.S.C. § 103 for any of the purported reasons provided in Ontel’s Invalidity Contentions, which fail to satisfy Local Patent Rules 3.3(b) and 3.3(c). HPI further responds that Ontel’s Invalidity Contentions do not identify any basis and also fail to provide any detailed explanation, as required by Local Patent Rule 3.3(d), for finding the asserted

claims to be invalid for lack of enablement and/or written description under 35 U.S.C. § 112(a) or for failure to satisfy the definiteness requirements of 35 U.S.C. § 112(b).

HPI notes that the Court has not issued any claim construction order for the '479 patent. HPI's Responses as provided herein do not mean, and should not be interpreted to mean, that HPI agrees with Ontel's interpretation or constructions of the patent claims, for example, as reflected in Ontel's Invalidity Contentions or as suggested by HPI in these Responses, or is otherwise advocating for a particular claim construction. Nothing in these Responses should be presumed or understood to represent HPI's position or any concession regarding the construction of any claim terms or any invalidity defense of Ontel. To the extent that the Court's claim construction bears on Ontel's Invalidity Contentions and/or these Responses, HPI reserves the right to supplement these Responses.

HPI's Responses to Ontel's Invalidity Contentions are also not an admission that any of the alleged prior art is in fact prior art (or qualifies as such) under the identified provisions of 35 U.S.C. § 102 or is indicative of the state of the art at the time of the invention or the level of ordinary skill in the art at that time. HPI reserves the right to challenge the status of any documents, activity, or product identified by Ontel as prior art, for example, based on the discovery of information pertaining to the publication or public availability thereof. HPI also objects to and disputes all alleged priority dates for claims of the '479 patent in Ontel's Invalidity Contentions and Appendix A that are later than October 28, 2013, the date of filing of the provisional application to which the '479 patent claims priority. HPI specifically disagrees and disputes that any disclosure after this date constitutes prior art to any of the asserted claims of the '479 patent.

HPI contends that the term "use in commerce" is a concept in trademark law that is a different standard than the terms "on sale" or "sold" as used in 35 U.S.C. § 102(b). Ontel failed to provide any explanation of how "use in commerce" establishes that anything was so "on sale"

or “sold”, let alone provided the chart of any such item pursuant to Local Patent Rule 3.3(c). HPI reserves the right to object to the “Flipy” trademark registration as noted by Ontel (Invalidity Contentions at 85) as prior art—or, given Ontel’s failure to properly provide any chart of any prior art based on the statement in the Flipy trademark application, to subsequently provide any such chart at any later date.

HPI further reserves the right to modify and supplement its Responses to Ontel’s Invalidity Contentions in accordance with the Federal Rules of Civil Procedure, the Court’s Local Patent Rules, and other applicable rules and statutes. In particular, HPI reserves the right to modify and supplement its Responses, without prejudice, based on its investigation and/or the parties’ discovery of facts relevant thereto and in response to any relevant determinations, including determinations as to the priority date(s) of the asserted claims; constructions of terms in the asserted claims; positions otherwise taken by Ontel or its expert(s) concerning claim construction, infringement, equivalents, or invalidity issues; or any permitted amendment of or supplement to the parties’ contentions.¹

I. HPI’S RESPONSES TO ONTEL’S INVALIDITY CONTENTIONS

Ontel’s Invalidity Contentions are deficient and insufficient to identify any basis for invalidity of any of the asserted claims of the ’479 patent. While Ontel has identified various references and made various allegations, Ontel’s Invalidity Contentions fail to demonstrate with

¹ HPI notes that Ontel’s Invalidity Contentions include an extensive statement of objections and reservations of rights in Section II at pages 4-8. HPI incorporates and affirms any analogous objection or reservation with respect to its Responses, to the extent not otherwise addressed herein. HPI further notes that Ontel provided an extensive statement of law in Section III at pages 8-12 of its Invalidity Contentions. HPI does not understand such a recitation to be required for purposes of these contentions; HPI reserves the right to address the law pertaining to Ontel’s Invalidity Contentions and/or supporting HPI’s positions as provided herein as appropriate and otherwise required.

clarity and in accordance with Local Patent Rule 3.3 any basis for invalidity pursuant to 35 U.S.C. §§ 102, 103, and/or 112.

Ontel's arguments pertaining to the effective filing or "priority" date for various asserted claims, together with its assessments of a publication of HPI's initial non-provisional application referred to as "Cannon," are discussed below in section A. In short, HPI contends, and Ontel's Invalidity Contentions actually demonstrate, that all the asserted claims are entitled to priority dates that fall *before* the Cannon reference. This means that Cannon is not prior art and cannot be used to invalidate any of the asserted claims. In addition, any disclosures (including any sales) by the inventor of any product embodying the claimed invention that occurred less than one year before such priority dates do not provide a basis for invalidity pursuant to 35 U.S.C. § 102(b)(1)(A). HPI notes in this regard that the Invalidity Contentions contend otherwise but wholly fail to include any claim chart for any such prior art product. Thus, Ontel has waived any reliance on any such item of purported prior art.

As for the rest of the alleged prior art, Ontel has wholly failed to explain how it discloses the limitations of the asserted claims, and has failed to identify *any* particular combinations of prior art together with purported reasons that a person of ordinary skill in the relevant art at the time of the invention would have made such combinations and had a reasonable expectation of success in so doing.

Ontel's further allegations of invalidity pursuant to 35 U.S.C. § 112, including reissue recapture, non-enablement, lack of written description, and indefiniteness, are conclusory and/or without basis.

As Ontel has already recognized (*see* Dkt. 74 at P-1), the purpose of the Contentions under the Local Patent Rules "are designed to require the parties to crystallize their theories of the case early in the litigation and to adhere to those theories once they have been disclosed." *Celgene Corp.*

v. Natco Pharma Ltd., 2015 U.S. Dist. LEXIS 89071, at *4 (D.N.J. July 9, 2015) (citation omitted). Ontel's Invalidity Contentions fail to comply with the requirements of the Local Patent Rules, depriving HPI of the opportunity to address, in these Responses, allegations of invalidity that are not sufficiently or yet disclosed, as discussed further herein. Even though Ontel has yet to file an Answer in this Action (and thus did not place any grounds of invalidity at issue in this action prior to filing its L. Pat. R. 3.3 Contentions), Ontel should not be permitted to remedy these deficiencies and HPI reserves the right to crystallize the scope of this case with appropriate motion practice.

A. Responses to Ontel's contentions regarding the priority dates of the asserted claims and their consequences for invalidity based on prior art

Ontel's Invalidity Contentions depend heavily on its contentions that the asserted claims of the '479 patent do *not* have the benefit of priority to at least HPI's first non-provisional application (Ser. No. 14/518,443) filed on October 20, 2014, but rather, are entitled to claim priority *only* to HPI's continuation application (Ser. No. 15/192,737) filed June 24, 2016² *or* its reissue application (Ser. No. 16/262,797) filed January 30, 2019³ — such that sales of HPI's Flippy product and the publication of HPI's first non-provisional application on April 3, 2015 (US 2015/0115124) ("Cannon") constitute prior art.⁴ Ontel is incorrect, and has failed to identify support for its argument as Local Patent Rule 3.3 requires.

As an initial matter, HPI notes that the Invalidity Contentions do not provide any reference to or description of HPI's Flippy product, let alone any comparison (chart) of any of the asserted

² Ontel contends at page 21 of its Invalidity Contentions that June 24, 2016 is the earliest priority date for claims 1-2, and 8-10 of the '479 patent (which are identical to claims 1-2 and 8-10 of the underlying U.S. Pat. No. 9,642,454 issued May 9, 2017) and for claim 18 of the '479 patent.

³ Ontel contends at page 21 of its Invalidity Contentions that January 30, 2019 is the earliest priority date for claims 12-13, 15-17, 19-21, and 27-29 of the '479 patent.

⁴ Ontel contends at page 62 that, insofar as the '479 patent claims are entitled to the effective filing dates of June 24, 2016 or January 30, 2019, Cannon is prior art under 35 U.S.C. § 102(a)(1).

claims to HPI's Flippy product. They refer only and in vague and conclusory fashion, at page 85, to "[t]he reduction of the invention to practice (Flippy or flipy Tablet Pillow)." But Local Patent Rule 3.3(a) requires that "[p]rior art under 35 U.S.C. § 102(b) shall be identified by specifying the item offered for sale or publicly used or known, the date the offer or use took place or the information became known, and the identity of the person or entity which made the use or which made and received the offer, or the person or entity which made the information known or to whom it was made known."

Accordingly, Ontel's contention that the asserted claims are anticipated by the sale and/or public availability of the Flippy product more than a year before their earliest priority date(s), as presented at pages 83-85, is completely insufficient under both the Patent Local Rules (including L. Pat. R. 3.3(a) and 3.3(b)) and the applicable patent law.

The Invalidity Contentions do provide a mapping of the asserted claims to Cannon, the publication of HPI's first non-provisional patent application. Indeed, Appendix A identifies Cannon as disclosing *each limitation of every asserted claim*. But remarkably, the invalidity contentions contend that all of the asserted claims are *anticipated* by Cannon—that is, Ontel contends these claims are *fully described in the very application that purportedly fails to provide sufficient descriptive support for a claim of priority*. Ontel cannot have it both ways. If these claims are anticipated by Cannon as alleged, then there is adequate support in the first non-provisional to support a claim of priority, such that Cannon is not prior art. Ontel's contentions that Cannon anticipates the asserted claims *because they cannot claim priority to Cannon* must therefore fail, for at least the reasons it provides and as a matter of law.

The details here demonstrate the point. Ontel contends at page 21 of the Invalidity Contentions that independent claim 1, and its dependent claims 2 and 8-10, are not entitled to have priority to HPI's first non-provisional application (i.e., Cannon) because that application does *not*

disclose “a first viewing angle of the first back support is 36 degrees, a second viewing angle of the second back support is 74 degrees, and a third viewing angle of the third back support is 49 degrees” as recited in independent claim 1. At the same time, Ontel contends at pages 74-75, 84-85, and 94-95 of Appendix A that Cannon (i.e., HPI’s first non-provisional application) **does** disclose this limitation, based on the statements in paragraph [0027] and the diagram shown in Figure 2. Moreover, at pages 85-94, the Invalidity Contentions explain in detail how this and all the other limitations of claims 1-2 and 8-10 are found in Cannon, such that Cannon anticipates all of these claims.

HPI agrees that Cannon / HPI’s first non-provisional application discloses the different viewing angles recited in claim 1 based on its description and the corresponding example shown in Figure 2, as discussed further herein with respect to Ontel’s contentions pursuant to 35 U.S.C. § 112, as well as all the other limitations of claims 1-2 and 8-10. *See In re Wertheim*, 541 F.2d 257 (C.C.P.A. 1976) (citing *In re Lukach*, 442 F.2d 967 (C.C.P.A. 1971) (“[T]he invention claimed does not have to be described in *ipsis verbis* in order to satisfy the description requirement of § 112”). This means these claims are entitled to at least their October 20, 2014 priority date, such that Cannon is not prior art to, and cannot be used to invalidate, any of claims 1-2 and 8-10.

Ontel similarly contends at page 21 of the Invalidity Contentions that claim 18, which depends from claim 12 and further requires “the body is foam having an indentation force deflection (IFD) in the range of 15-30 kilograms at 25% indentation,” is not entitled to have priority to HPI’s first non-provisional application (i.e., Cannon). At the same time, Ontel contends at pages 100-101 of its Invalidity Contentions that Cannon (i.e., HPI’s first non-provisional application) discloses this limitation and anticipates claim 18. HPI agrees, for at least the reasons provide in the Invalidity Contentions and further in view of the Mills 2007 “Polymer Foams Handbook” produced by Ontel, that Cannon / HPI’s first non-provisional application would have

disclosed, to one of skill in the art, the additional limitation recited by claim 18. Accordingly, claim 18 is entitled to at least its October 20, 2014 priority date, such that Cannon is not prior art to, and cannot be used to invalidate, claim 18.

Ontel further contends at pages 21-22 of the Invalidity Contentions that independent reissue claims 12 and 20, and the asserted claims that depend from them (claims 13, 15-17, 19; and claims 21, 27-29; respectively), are not entitled to have priority to any application except the reissue application filed January 30, 2019, where these claims were introduced, because the term “support angle” was not used in the previously filed specifications and claims. HPI disagrees. A person of ordinary skill in the art would have understood the use of “support angle” based on its plain English meaning and the disclosures of the previous application, as discussed further herein with respect to Ontel’s contentions pursuant to 35 U.S.C. § 112.

Also, HPI notes that independent claim 20 does not recite “support angle,” as presumed and indicated in the Invalidity Contentions, so the argument based on “support angles” does not apply to claims 20-21 and 27-29. The Invalidity Contentions provide no other reason for the statement in footnote 6 on page 101 that these claims “cannot be entitled to an effective fil[ing] date earlier than January 30, 2019.” Accordingly, by Ontel’s own argument, there is *no* basis for Cannon to be prior art to claims 20-21 and 27-29. Ontel’s contention at page 101 that these claims are anticipated by Cannon fails for this reason alone. In addition, the Invalidity Contentions provide a mapping of these claims to Cannon at pages 101-107, further demonstrating their entitlement to claim priority to at least the first filed non-provisional, such that Cannon is not prior art to these claims.

With respect to independent claim 12 and its dependent claims 13, 15-17 and 19, Ontel again and remarkably contends, at pages 139 and 141-143 of Appendix A, that Cannon discloses, in paragraphs [0016] and [0021], the very “support angle” limitations that are supposedly *not*

disclosed in the previous applications for purposes of its priority assessment. This is legally and factually untenable. *See, e.g., Lockwood v. Am. Airlines, Inc.*, 107 F.3d 1565, 1572 (Fed. Cir. 1997) (comparing requirements for written description support with those for invalidation based on prior art, and explaining that “[a] description which [merely] renders obvious the invention for which an earlier filing date is sought is not sufficient.”); *Biodelivery Scis. Int’l, Inc. v. Alvogen PB Research & Dev. LLC*, 576 F. Supp. 3d 184, 210–11 (D. Del. 2021), *aff’d in relevant part sub nom., Arius Two, Inc. v. Alvogen PB Rsch. & Dev., LLC*, Nos. 2022-1394, 2022-1449, 2022 U.S. App. LEXIS 35250 (Fed. Cir. Dec. 21, 2022) (holding that where parties agreed that a published application would anticipate the asserted claims if it was prior art, the two subsequent patents were entitled to claim priority to that prior application, such that it “cannot anticipate” the asserted claims.) Moreover and also again, the Invalidity Contentions explain in detail at pages 94-100 how these and **all** the other limitations of claims 12-13, 15-17 and 19 are found in Cannon, such that Cannon anticipates all of these claims. HPI agrees that Cannon / HPI’s first non-provisional application discloses all the limitations of claims 12-13, 15-17 and 19, as discussed further herein with respect to Ontel’s contentions pursuant to 35 U.S.C. § 112. But that means these claims are entitled to at least their October 20, 2014 priority date, such that Cannon is not prior art to, and cannot be used to invalidate, any of claims 12-13, 15-17 and 19.

Lastly, Ontel contends, at page 22 of the Invalidity Contentions—and setting aside its argument of no support for “support angle”—that claims 12-13, 15-17, 19-21, and 27-29 are not entitled to the claimed priority date of HPI’s provisional application because that application does not disclose “each edge support comprises an edge support width with an edge angle in the range of 85 to 120 degrees **to an adjacent support back**, a face of each edge support width oriented clockwise about the central axis.” (emphasis added). HPI disagrees. The provisional application describes a “ledge that helps hold and stabilize” a tablet or book, which has a width and is oriented

clockwise about a central axis; this is the recited “edge support.” The disclosed edge support has an angle relative to a “working surface,” and it is shown to be 90 degrees (as specifically recited in claims 15 and 28) with some variation, which would be understood by a person of skill in the art to include 85 to 120 degrees insofar as the design is “based on the ‘triskelion’” and is a pillow “made from a cut foam insert” with a “cover.”

It is unclear from Ontel’s Invalidity Contention how, if at all, a priority date of October 20, 2014 for claims 12-13, 15-17, 19-21 and 27-29, rather than a priority date of October 28, 2013, would affect its invalidity positions. HPI reserves the right to address this issue further if and when it becomes relevant to any invalidity defense in this case.

B. L. Pat. R. 3.4A(a). For each item of asserted prior art, the identification of each limitation of each asserted claim that the party believes is absent from the prior art.

In the text and charts, HPI provides its responses to each item of purported prior art that Ontel presented in Appendix A to the Invalidity Contentions and the excerpts thereof that Ontel identified as providing the alleged disclosure of each such limitation. As required by L. Pat. R. 3.4A(c), HPI’s responses follow the order of the references provided in the non-standard mass-reference invalidity chart provided by Ontel in Appendix A, and set forth HPI’s agreement or disagreement with each allegation therein and the written basis thereof.

HPI does not agree or concede that all of the references identified in the “Listing and Summary” provided at pages 27 to 83 of the Invalidity Contentions qualify as prior or qualify as prior art for the reasons indicated in the Invalidity Contentions. For example, HPI does not agree that any of Diebel 2013 (as discussed at page 60), Klepar 2014 (as discussed at page 70), Padilla 2013 (as discussed at page 73) and Padilla 2014 (as discussed at page 79) are prior art under 35 U.S.C. § 102(a)(1) as asserted. HPI also reserves the right to argue that Klepar 2013 does not qualify as prior art under 35 U.S.C. § 102(a)(2) based on public disclosure of the patented invention

prior to its December 27, 2013 filing date. Insofar as Ontel's contentions are based on its contentions regarding effective filing dates, HPI refers to its discussion above regarding the priority date issues.

Appendix A to Ontel's Invalidity Contentions provides a chart containing the limitations of each asserted claim in the left column and, for each limitation, a reference to one or more of Ontel's prior art reference with an image and/or excerpt from the reference. Appendix A does not, as required by L. Pat. R. 3.3(c), "identify[] *where specifically* in each alleged item of prior art each limitation of each asserted claim is found"⁵ Indeed, outside of Cannon (where the inventors of HPI's Asserted Patent did the work themselves), Ontel entirely fails to provide this specific identification for any limitation (or any portion of any limitation) of any claim. For example, Appendix A does not provide annotations of any of the included images to identify recited claim features, nor does it provide explanations as to where the recited claim features are purportedly found in the reference. For the most part, Ontel's Invalidity Contentions systematically fail to identify where specifically in each alleged prior art each limitation of each asserted claim is found. Instead, Ontel includes cut and pasted boiler plate paragraphs broadly explaining the prior art references at a high level. But Ontel almost always fails to identify what in these figures or brief text excerpts it is identifying to satisfy the alleged disclosure of the corresponding limitation. Simply put, there has not even been a good faith effort of specificity regarding the references or recited limitations.

Due to the lack of specificity in Appendix A regarding the references and the recited limitations, HPI can only speculate as to Ontel's contentions regarding "where specifically" certain

⁵ In a notable break from standard practice—in which a party provides one chart for each obviousness combination, if not a single chart for each reference—Ontel instead unhelpfully provided just one single chart containing, for each limitation, the alleged disclosure in *every* reference.

limitations of the asserted claims are found in the prior art. Insofar as Ontel has failed to satisfy this requirement of the Patent Local Rules, HPI submits that Ontel has waived any argument regarding the identified prior art that is not specifically presented in Appendix A, including any argument that the limitation would have been obvious to a person of ordinary skill in view of what is shown in Appendix A. Accordingly, for each limitation that is purported thereby to be disclosed in such reference, HPI indicates in the charts below whether or not Appendix A provides any basis to conclude that the claim limitation is found in the indicated prior art reference, as well as whether or not HPI believes the limitation to be absent from that reference as required by L. Pat. R. 3.4A(a).

While HPI has discussed portions of the references regarding the claim limitations, each and every disclosure of the same limitation in the same reference is not necessarily identified and discussed. In an effort to focus the issues, HPI cites only portions of the references, even when a reference may contain additional support for or disclosure supporting HPI's position. Where HPI cites a particular figure, table, or image relating to a prior art reference, the citation should be understood to encompass any text referring or relating to the directly cited material, in addition to the directly cited material itself. Similarly, where a cited portion of text refers to a figure, table, or image, the citation should be understood to include the figure as well.

For any claim limitation or portion thereof that is not explicitly disclosed in a particular reference and for which Ontel did not expressly allege inherency, Ontel has waived the inherency argument and related arguments—e.g., that the disclosure is satisfied because a Person of Ordinary Skill in the Art (“POSITA”) would have understood that it is a necessary part of the disclosure, or that element would have been obvious because it is purportedly inherent. HPI further reserves the right to identify and “rely on uncited portions of the prior art references, other documents, and expert testimony to provide further context or to aid in the understanding of the cited portions of the references”, as Ontel has stated the same. HPI denies that the prior art references identified by

Ontel reflects the “state of the art” as of the purported effective filing date of the Asserted Patent or the alleged invention date of the asserted claims. HPI denies that the references illustrate the scope and content of the prior art, the knowledge of those skilled in the relevant field, as well as the motivations of skilled persons to modify and combine known systems and components during the relevant time period. HPI may rely on uncited portions of the prior art references, prior art systems, and on other publications and expert testimony to provide context, and as aids to understanding and interpreting the portions of references that are cited. HPI may also rely on uncited portions of the prior art references, prior art systems, other publications, and the testimony of experts to rebut Ontel’s allegation that a person of ordinary skill in the art would have been motivated to modify or combine certain of the cited references so as to render the claims obvious.

HPI denies that the prior art references identified by Ontel reflects the “state of the art” as of the purported effective filing date of the Asserted Patent or the alleged invention date of the asserted claims. HPI denies that the references illustrate the scope and content of the prior art, the knowledge of those skilled in the relevant field, or the motivations of skilled persons to modify and combine known systems and components during the relevant time period.

HPI may rely on uncited portions of the prior art references, prior art systems, and on other publications and expert testimony to provide context, and as aids to understanding and interpreting the portions of references that are cited. HPI may also rely on uncited portions of the prior art references, prior art systems, other publications, and the testimony of experts to rebut Ontel’s allegation that a person of ordinary skill in the art would have been motivated to modify or combine certain of the cited references so as to render the claims obvious.

Ontel’s Alleged On-Sale Product	Ontel’s Alleged Date of Offer/Sale	Statutory Basis	Response
Flipy - Trademark Reg. No. 4551826 to	October 21, 2013	35 U.S.C. § 102(a)(1)	Ontel’s 35 U.S.C. § 102(a)(1) identification is insufficient because

Happy Products, Inc.			Ontel has failed to identify exactly what was disclosed, to whom, as required by L. Pat. R. 3.3(a) for § 102(b) prior art and to provide the chart required by L. Pat. R. 3.3(c).
Flippy	July 29, 2012	35 U.S.C. § 102(a)(1)	Ontel's 35 U.S.C. § 102(a)(1) identification is insufficient because Ontel has failed to identify exactly what was disclosed, to whom, as required by L. Pat. R. 3.3(a) for § 102(b) prior art and to provide the chart required by L. Pat. R. 3.3(c).

Reference	Date Allegedly Published or Issued	Statutory Basis	Response
AU 2010/100703 ("Preece")	July 29, 2010	35 U.S.C. § 102(a)(1)	
FACET Pyramid iPad Stand Kickstarter ("Facet Pyramid")	September 4, 2012	35 U.S.C. § 102(a)(1)	Ontel has failed to establish that the document it identified as Facet Pyramid exists in the form as purportedly published or issued on September 4, 2012, and has not been edited since. Notably, Ontel_000108 indicates that it was "Last updated December 12, 2012", and there is no indication of what was added to or deleted from the document as of that date (or that such indication is even accurate)

Amazon Listing for IPEVO PadPillow Pillow Stand for iPad Mini & iPad 4 & iPad 3 & iPad 2 & iPad 1 & Kindle & Nexus & Galaxy –Charcoal Gray (“PadPillow”)	July 8, 2013 (date first available on Amazon, August 17, 2011)	35 U.S.C. § 102(a)(1)	Ontel has failed to establish that the contents of PadPillow.
South Korean Patent No. KR2013/0005409A (“Baek”)	January 16, 2013	35 U.S.C. § 102(a)(1)	
Taiwanese Patent No. TWD144562S1 (“Hong”)	December 21, 2011	35 U.S.C. § 102(a)(1)	
Taiwanese Patent No. TWM419,961U (“Huang”)	January 1, 2012	35 U.S.C. § 102(a)(1)	
U.S. Patent No. 1,928,806 (“Barcalo”)	October 2, 1933	35 U.S.C. § 102(a)(1)	
U.S. Patent No. 3,746,296 (“Dean”)	July 17, 1973	35 U.S.C. § 102(a)(1)	
U.S. Patent No. 4,274,616 (“Radtke”)	June 23, 1981	35 U.S.C. § 102(a)(1)	
U.S. Patent No. 8,424,831 (“Lin”)	April 23, 2013	35 U.S.C. § 102(a)(1)	
U.S. Patent No. 8,960,421 (“Diebel 2011”)	February 24, 2015; filed March 28, 2011	35 U.S.C. § 102(a)(1) –(2)	Diebel 2011 is not § 102(a)(1) prior art.
U.S. Patent No. 9,226,559 (“Diebel 2013”)	January 5, 2016; filed March 15, 2013	35 U.S.C. § 102(a)(1) –(2)	Diebel 2013 is not § 102(a)(1) prior art.
U.S. Patent Application Publication No. 2015/0115124 A1 (“Cannon”)	April 30, 2015	35 U.S.C. § 102(a)(1)	HPI rejects Ontel’s allegation that Cannon is prior art. Cannon is not prior art, and Ontel has failed to establish that Cannon is prior art.
U.S. Patent Application Publication No. 2015/0189781 A1 (“Klepar 2013”)	July 2, 2015; filed December 27, 2013	35 U.S.C. § 102(a)(1) –(2)	HPI rejects Ontel’s allegation that Klepar 2013 is prior art. Klepar 2013 is not prior art, and Ontel has failed to establish that Klepar 2013 is prior art.

U.S. Design Patent No. D703,216 S (“Klepar 2014”)	April 22, 2014	35 U.S.C. § 102(a)(1)–(2)	HPI rejects Ontel’s allegation that Keplar 2014 is prior art. Keplar 2014 is not prior art, and Ontel has failed to establish that Keplar 2014 is prior art. In addition, Klepar 2014, as a design patent, fails to provide an enabling disclosure for the Asserted Claims.
U.S. Design Patent No. D696,258 (“Padilla 2013”)	December 24, 2013	35 U.S.C. § 102(a)(1)	HPI rejects Ontel’s allegation that Padilla 2013 is prior art. Padilla 2013 is not prior art, and Ontel has failed to establish that Padilla 2013 is prior art at least because as a design patent it fails to provide an enabling disclosure for the Asserted Claims.
U.S. Patent Application Publication No. 2003/0001063 (“Halpin”)	January 2, 2003	35 U.S.C. § 102(a)(1)	
U.S. Patent No. 6,196,512 B1 (“Ure”)	March 6, 2001	35 U.S.C. § 102(a)(1)	
U.S. Design Patent No. 365,461 (“Falter”)	December 26, 1995	35 U.S.C. § 102(a)(1)	Falter is not prior art at least because it fails to provide an enabling disclosure for the Asserted Claims.
U.S. Design Patent No. 362,565 (“Tubbs”)	September 26, 1995	35 U.S.C. § 102(a)(1)	Tubbs is not prior art at least because it fails to provide an enabling disclosure for the Asserted Claims.
U.S. Patent Application No. 2014/0076748 (“Padilla 2014”)	March 20, 2014	35 U.S.C. § 102(a)(1)–(2)	HPI rejects Ontel’s allegation that Padilla 2014 is prior art. Padilla 2014 is not prior art, and Ontel has failed to establish that Padilla 2014 is prior art.
Nigel J. Mills, POLYMER FOAMS	March 23, 2007	35 U.S.C. § 102(a)(1)	

HANDBOOK: ENGINEERING AND BIOMECHANICS APPLICATIONS AND DESIGN GUIDE, Chapter 9 (Butterworth- Heinemann, 1st ed. 2007) (“Mills”)			
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1. Preece

To the extent it discloses anything, Preece discloses a foam tablet stand that provides one fixed-angle support surface that displays media at one fixed angle.

As non-limiting examples of the numerous deficiencies of Preece, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any angles (claim 1 and its dependent claims 2 & 8 by dependency and claims 9–10 both by dependency and their independent recitation; claim 12 and its dependent claims 16–17 & 19 by dependency and dependent claims 13 & 15 by dependency and their specific recitation; claim 20 and its dependent claims 21, 27, & 29 by dependency and dependent claim 28 both by dependency and its specific recitation)
- Three different viewing angles (all claims)
- Three back supports/support backs (all claims)
- Three edge supports/support edges (all claims)
- Three virtual planes (all claims)
- Three virtual angles (all claims)
- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their dependent claims); a top of each back support is in physical

communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)

- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)
- A central axis (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- Being configured to be rotated about the central axis (claim 12 & its dependent claims)
- The interior being a pillow covered *in fabric*⁶ (claim 1 and its dependent claims)

2. FACET Pyramid

Notably, Ontel has identified the Kickstarter for Facet Pyramid (not the underlying product) as the purported item of prior art. In addition, the user comments to the Facet Pyramid kickstarter listing were not written by the same author(s) as the creators of the Kickstarter “publication,” and Ontel has further failed to identify the dates of any such comments (Invalidity Contentions at 33–34) or the dates of the “updates” (Invalidity Contentions at 34–36) that it identifies as being part of the Facet Pyramid “on our around September 4, 2012.”

To the extent it discloses anything, FACET Pyramid discloses a multi-angle aluminum iPad stand that uses magnets (not an edge support) in an effort to retain an iPad in one of three preset viewing positions (at angles of 35°, 55°, and 75° between the back of the iPad and the surface on which the FACET Pyramid rests). Ontel’s Invalidity Contentions reveal that this effort was unsuccessful at certain of these angles.

⁶ By citing Preece’s concession that Preece “can accommodate a wide range of protective covers that may be covering the tablet device,” Ontel thus admits that Preece does not disclose any cover (let alone the recited fabric cover) disposed *on* the pillow as required by Claim 1 and its dependent claims.

As non-limiting examples of the numerous deficiencies of FacetPyramid, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their respective dependent claims)
- Any central axis (all claims)
- Three support backs disposed about a central axis (claim 12 and its dependent claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- Three support edges disposed between the respective support backs (claim 12 and its dependent claims); a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)
- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)
- Three virtual planes (all claims)
- Three virtual angles (all claims)
- Two ends (claims 1 & 20 and their dependent claims)
- Each of the 3 back supports, 3 edge supports, and 2 ends being a surface of a solid interior (claim 1 and its dependent claims) or an interior (claim 20 and its dependent claims)
- Any edge supports/support edges, any angles therefor or dimensions thereof (all claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)

- Being configured to be rotated about the central axis (claim 12 and its dependent claims)
- The interior being a pillow covered in fabric (claim 1 and its dependent claims)
- Identification of the longitudinal length of any back support (claims 2, 21)

In addition, the comments excerpted by Ontel (Ontel Invalidity Contentions at 33–34) confirm that it has no fabric cover.

3. Amazon listing for PadPillow

Notably, Ontel has identified the Amazon listing for PadPillow (not the underlying product) as the purported item of prior art. Ontel has failed to establish the contents of that Amazon listing as it existed on or before July 8, 2013. In addition, the user comments to the PadPillow listing were not written by the same author(s) as the creators of the PadPillow, and Ontel has failed to establish the dates of the comments to that listing by “Joan B.” and “S. Stevens” cited on the bottom of p. 38 of the Invalidity Contentions.

To the extent it discloses anything, PadPillow discloses a pillow “comprised of two triangular sections connected with a soft hinge.” Ontel does not explain how PadPillow provides multiple support angles, multiple edge supports, or multiple viewing angles. Rather, Ontel admits that the viewing angle “can be controlled by when [*sic.*] using the tablet holder on your knees by bending them to achieve the desired view” (Ontel Invalidity Contentions at 36), thus indicating that PadPillow does not provide multiple angles but, rather provides one angle that can be changed.

As non-limiting examples of the numerous deficiencies of PadPillow Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any angles (claim 1 and its dependent claims 2 & 8 by dependency and claims 9–10 both by dependency and their independent recitation; claim 12 and its dependent claims

16–17 & 19 by dependency and dependent claims 13 & 15 by dependency and their specific recitation; claim 20 and its dependent claims 21, 27, & 29 by dependency and dependent claim 28 both by dependency and its specific recitation);

- Any physical dimensions (claims 2, 8, 16, 19, 21, 27, 29)
- Three different viewing angles (all claims)
- Three virtual angles (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their dependent claims)
- Three back supports/support backs (all claims)
- Three edge supports/support edges (all claims)
- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims); a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)
- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)
- Three virtual planes (all claims)
- Any central axis (all claims)
- A face of each of three support edges with a width oriented clockwise about the central axis (all claims)
- Being configured to be rotated about the central axis (claim 12 & its dependent claims)

- The interior being a pillow covered in fabric (claim 1 and its dependent claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)

4. **Baek**

Baek provided an adjustable-angle optical filter that sits *on top of* a display device and acts in the nature of a prism or periscope to enable it to be viewed from different angles. Baek is not a support stand at all, and thus facially fails to be “[a] media support apparatus” as recited in the preamble of Claim 12 and its dependent claims. Likewise, it lacks any back supports, any edge supports/support edges, or any of the structural features recited by the Asserted Claims.

To the extent it discloses anything, Baek teaches adjusting the effective or comfortable viewing angle of a display device on a flat surface by adjusting the prism pattern or swapping in a different control sheet in the element located on top of the display device, thereby altering its optical properties. The display device, by contrast, remains in the same position throughout.

Baek discloses no more than enabling multiple viewing angles for a display device, albeit in a very different way than in the Asserted Patent and as recited by its claims. As Ontel concedes, Baek *teaches away from* placing a display “on a support such as a desk pad . . . which results in an uncomfortable user posture and makes it difficult to touch the keyboard or perform input operations, thereby causing significant inconvenience in use.” (Invalidity Contentions at 43–44, citing Baek at [0017]).

While Baek enables multiple viewing angles in some sense, it fails to disclose any limitation of any Asserted Claim.

5. Hong

Like Preece, to the extent it discloses anything, Hong discloses a tablet stand that provides one fixed-angle support surface that displays media at one fixed angle.

Rather than any edge support with a width as recited in the Asserted Patent, Hong instead utilizes “a strip of coarse material provided at the end of the inclined surface to prevent the tablet computer from sliding off.” (Invalidity Contentions at 45 (cleaned up; citing Hong at 11-12).) To the extent that Ontel seeks to identify anything in Hong as even one of the three recited “edge supports” or “support edges,” Ontel has failed to identify whether it is, for example, the “inclined surface,” the “strip of coarse material,” or something else that it contends constitutes such element in the purported disclosure of Hong.

Although Ontel uses the word “pillow” in describing what Hong discloses, Ontel fails to identify where **Hong** uses that terminology or otherwise describes the composition or structure of what Hong purportedly discloses. Thus, Ontel has failed to establish that Hong has a solid interior or is a pillow covered in fabric.

As non-limiting examples of the numerous deficiencies in what Ontel has identified in the purported disclosure of Hong, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any angles (claim 1 and its dependent claims 2 & 8 by dependency and claims 9–10 both by dependency and their independent recitation; claim 12 and its dependent claims 16–17 & 19 by dependency and dependent claims 13 & 15 by dependency and their specific recitation; claim 20 and its dependent claims 21, 27, & 29 by dependency and dependent claim 28 both by dependency and its specific recitation)
- Any physical dimensions (claims 2, 8, 16, 19, 21, 27, 29)
- Three different viewing angles (all claims)

- Three back supports/support backs (all claims)
- Three edge supports/support edges (all claims)
- Three virtual planes (all claims)
- Three virtual angles (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their dependent claims); a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)
- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)
- Any central axis (all claims)
- Each edge support being in communication with two ends of a solid interior (claim 1 and its dependent claims);
- A face of each of three support edges with a width oriented clockwise about the central axis (all claims)
- Being configured to be rotated about the central axis (claim 12 & its dependent claims)
- The interior being a pillow covered in fabric (claim 1 and its dependent claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)

6. Huang

Like Preece and Hong, to the extent it discloses anything, Huang discloses a tablet stand that provides one fixed-angle support surface that displays media at one fixed angle.

Rather than any edge **support** with a width as recited in the Asserted Patent, Huang instead utilizes “a receiving groove which is a groove that is immersed in the bearing surface.” (Invalidity Contentions at 47 (citing Huang at 4).) To the extent that Ontel seeks to identify anything in Huang as even one of the three recited “edge supports” or “support edges,” Ontel has failed to identify whether it is, for example, the “inclined surface,” the “receiving groove,” or something else that it contends constitutes such element in the purported disclosure of Huang.

Although Ontel identifies the “main support pad” disclosed in Huang as being manufactured from a soft material (Invalidity Contentions at 48), and that such material can be “made from foam that normally has a fixed shape” (Invalidity Contentions at 48-49 (citing Huang at 6)), Ontel fails to identify any disclosure within Huang of that material being in a solid piece, rather than (for example) comprising multiple pieces of normally fixed-shape foam fill. Thus, Ontel has failed to establish that Hong has a solid interior.

As non-limiting examples of the numerous deficiencies in what Ontel has identified in the purported disclosure of Huang, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any angles (claim 1 and its dependent claims 2 & 8 by dependency and claims 9–10 both by dependency and their independent recitation; claim 12 and its dependent claims 16–17 & 19 by dependency and dependent claims 13 & 15 by dependency and their specific recitation; claim 20 and its dependent claims 21, 27, & 29 by dependency and dependent claim 28 both by dependency and its specific recitation);
- Any physical dimensions (claims 2, 8, 16, 19, 21, 27, 29)
- Three different viewing angles (all claims)
- Three back supports/support backs (all claims)
- Three edge supports/support edges (all claims)

- Three virtual planes (all claims)
- Three virtual angles (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)
- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their dependent claims); a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)
- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)
- Any central axis (all claims)
- A face of each of three support edges with a width oriented clockwise about the central axis (all claims)
- Being configured to be rotated about the central axis (claim 12 & its dependent claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)

7. **Barcalo**

To the extent it discloses anything, Barcalo, a patent from 1933, discloses a pillow that is “triangular in transverse cross section.”⁷ Instead of a solid interior, Barcalo “is completely filled

⁷ Barcalo provides contradictory geometrical preferences. Although it says that “the edges of the triangular ends are preferably nearly, but not equal in length,” it also says that “the edges 12 of the case or sack are triangular in shape, being preferably *obtuse* angled triangles.” (ICs at 50.) Of

with a soft, *loose*, yielding or elastic filling or stuffing.” (Invalidity Contentions at 51.) Barcalo thus does not disclose a solid interior, nor does it disclose or any particular angles or dimensions.

Rather than any edge *support* with a width as recited in the Asserted Patent, Huang instead utilizes “a receiving groove which is a groove that is immersed in the bearing surface.” (Invalidity Contentions at 45 (cleaned up; citing Hong at 11-12).) To the extent that Ontel seeks to identify anything in Hong as even one of the three recited “edge supports” or “support edges,” Ontel has failed to identify whether it is the “inclined surface,” or the “receiving groove” that it contends constitutes such element in the purported disclosure of Huang.

Further, and as discussed during prosecution of the ’479 patent, the structure of Barcalo does not contemplate or suggest use of virtual planes.

As non-limiting examples of the numerous deficiencies in what Ontel has identified in the purported disclosure of Barcalo, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any angles (claim 1 and its dependent claims 2 & 8 by dependency and claims 9–10 both by dependency and their independent recitation; claim 12 and its dependent claims 16–17 & 19 by dependency and dependent claims 13 & 15 by dependency and their specific recitation; claim 20 and its dependent claims 21, 27, & 29 by dependency and dependent claim 28 both by dependency and its specific recitation);
- Any physical dimensions (claims 2, 8, 16, 19, 21, 27, 29)
- Three edge supports/support edges (all claims)

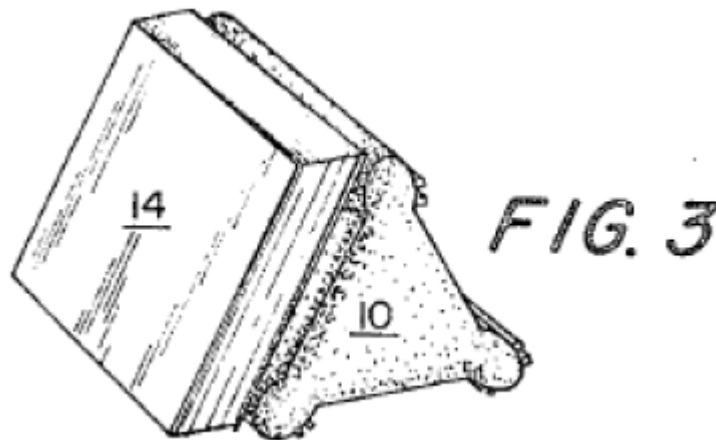
course, an obtuse angle is one that is over 90 degrees, by definition, and an obtuse triangle is one that has an obtuse angle. Because the angles of a triangle on a planar surface must sum to 180 degrees, Barcalo’s “preference” for an “obtuse” triangular shaped end cannot be simultaneously satisfied with its “preference” for the edges of those ends being are “nearly . . . equal in length.” The closest to equal length edges that an obtuse triangle could achieve would be a difference of over 40%. This is a matter of basic high school-level trigonometry.

- Three virtual angles (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- Any virtual planes, and any viewing angles resulting therefrom.
- Each back support, each edge support, and each end being a surface of the solid interior (claim 1 & its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)
- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims)
- Each edge support being disposed between two adjacent back supports (claim 12 and its dependent claims)
- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their dependent claims); The top of each back support being in physical communication with an adjacent edge support and each edge support being in physical communication with two ends (claim 20 and its dependent claims)
- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)
- Any central axis (all claims)
- A face of each of three support edges with a width oriented clockwise about the central axis (all claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)

8. Dean

To the extent it discloses anything, Dean, a patent from 1973, discloses a portable support “generally triangular [in] cross section” for maintaining objects in an upright manner. Dean discloses nothing about composition or materials, and Ontel has failed to identify any solid interior or pillow being covered in fabric in the purported disclosure of Dean. Likewise, Ontel has failed to identify anything in Dean regarding dimensions or angles.

As identified by Ontel, Dean does not provide any support for objects, but rather acts in the nature of a wedge, serving as shim or prop for such objects to maintain them at a fixed angle on another separate surface:



See Invalidity Contentions at 52 (depicting Dean Fig. 3). Ontel has wholly failed to identify what, if anything, in its one-page description of Dean purportedly satisfies any element of any claim limitation, and in view of Dean’s Fig. 3 provided by Ontel, it is wholly unclear what Ontel even means to identify in Dean as corresponding to any of the recited claim elements.

As non-limiting examples of the numerous deficiencies in what Ontel has identified in the purported disclosure of Dean, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any angles (claim 1 and its dependent claims 2 & 8 by dependency and claims 9–10 both by dependency and their independent recitation; claim 12 and its dependent claims 16–17 & 19 by dependency and dependent claims 13 & 15 by dependency and their specific recitation; claim 20 and its dependent claims 21, 27, & 29 by dependency and dependent claim 28 both by dependency and its specific recitation);
- Any physical dimensions (claims 2, 8, 16, 19, 21, 27, 29)
- Three back supports/support backs (all claims)
- Three edge supports/support edges (all claims)
- Three virtual angles (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- Each back support, each edge support, and each end being a surface of the solid interior (claim 1 & its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)
- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims)
- Each edge support being disposed between two adjacent back supports (claim 12 and its dependent claims)
- The top of each back support being in physical communication with an adjacent edge support and each edge support being in physical communication with two ends (claim 20 and its dependent claims)
- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)

- A face of each of three support edges with a width oriented clockwise about the central axis (all claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)
- Any virtual planes, and any viewing angles resulting therefrom (all claims).
- Three different viewing angles (all claims)

9. Radtke

Like Preece, Hong, and Huang (among others), to the extent it discloses anything, Radtke discloses a stand that provides one fixed-angle support surface that displays media at one fixed angle.

Radtke does not have a solid interior (or any interior at all) but rather relies upon “a reinforced lip at its lower end and lateral brace means on opposite sides thereof as well as a base support means to rigidize the construction.” (Invalidity Contentions at 53 (citing Radke at 1:63-68).) And the lack of such solid interior means that it likewise cannot be covered in fabric.

Radtke discloses only a single-angle display stand with a single edge support or support edge and a single back support.

As non-limiting examples of the numerous deficiencies in what Ontel has identified in the purported disclosure of Radtke, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any angles (claim 1 and its dependent claims 2 & 8 by dependency and claims 9–10 both by dependency and their independent recitation; claim 12 and its dependent claims 16–17 & 19 by dependency and dependent claims 13 & 15 by dependency and their

specific recitation; claim 20 and its dependent claims 21, 27, & 29 by dependency and dependent claim 28 both by dependency and its specific recitation);

- Any physical dimensions (claims 2, 8, 16, 19, 21, 27, 29)
- Three different viewing angles (all claims)
- Three back supports/support backs (all claims)
- Three edge supports/support edges (all claims)
- Three virtual planes (all claims)
- Three virtual angles (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)
- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their dependent claims); a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)
- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)
- A central axis (all claims)
- A face of each of three support edges with a width oriented clockwise about the central axis (all claims)
- Being configured to be rotated about the central axis (claim 12 & its dependent claims)

- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)

10. Lin

Like Facet Pyramid, to the extent that Lin discloses anything, discloses a tetrahedral wedge or prop used to support a tablet. Unlike Facet Pyramid, Lin provides only a single support surface and lacks a solid interior (as well as ends as recited in the Asserted Claims).

In addition, Lin does not provide any support edge or edge support (let alone the recited three support edges) but uses instead hooks located at two of the tetrahedron's four vertices

Lin does not have a solid interior (or any interior at all) but rather relies upon "a reinforced lip at its lower end and lateral brace means on opposite sides thereof as well as a base support means to rigidize the construction." (Invalidity Contentions at 53 (citing Radke at 1:63-68).) And the lack of such solid interior means that it likewise cannot be covered in fabric.

Lin discloses, at most, only a one-sided display stand that relies on two sides, each having a lip, rather than any support edge and/or support back, which Ontel has further failed to specifically identify.

As non-limiting examples of the numerous deficiencies in what Ontel has identified in the purported disclosure of Lin, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any angles (claim 1 and its dependent claims 2 & 8 by dependency and claims 9–10 both by dependency and their independent recitation; claim 12 and its dependent claims 16–17 & 19 by dependency and dependent claims 13 & 15 by dependency and their specific recitation; claim 20 and its dependent claims 21, 27, & 29 by dependency and dependent claim 28 both by dependency and its specific recitation);

- Any physical dimensions (claims 2, 8, 16, 19, 21, 27, 29)
- Three back supports/support backs (all claims)
- Three edge supports/support edges (all claims)
- Three virtual angles (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)
- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their dependent claims); a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)
- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)
- A central axis (all claims)
- A face of each of three support edges with a width oriented clockwise about the central axis (all claims)
- Being configured to be rotated about the central axis (claim 12 & its dependent claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)

11. Diebel 2011

Diebel 2011 provides a hollow wedge that is triangular in cross-section. It lacks any interior (let alone a solid interior, and thus cannot be covered in fabric as recited), any ends, and any edge supports.

As Ontel's description reveals, Diebel 2011 acts like a wedge or prop to maintain a portable electronic device against another surface at a particular angle when resting on another surface (e.g. a "table") so that it is no longer flush with that other surface (e.g. table) "to allow easier viewing and working access." (Invalidity Contentions at 59 (citing Diebel 2011 at 5:63-6:7).)

To the extent that Diebel 2011 provides any variability of angles, that variation seems to occur through folding or unfolding or otherwise changing the positioning of one side of the folded triangle relative to the other two in order to change the relative length of one side of the triangular cross-section, thereby adjusting the angle. While Ontel has failed to even identify which side, if any, in Diebel 2011 would constitute any support back or back support, it has further failed to identify three such elements as the claims require.

As non-limiting examples of the numerous deficiencies in what Ontel has identified in the purported disclosure of Diebel 2011, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any angles (claim 1 and its dependent claims 2 & 8 by dependency and claims 9–10 both by dependency and their independent recitation; claim 12 and its dependent claims 16–17 & 19 by dependency and dependent claims 13 & 15 by dependency and their specific recitation; claim 20 and its dependent claims 21, 27, & 29 by dependency and dependent claim 28 both by dependency and its specific recitation);
- Any physical dimensions (claims 2, 8, 16, 19, 21, 27, 29)
- Three back supports/support backs (all claims)

- Three edge supports/support edges (all claims)
- Three virtual angles (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- Any virtual planes and any viewing angles resulting therefrom (all claims)
- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)
- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their dependent claims); a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)
- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)
- A central axis (all claims)
- A face of each of three support edges with a width oriented clockwise about the central axis (all claims)
- Being configured to be rotated about the central axis (claim 12 & its dependent claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)

12. Diebel 2013

Diebel 2013 provides a hollow wedge that is triangular in cross-section. It lacks any interior (let alone a solid interior, and thus cannot be covered in fabric as recited), any ends, and any edge supports.

As Ontel's description reveals, Diebel 2013 acts like a wedge or prop to maintain a portable electronic device against another surface at a particular angle when resting on another surface (e.g. a "table") so that it is no longer flush with that other surface (e.g. table). (Invalidity Contentions at 60–61.)

To the extent that Diebel 2013 provides any variability of angles, that variation seems to occur through folding or unfolding or otherwise changing the positioning of one side of the folded triangle relative to the other two in order to change the relative length of one side of the triangular cross-section, thereby adjusting the angle. While Ontel has failed to even identify which side, if any, in Diebel 2013 would constitute any support back or back support, it has further failed to identify three such elements as the claims require.

As non-limiting examples of the numerous deficiencies in what Ontel has identified in the purported disclosure of Diebel 2013, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any plane angles or the angles of any
- Any physical dimensions (claims 2, 8, 16, 19, 21, 27, 29)
- Three back supports/support backs (all claims)
- Three edge supports/support edges (all claims)
- Three virtual angles (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- Any virtual planes and any viewing angles resulting therefrom (all claims)
- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)

- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their dependent claims); a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)
- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)
- A central axis (all claims)
- A face of each of three support edges with a width oriented clockwise about the central axis (all claims)
- Being configured to be rotated about the central axis (claim 12 & its dependent claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)

13. Cannon

Cannon is not prior art, as explained in section A above.

14. Klepar 2013

Klepar 2013 provides a hollow wedge that is triangular in cross-section. It lacks any ends and any interior (let alone a solid interior, and thus cannot be covered in fabric as recited).

To the extent that Klepar 2013 provides multiple viewing angles, it has (at most) two back supports (which Ontel has wholly failed to identify). Indeed, Ontel never identified what (if anything) in Klepar 2013 constitutes any such back support or any other element recited in the Asserted Claims.

As non-limiting examples of the numerous deficiencies in what Ontel has identified in the purported disclosure of Diebel 2013, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any angles (claim 1 and its dependent claims 2 & 8 by dependency and claims 9–10 both by dependency and their independent recitation; claim 12 and its dependent claims 16–17 & 19 by dependency and dependent claims 13 & 15 by dependency and their specific recitation; claim 20 and its dependent claims 21, 27, & 29 by dependency and dependent claim 28 both by dependency and its specific recitation)
- Any physical dimensions (claims 2, 8, 16, 19, 21, 27, 29)
- Three back supports/support edges (all claims)
- Three edge supports/support edges (all claims)
- Three virtual angles (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- Three virtual planes and any viewing angles resulting therefrom (all claims)
- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their dependent claims); a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)
- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)
- A central axis (all claims)

- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)
- A face of each of three support edges with a width oriented clockwise about the central axis (all claims)
- Being configured to be rotated about the central axis (claim 12 & its dependent claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)

15. Klepar 2014

Klepar 2014 is not prior art. Klepar 2014 suffers from all the deficiencies of Klepar 2013, identified above.

Moreover, Klepar 2014 contains additional deficiencies, and reveals those same deficiencies as present in Klepar 2013. Specifically, to the extent that Ontel would seek to identify elements 32 and 34 in Klepar 2013 as being support edges or edge supports (which Ontel failed to do in its Invalidity Contentions, and has no good cause to do belatedly), Klepar 2014 indicates through solid lines that such elements are *not* “a surface of an interior” but instead separate and external elements attached to the *exterior* (in contrast to element 36, which is indicated as being solid with the rest of the main body element), as shown in the annotated figures from Klepar 2014 below:

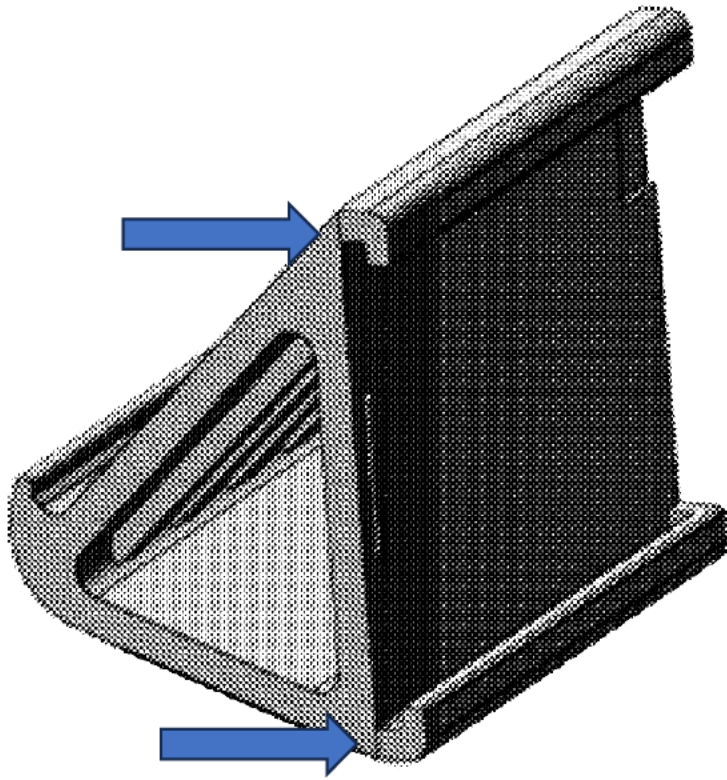


Fig. 2

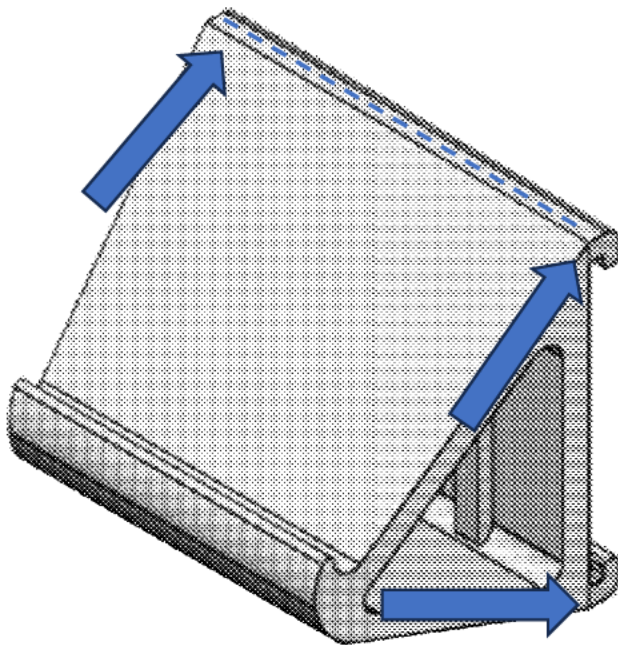


Fig. 5

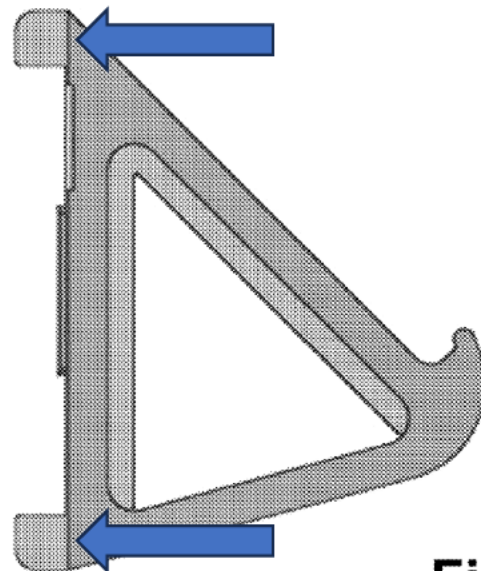


Fig. 7

In addition, as a design patent, it discloses an ornamental (and thus non-functional) design and as such, it does not constitute an enabling reference for any of the Asserted Claims.

16. Padilla 2013

Padilla 2013 is not prior art.

In addition, as a design patent, it discloses an ornamental and thus non-functional design, and Ontel admits that it “discloses an ornamental tablet stand.” Invalidity Contentions at 73. As such, it does not constitute an enabling reference for any of the Asserted Claims.

Padilla 2013 discloses nothing but pictures of the ornamental design without any explanation or elaboration. No dimensions or measurements are provided. No explanation of the composition of the interior or exterior are provided, so Ontel has facially failed to identify any solid interior, edge supports/support edges, or a fabric cover. Ontel has also failed to identify in Padilla 2013 the disclosure of any interior, let alone a solid interior.

Overall, Ontel wholly fails to provide any explanation or elaboration of what (if anything) in any of these pictures from Padilla 2013 it contends discloses any limitations of any of the Asserted Claims.

As non-limiting examples of the numerous deficiencies in what Ontel has identified in the purported disclosure of Padilla 2013, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any particular angles for any elements (all claims)
- Any physical dimensions (claims 2, 8, 16, 19, 21, 27, 29)
- Three edge supports (all claims)
- Three virtual angles (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- Three virtual planes, providing three viewing angles (all claims)

- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)
- A top of each back support is in physical communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)
- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)
- A face of each of three support edges with a width oriented clockwise about the central axis (all claims)
- Being configured to be rotated about the central axis (claim 12 & its dependent claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)

17. Halpin

To the extent it discloses anything, Halpin discloses a foam tablet stand that, like Preece and PadPillow, provides one fixed-angle support surface that displays media at one fixed angle.

Ontel has not identified any element of any limitation of any Asserted Claim within the purported disclosure of Halpin.

As non-limiting examples of the numerous deficiencies of Halpin, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any angles (claim 1 and its dependent claims 2 & 8 by dependency and claims 9–10 both by dependency and their independent recitation; claim 12 and its dependent claims 16–17 & 19 by dependency and dependent claims 13 & 15 by dependency and their

specific recitation; claim 20 and its dependent claims 21, 27, & 29 by dependency and dependent claim 28 both by dependency and its specific recitation);

- Three different viewing angles (all claims)
- Three back supports/support backs (all claims)
- Three edge supports/support edges (all claims)
- Three virtual planes (all claims)
- Three virtual angles (all claims)
- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their dependent claims); a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)
- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)
- A central axis (all claims)
- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)
- Being configured to be rotated about the central axis (claim 12 & its dependent claims)
- The interior being a pillow covered in fabric (claim 1 and its dependent claims)

18. Ure

To the extent it discloses anything, Ure discloses a portable book stand with one support surface whose display angle can be adjusted.

Ontel has not identified any element of any limitation of any Asserted Claim within the purported disclosure of Ure, but even if Ontel did seek to identify any such elements in untimely fashion, Ure cannot be said to disclose more than one edge support/support edge and more than one back support/support back.

Ure provides no measurements of any dimensions or angles. Ure likewise lacks any interior (let alone a solid interior), ends, or a central axis.

As non-limiting examples of the numerous deficiencies in what Ontel has identified in the purported disclosure of Ure, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any angles (claim 1 and its dependent claims 2 & 8 by dependency and claims 9–10 both by dependency and their independent recitation; claim 12 and its dependent claims 16–17 & 19 by dependency and dependent claims 13 & 15 by dependency and their specific recitation; claim 20 and its dependent claims 21, 27, & 29 by dependency and dependent claim 28 both by dependency and its specific recitation);
- Any physical dimensions (claims 2, 8, 16, 19, 21, 27, 29)
- Three back supports (all claims)
- Three edge supports (all claims)
- Three virtual angles (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)

- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)
- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their dependent claims); a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)
- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)
- A central axis (all claims)
- A face of each of three support edges with a width oriented clockwise about the central axis (all claims)
- Being configured to be rotated about the central axis (claim 12 & its dependent claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)

19. Falter

As a design patent, Falter discloses an ornamental (and thus non-functional) design; as such, it does not constitute an enabling reference for any of the Asserted Claims. Ontel merely describes it, without elaboration, as “a lap desk.” (Invalidity Contentions at 78.)

Falter discloses nothing but pictures of the ornamental design without any explanation or elaboration. No dimensions or measurements are provided. No explanation of the composition of the interior or exterior are provided, so Ontel has facially failed to identify any solid interior, edge

supports/support edges, or a fabric cover. Ontel has also failed to identify in Falter the disclosure of any interior, let alone a solid interior.

Overall, Ontel wholly fails to provide any explanation or elaboration of what (if anything) in any of these pictures from Falter it contends discloses any limitations of any of the Asserted Claims.

As non-limiting examples of the numerous deficiencies in what Ontel has identified in the purported disclosure of Falter, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any particular angles for any elements (all claims)
- Any physical dimensions (claims 2, 8, 16, 19, 21, 27, 29)
- Three back supports/support backs (all claims)
- Three edge supports/support edges (all claims)
- Three virtual angles (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)
- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their dependent claims); a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)
- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)

- A central axis (all claims)
- A face of each of three support edges with a width oriented clockwise about the central axis (all claims)
- Being configured to be rotated about the central axis (claim 12 & its dependent claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)

20. Tubbs

As a design patent, Tubbs discloses an ornamental (and thus non-functional) design; as such, it does not constitute an enabling reference for any of the Asserted Claims. Ontel merely describes it, without elaboration, as “a reading stand.” (Invalidity Contentions at 78.)

Tubbs discloses nothing but pictures of the ornamental design without any explanation or elaboration. No dimensions or measurements are provided. No explanation of the composition of the interior or exterior are provided, so Ontel has facially failed to identify any solid interior, edge supports/support edges, or a fabric cover. Ontel has also failed to identify in Tubbs the disclosure of any interior, let alone a solid interior.

Overall, Ontel wholly fails to provide any explanation or elaboration of what (if anything) in any of these pictures from Tubbs it contends discloses any limitations of any of the Asserted Claims.

As non-limiting examples of the numerous deficiencies in what Ontel has identified in the purported disclosure of Tubbs, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any particular angles for any elements (all claims)
- Any physical dimensions (claims 2, 8, 16, 19, 21, 27, 29)

- Three back supports/support backs (all claims)
- Three edge supports/support edges (all claims)
- Three virtual angles (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)
- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)
- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their dependent claims); a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)
- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)
- A central axis (all claims)
- A face of each of three support edges with a width oriented clockwise about the central axis (all claims)
- Being configured to be rotated about the central axis (claim 12 & its dependent claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)

21. Padilla 2014

Padilla 2014 is not prior art.

To the extent it discloses anything, Padilla discloses a case for a tablet computer that can support the tablet in a variety of angles, apparently by utilizing support legs that retain the back of the tablet at a distance and angle from a portion of the tablet case.

Ontel has not identified any element of any limitation of any Asserted Claim within the purported disclosure of Padilla 2014, but even if Ontel did seek to identify any such elements in untimely fashion, Padilla 2014 lacks any back support, edge support, ends, interior (let alone a solid interior with a fabric cover), or central axis. Padilla 2014 likewise lacks any disclosure of any dimensions or angles.

As non-limiting examples of the numerous deficiencies in what Ontel has identified in the purported disclosure of Padilla 2014, Ontel has failed to identify at least the following claim limitations in its purported disclosure:

- Any angles (claim 1 and its dependent claims 2 & 8 by dependency and claims 9–10 both by dependency and their independent recitation; claim 12 and its dependent claims 16–17 & 19 by dependency and dependent claims 13 & 15 by dependency and their specific recitation; claim 20 and its dependent claims 21, 27, & 29 by dependency and dependent claim 28 both by dependency and its specific recitation);
- Any physical dimensions (claims 2, 8, 16, 19, 21, 27, 29)
- Three different viewing angles (all claims)
- Three back supports/support backs (all claims)
- Three edge supports/support edges (all claims)
- Three virtual angles (all claims)
- Face of each edge support width oriented clockwise about central axis (all claims)

- Each edge support being in communication with a two ends of a solid interior (claim 1 and its dependent claims) or in physical communication with two ends (claim 20 and its dependent claims)
- Three support sides, each comprising a back support and an edge support (claims 1 & 20 and their dependent claims); a top of each back support is in physical communication with an adjacent edge support clockwise about a central axis (claim 20 and its dependents)
- Three support backs disposed about a central axis, with three support edges disposed between the respective support backs (claim 12 and its dependent claims)
- A central axis (all claims)
- A face of each of three support edges with a width oriented clockwise about the central axis (all claims)
- Being configured to be rotated about the central axis (claim 12 & its dependent claims)
- A body with three solid corners, each interposed between two adjacent support backs and including a respective edge support (claim 17)

22. Mills

Ontel seemingly seeks to rely on Mills solely for the additional recitation of claim 18. Ontel wholly fails to explain why a POSITA would have looked to Mills.

Ontel fails to identify what, if anything, in the excerpt it provided from Mills satisfies the recitation of claim 18.

Even if Ontel seeks to belatedly provide the necessary identification and explanation of Mills's disclosure being combined with one or more other references, what Ontel has provided from Mills, if anything, *teaches away* from foam with an 25% IFD in the range of 15–30kg *for*

the use in any pillows of any sort. In response to the deficient mass-reference chart provided by Ontel in its Appendix A, HPI provides the following responsive identification of elements missing from each limitation purportedly addressed in Appendix A, in the order that the references were first introduced in Appendix A. In the charts below, the following notation is used:

- “-“ indicates that Ontel has not identified that reference for that limitation
- “U” indicates that elements are unidentified in the excerpted portions of the reference
- “N” indicates that Ontel has failed to explain or otherwise establish how the limitation is present in the portions of the reference it has provided (and thus has waived any further explanation)
- “X” indicates that Ontel’s excerpt establishes that the corresponding limitation is NOT present in the portions of the excerpt that Ontel has provided in purported support.
(note that “N” and “X” can both be present for what Ontel has provided)

Ref	Limitation	1a	1b	1c	1d	1.e.i	1.e.ii	1.e.iii	1f	1g	1.h.i	1.h.ii	1.h.iii	2a	2b	2c	8	9	10
Cannon																			
Preece		X	-	X	-	-	-	-	X	N/X	-	-	-	U	-	-	-	-	N
FacetPyramid		-	-	-	-	X	X	X	-	-	N	N	N	N/X	N/X	N/X	-	-	-
PadPillow		X	X	-	-	-	-	-	X	N/X	-	-	-	-	-	-	-	-	-
Baek		-	-	-	-	X	X	X	-	-	X	X	X	-	-	-	-	-	-
Hong		X	X	X	-	-	-	-	X	N	-	-	-	-	-	-	-	-	N
Huang		X	X	N/X	-	-	-	-	-	N	-	-	-	-	-	-	-	N/X	N/X
Barcalo		X	X	N/X	X	N/X	N/X	N/X	X	N	N/X	N/X	N/X	-	-	-	-	N/X	N/X
Dean		-	X	X	-	-	-	-	X	-	-	-	-	-	-	-	-	-	N
Radtke		X	X	N/X	-	-	-	-	-	-	-	-	-	-	-	-	-	N	N
Lin		X	-	-	-	X	X	X	-	-	N	X	X	-	-	-	-	-	-
Diebel 2011		-	-	-	-	X	X	X	-	-	N	N	N	-	-	-	-	-	-
Diebel 2013		-	-	-	-	X	X	X	-	-	X	X	X	-	-	-	-	-	-
Klepar 2013		X	-	N/X	-	-	-	-	-	-	N	N	N	-	-	-	-	N	N
Klepar 2014		X	-	N/X	-	-	-	-	-	-	N	N	N	-	-	-	-	N	N
Padilla 2013		X	X	-	-	-	-	-	N/X	-	-	-	-	-	-	-	-	-	-
Halpin		-	-	N/X	-	-	-	-	-	-	-	-	-	-	-	-	-	N	N
Ure		X	-	-	-	X	X	X	-	-	N	N/X	N/X	-	-	-	-	-	-
Falter		X	X	N/X	-	X	-	-	X	-	-	-	-	-	-	-	-	N	N
Tubbs		X	X	N/X	-	X	-	-	X	-	-	-	-	-	-	-	-	N	N
Padilla 2014		-/X	-	-	-	X	N/X	N/X	-	-	N	N	N	-	-	-	-	-	-
Mills		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Ref	Limitation	12a	12b	12c	12d	12e	12f	12.f.i	12.f.ii	12.f.iii	12.g.i	12.g.ii	12.g.iii	12.g.iv	13a	13b	13c	15	16	17	18	19
Cannon																						
Preece		N	-	-	-	N/X	X	N/X	-	-	N/X	-	-	-	-	-	-	-	N/X	X	-	N/X
FacetPyramid		-	-	-	-	-	-	-	-	-	N/X	N/X	N/X	N/X	-	-	-	-	-	-	-	-
PadPillow		N	-	-	-	-	-	N/X	-	-	N/X	N/X	N/X	X	N	N	N	-	-	X	N/X	-
Baek		-	-	-	-	-	-	-	-	-	X	X	X	X	-	-	-	-	-	-	-	-
Hong		N	-	-	-	N/X	N/X	N	-	-	N/X	-	-	-	N	N	N	-	N/X	-	-	N/X
Huang		N/X	-	-	-	N/X	N/X	N	-	-	N/X	-	-	-	-	-	-	N/X	-	X	N/X	-
Barcalo		N	-	-	-	N/X	N	-	-	-	N/X	N/X	N/X	N/A	N/X	N/X	N/X	N/X	N/X	X	N/X	N/X
Dean		-	-	-	-	N/X	-	-	-	-	-	-	-	-	-	-	-	-	N/X	-	-	N/X
Radtke		N/X	-	-	-	N/X	N/X	N	-	-	N/X	-	-	-	-	-	-	N/A	-	X	-	-
Lin		-	-	-	-	-	-	X	-	-	N/X	-	-	X	-	-	-	-	-	X	-	-
Diebel 2011		-	-	-	-	-	-	-	-	-	N	-	-	N	-	-	-	-	-	-	-	-
Diebel 2013		-	-	-	-	-	-	N/A	N/X	N/X	N/X	N/X	N/X	N	-	-	-	-	-	-	-	-
Klepar 2013		-	-	-	-	-	-	-	-	-	N/X	-	-	-	-	-	-	-	-	-	-	-
Klepar 2014		-	N	N	N/X	N/X	-	-	-	-	N	N	X	X	N	N	N	N/X	-	N/X	N/X	N/X
Padilla 2013		-	-	-	-	-	-	-	-	-	-	-	-	-	N/X	N/X	N/X	-	-	-	-	-
Halpin		-	-	-	-	N/X	-	-	-	-	-	-	-	-	-	-	-	X	N/X	-	-	N/X
Ure		X	-	-	-	-	X	-	-	-	N/X	N/X	N/X	X	-	-	-	-	-	-	-	-
Falter		N/X	N/X	-	-	N/X	N/X	N/X	-	-	N/X	-	-	-	N	-	-	N/A	-	X	-	-
Tubbs		N/X	N/X	-	-	N/X	N/X	N/X	-	-	N/X	-	-	-	N	-	-	N/X	-	X	-	-
Padilla 2014		X	-	-	-	-	N	-	-	-	-	-	-	X	-	-	-	-	-	-	-	-
Mills		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	N	-

Ref	Limitation	20a	20b	20c	20d	20.e.i	20.e.ii	20.e.iii	20f	20g	20i	21a	21b	21c	27	28	29
Cannon																	
Preece		N/X	-	N/X	-	N/X	-	-	-	X	N	N	-	-	N/X	-	N/X
FacetPyramid		-	-	-	-	-	-	-	X	-	-	N/X	N/X	N/X	-	-	-
PadPillow		N/X	-	-	N/X	N/X	-	-	-	N/X	X	-	-	-	-	-	-
Baek		-	-	-	-	X	-	-	X	X	-	-	-	-	-	-	-
Hong		N/X	-	N/X	N/X	N/X	-	-	-	-	N	-	-	-	N/X	-	N/X
Huang		N/X	-	N/X	N/X	N/X	-	-	-	-	-	-	-	-	-	N/X	-
Barcalo		N	N/X	N/X	N	N	N	N	N	N	N/X	-	-	-	N/X	N/X	N/X
Dean		-	N	N/X	N	-	-	-	-	-	N	-	-	-	N/X	-	N/X
Radtke		N/X	N/X	N/X	N/X	N/X	-	-	-	N/X	-	-	-	-	-	N/X	-
Lin		X	-	-	-	X	-	-	N/X	N/X	-	-	-	-	-	-	-
Diebel 2011		N/X	-	-	-	N/X	-	-	N	N/X	-	-	-	-	-	-	-
Diebel 2013		N/X	-	-	-	N/X	-	-	N/X	N/X	-	-	-	-	-	-	-
Klepar 2013		-	N	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Klepar 2014		N	N	N/X	-	N	N	X	N/X	N/X	-	-	-	-	-	N/X	-
Padilla 2013		N/X	-	-	X	-	-	-	-	-	X	-	-	-	-	-	-
Halpin		-	N/X	N/X	-	-	-	-	-	-	-	-	-	-	N/X	N/X	N/X
Ure		-	-	-	-	N/X	X	X	N/X	N/X	-	-	-	-	-	-	-
Falter		N/X	N/X	N/X	N/X	N/X	-	-	-	-	N	-	-	-	-	N/X	-
Tubbs		N/X	-	N/X	N/X	N/X	-	-	-	-	N	-	-	-	-	N/X	-
Padilla 2014		-	-	-	-	-	-	-	-	N/X	-	-	-	-	-	-	-
Mills		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

C. L. Pat. R. 3.4A (b). If obviousness is alleged, an explanation of why the prior art does not render the asserted claim obvious.

If a patent challenger alleges obviousness of an asserted patent, L. Pat. R. 3.3(b) requires that it provide “*an explanation of why the prior art renders the asserted claim obvious, including an identification of any combinations of prior art showing obviousness.*” Ontel’s Invalidity Contentions attempt to allege obviousness by trying (and failing) to identify each limitation of the Asserted Claims in the prior art.⁸ But Ontel’s Invalidity Contentions do not identify *any specific*

⁸ But as the Federal Circuit as repeatedly explained, “Obviousness requires more than a mere showing that the prior art includes separate references covering each separate limitation in a claim.” *Unigene Labs., Inc. v. Apotex, Inc.*, 655 F.3d 1352, 1360 (Fed. Cir. 2011). “Rather, obviousness requires the additional showing that a [POSITA] at the time of the invention would have selected and combined those prior art elements in the normal courses of research and development to yield the claimed invention.” *Id.* This requires demonstrating “that a skilled artisan would have been motivated to combine the teachings of the prior art references to achieve the

combination of prior art allegedly showing obviousness *together with* reasoned explanations as to why a POSITA would have combined any certain reference listed in Appendix A with any other such reference with a reasonable expectation of success, as is necessary to establish a prima facie case of obviousness. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 401 (2007) (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006) (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness”).

The Invalidity Contentions instead provide, at page 134, exemplary groups of references that might be combined, stating: “By way of non-limiting, illustrative example, claims 1–2, 8–10, 12–13, 15–21, and 27–29 of the Asserted Patent are obvious over one or more of Barcalo, Cannon, Dean, Facet Pyramid, Klepar 2013, Klepar 2014, Padilla 2013 (“Group I References”), alone or in further view of Baek, Diebel 2011, Diebel 2013, Padilla 2014, PadPillow, Ure (“Group II References”) and/or Falter, Hong, Huang, Lin, Preece, Radtke, Tubbs (“Group III References”) and/or Halpin (“Group IV References”), further in view of the knowledge of the POSA.” Such categorical descriptions, which (at best) suggest an extremely large number of *potential* combinations, do not “identify,” let alone explain, any particular combinations for the references let alone for the particular claims at issue as Local Patent Rule 3.3(b) requires. *See, e.g., Celgene Corp. v. Hetero Labs Ltd.*, No. 17-3387 (ES)(MAH), 2021 U.S. Dist. LEXIS 159262 (D.N.J. Mar. 29, 2021) (“There are hundreds, if not thousands of possible combinations that could be arrived at using Defendants' disclosure of their theories of the case in the invalidity contentions. The vague,

claimed invention, and that the skilled artisan would have had a reasonable expectation of success in doing so.” *Intelligent Bio-Sys., Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1367–68 (Fed. Cir. 2016). These additional requirements cannot be met by “conclusory statements”—“there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006); *see KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007).

catch-all reservations of rights to combine anything disclosed with anything else disclosed in the invalidity contentions does not accomplish the purpose of the Local Patent Rules.”)

In apparent recognition of this issue, a bullet point list of purported combinations is provided at page 135 as shown below in the left column (with numbering added for ease of reference). HPI’s responses are provided in the right column.

1. Cannon in view of the knowledge of a POSA	Cannon is not prior art, as discussed above.
2. Dean in view of Klepar 2013, Klepar 2014 and/or Facet Pyramid, and the knowledge of a POSA	This is seven combinations, for which no explanations have been provided and for which any relevant knowledge of a POSITA is not identified.
3. Facet Pyramid in view of Cannon and/or Klepar 2013, Klepar 2014, and the knowledge of a POSA	This is another seven combinations, for which no explanations have been provided and for which any relevant knowledge of a POSITA is not identified.
4. Klepar 2013, Klepar 2014, and/or Barcalo in view of the knowledge of a POSA	This is another seven combinations, for which no explanations have been provided and for which any relevant knowledge of a POSITA is not identified.
5. Cannon, and/or one or multiple Group II References, and/or one or multiple Group III References, and/or Halpin, in further view of the knowledge of a POSA	Cannon is not prior art, as discussed above. This purported “identification” of combinations essentially purports to claim obviousness over any reference or set of references identified by Ontel
6. Dean in view of Klepar 2013, Klepar 2014 and/or Facet Pyramid, and/or one or multiple Group II References, and/or one or multiple Group III References, and/or Halpin, in further view of the knowledge of a POSA	This is another very large number of possible combinations, for which no explanations have been provided and for which any relevant knowledge of a POSITA is not identified.
7. Facet Pyramid in view of Cannon and/or Klepar 2013, Klepar 2014, and/or one or multiple Group II References, and/or one or multiple Group III References, and/or Halpin, in further view of the knowledge of a POSA	This is yet another very large number of possible combinations, for which no explanations have been provided and for which any relevant knowledge of a POSITA is not identified.
8. Klepar 2013, Klepar 2014, and/or Barcalo, and/or one or multiple Group II References, and/or one or multiple Group III References,	This is a very large number of possible combinations, for which no explanations have been provided and for which any

and/or Halpin, in further view of the knowledge of a POSA	relevant knowledge of a POSITA is not identified.
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Other than the single paragraph at pages 134-135 of the Invalidity Contention, the only potential support provided for the list shown above is in the short descriptions of each prior art reference, the generalized assertions as to the knowledge of a POSITA with respect to the '479 patent, and the single claim chart provided in Appendix A, associating without explanation disclosures from various references to various claim limitations. That single paragraph, even combined with the other disclosures, is insufficient under the local rules and the applicable law to identify a basis for obviousness of a claimed invention. It is not specific to or inclusive of all the limitations of any asserted claim, and fails to account for any combination of all the disclosed limitations of any asserted claim. As just one example, it does not identify any disclosure of or reason that a POSITA would create a media stand having three “support sides” or “support backs” and three “support edges” with “a face of each edge support width oriented clockwise about the central axis,” as required by each independent claims 1, 12, and 20. *KSR Int'l Co.*, 550 U.S. at 401 (“To determine whether there was an apparent reason to combine the known elements in the way a patent claims, it will often be necessary to look to interrelated teachings of multiple patents; to the effects of demands known to the design community or present in the marketplace; and to the background knowledge possessed by a person having ordinary skill in the art. To facilitate review, this analysis should be made explicit.”); *Metalcraft of Mayville, Inc. v. The Toro Co.*, 848 F.3d 1358, 1366 (Fed. Cir. 2017) (“In determining whether there would have been a motivation to combine prior art references to arrive at the claimed invention, it is insufficient to simply conclude the combination would have been obvious without identifying any reason why a person of skill in the art would have made the combination”).

Because Ontel has failed to identify reasons that a POSITA would combine particular teachings of any of the references in the sets of references identified at page 135 to arrive at the claimed invention, and would have a reasonable expectation of success in so doing, Ontel's Invalidity Contentions fail to identify any combination of prior art references that would render obvious any asserted claim. *See, e.g., Elekta Ltd. v. ZAP Surgical Sys., Inc.*, 81 F.4th 1368, 13–75 (Fed. Cir. 2023) (“Obviousness requires, *inter alia*, a finding that a skilled artisan would have been motivated to combine the teachings of prior art in such a way that the combination discloses the claimed limitations. . . . An obviousness determination [also] requires finding that a person of ordinary skill in the art would have had a reasonable expectation of success. Reasonable expectation of success refers to the likelihood of success in combining references to meet the limitations of the claimed invention.” (citations omitted)).

Notably, the Invalidity Contentions do not provide separate charts for different combinations of references, or charts for each reference with an identification of which ones should be combined for which claims, together with a reasoned explanation for the combination. There is simply no identification anywhere in the Invalidity Contentions of a set of references that allegedly renders obvious any asserted claim with an explanation as to why. For example, there is no statement that claim X is obvious in view of Reference 1, which discloses limitations a, c, and d, together with Reference 2, which discloses limitation b, with an explanation as to why a POSITA would have combined the relevant teachings of these references.

Instead of addressing each specific reference and combination, Ontel argues broadly — and insufficiently — that a POSITA would be motivated to combine one subset of the references identified on page 135 with any of another subset of the references, and so on, “to create a media viewing apparatus which could be hands-free and allowed for multiple viewing angle for the comfort and convenience of the user,” “to incorporate a support . . . to stabilize the media,” and “to

ensure the comfort of the person using the product by using a suitably soft and pliable material.” Ontel otherwise recites even more generalized language that a POSITA would have combined the various prior art references “because they each relate to apparatuses for the hands-free and holding upright and at an angle media supports....” (Invalidity Contentions at 120), or “in view of the teachings of the art that stable, multi-angle viewing, using a comfortable apparatus, were primary factors for developing a media support apparatus, in order to overcome the various shortcomings of the prior art” (Invalidity Contentions at 111).

In short, and remarkably, Ontel appears to argue that a POSITA would combine the teachings of any or all of its cited references insofar as they describe a media stand having more than one viewing angle for the media in order to provide a comfortable product. Even if the Invalidity Contentions identified the limitations as disclosed in a specific combination of particular references (and they do not), such generalized and conclusory assertions do not constitute a “reasoned explanation” for combining particular teachings to achieve the invention as recited in the claims, as required for any contention of nonobviousness. In short—and remarkably—Ontel appears to argue that a POSITA would combine the teachings of any or all of its cited references insofar as they describe a media stand having more than one viewing angle for the media in order to provide a comfortable product. Even if the Invalidity Contentions identified the limitations as disclosed in a specific combination of particular references (and they do not), such generalized and conclusory assertions do not constitute a “reasoned explanation” for combining particular teachings to achieve the invention as recited in the claims, as required for any contention of nonobviousness. *Personal Web Techs., LLC v. Apple, Inc.*, 848 F.3d 987, 994 (Fed. Cir. 2017) (Asserting that references could be combined “does not imply a motivation to pick [the references] and combine them to arrive at the claimed invention.”); *Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064, 1074 (Fed. Cir. 2015) (“Obviousness concerns whether a skilled artisan not only *could* have

made but *would* have been motivated to make the combinations or modifications of prior art to arrive at the claimed inventions (emphasis added)").

Finally, and even if the broad-brush strokes used by Ontel provide reasons to combine the teachings of particular prior art references to obtain the claimed invention (they do not), Ontel has not cited, provided, or otherwise indicated *any* evidence in support of them. Attorney argument is not sufficient to demonstrate obviousness. *See, e.g., Pac. Bioscience Lab 'ys, Inc. v. Nutra Luxe MD, LCC*, No. C10-0230JLR, 2012 WL 12845899, at *7 (W.D. Wash., July 31, 2012) (granting summary judgment of obviousness where patent challenger "provides[d] no evidence, only attorney argument, of how one of skill in the art would have viewed the [prior art]").

In summary, because the Invalidity Contentions fail to identify any "combinations of prior art showing obviousness" with a reasoned basis that a POSITA would have combined the particular references to arrive at the claimed invention with a reasonable expectation of success in so doing, Ontel has failed to present any basis for finding any of the asserted claims obvious pursuant to 35 U.S.C. §103.⁹ *KSR*, 550 U.S. at 401; *Elektro Ltd. v. ZAP Surgical Sys., Inc.*, 81 F.4th at 1374–75.

Further, HPI disagrees with Ontel's contentions as to the qualifications of the Person of Ordinary Skill in the Art as presented at pages 26-27 of the Invalidity Contentions. The Federal Circuit has identified several factors for consideration in determining level of ordinary skill in the art, namely: "(1) the educational level of the inventor; (2) type of problems encountered in the art; (3) prior art solutions to those problems; (4) rapidity with which innovations are made; (5) sophistication of the technology; and (6) educational level of active workers in the field." *Daiichi*

⁹ By its failure to provide even a single such instance, HPI contends that Ontel has foregone any argument that any combination of references renders any asserted claim obvious. HPI reserves the right to seek preclusion of any such argument and/or a determination of nonobviousness of all asserted claims of the '479 Patent.

Sankyo Co. v. Apotex, Inc., 501 F.3d 1254, 1256 (Fed. Cir. 2007). Ontel's proposed definition is inconsistent with any consideration of these factors. For example, the proposed criteria of education in "mechanical engineering" is not characteristic of the inventors or workers in the field, nor is "work with machinists." Experience in the "development and construction of support structures" is vague and seemingly divorced from any field encompassing consumer products or media stands. Moreover, Ontel's proposed definition fails to include any education or training in optics, geometry, or textiles, as is characteristic of the inventors, the problems encountered and prior art solutions to such problems. HPI reserves the right to provide an alternative definition of the POSITA as appropriate in the course of discovery.

HPI also disagrees with Ontel's broad and unsupported affirmations regarding the POSITA presented at pages 107-111 of the Invalidity Contentions. The meaning, purpose and relevance of Ontel's discussion at pages 107-109 under the heading of "knowledge and motivation of a POSA regarding media support stands" is unclear. HPI acknowledges that media stands providing viewing angles existed in the prior art. HPI disputes that anything stated here identifies a reason that a person of skill would have combined the teachings of any particular references to arrive at the invention. The meaning, purpose and relevance of Ontel's assertion at pages 109-110 that "The prior art taught and the POSA would know that multiple viewing angles were achievable by triangular shaped apparatuses" as well as Ontel's indication, at pages 110-111 that "The POSA would have realized that shortcoming still existed in the prior art and would have attempted to create an optimal stand" are vague, conclusory and untethered to any issue in this case, as well as unsupported. HPI reserves the right to respond to such affirmation if/when Ontel permissibly explains them and identifies evidence in support of them.

At pages 111-133 of the Invalidity Contentions, under the heading of "Differences between the Prior Art and the Claimed Invention," Ontel provides a discussion, by claim, of various prior

art references. This discussion does not identify any basis for obviousness in view of these references, for at least the reasons provided above. The assertions of obviousness are conclusory and based entirely on attorney argument. HPI disagrees and disputes that this discussion provides any reason that one of skill would combine any particular references to achieve the invention of any asserted claim. HPI disagrees and disputes that this discussion provides any basis for showing a reasonable expectation of success in combining of prior art features. HPI disagrees and disputes that this discussion establishes any knowledge or skill of a POSITA required to find obviousness in view of any particular combination of references. HPI reserves the right to respond to such any such arguments or evidence if and when Ontel permissibly explains them and identifies evidence in support of them. To the extent Ontel's discussion in this section is indicative of any claim interpretation used by Ontel, HPI reserves the right to respond if and when such interpretation is permissibly clarified.

Lastly, HPI anticipates relying on numerous secondary indicia of non-obviousness, including the "commercial success" of Flippy (noted at 4:35-39 of the '479 patent), the long-felt but unresolved need for a media stand such as the patent invention, the failure of others to achieve the claimed invention despite such need, praise of the invention by others, and – importantly – the copying of the invention by Ontel and others – all of which were presented in HPI's complaint in this matter. At pages 152-153 of the Invalidity Contentions, Ontel acknowledges that HPI's complaint alleges commercial success (on QVC) and acclaim (via positive reviews) of Flippy, but disagrees without any explanation that this is indicative of non-obviousness. Ontel does not acknowledge or address HPI allegations pertaining to the other factors—and amazingly, claims that "Ontel is not aware of any . . . copying . . . of the alleged invention of the claims" notwithstanding the numerous allegations in the Amended Complaint that Ontel directly copied its knock-off Pillow Pad product from Flippy after ordering dozens of copies. *See Volvo Penta of*

the Ams., LLC v. Brunswick Corp., 81 F.4th 1202, 1213 (Fed. Cir. 2023) (“[W]e have usually considered a determination of copying to be ‘strong evidence of nonobviousness’.”); *see also Windsurfing Int’l, Inc. v. AMF, Inc.*, 782 F.2d 995, 1000 (Fed. Cir. 1986) (“copying the claimed invention, rather than one in the public domain, is indicative of non-obviousness”).

HPI notes that assessment of secondary indicia of non-obviousness is required to demonstrate obviousness. *Apple Inc. v. Samsung Elecs. Co.*, 839 F.3d 1034, 1048 (Fed. Cir. 2016) (“A determination of whether a patent claim is invalid as obvious under § 103 requires consideration of all four *Graham* factors [including the fourth factor, secondary indicia of non-obviousness], and it is error to reach a conclusion of obviousness until all those factors are considered.”); *see, e.g., Eurand, Inc. v. Mylan Pharms., Inc.*, 676 F.3d 1063, 1076–80 (explaining that there is no burden-shifting framework and that an obviousness determination requires consideration of all relevant evidence, including that relating to the objective considerations). Ontel’s failure to provide any explanation for its denials contravenes the Patent Local Rules. HPI reserves the right to respond if and when Ontel is permitted to address any of the secondary indicia of non-obviousness, although Ontel has waived the right to address them by failing to do so in its Invalidity Contentions.

D. Response to alleged improper reissue recapture under 35 U.S.C. § 251(d)

At pages 135-140 of the Invalidity Contentions, Ontel contends that claims 12 and 20 of the ’479 patent have been improperly broadened in violation of 35 U.S.C. § 251(d) by omitting the recitation of a “solid interior” and the specific viewing angles (“36 degrees,” “74 degrees,” and “49 degrees”), such that these claims and the claims that depend from them are invalid. HPI disagrees.

As an initial matter, HPI notes that the reissue application was “applied for within two years from the grant of the original patent,” such that the rule against broadening recited in 35

U.S.C. 251(d) does not apply.

HPI interprets Ontel's arguments as being made under the reissue recapture doctrine, which arises from the requirement in 35 U.S.C. 251(a) that patents be reissued "whenever any patent is, through error, deemed wholly or partly inoperative ... by reason of the patentee claiming more or less than he had a right to claim in the patent..." By reciting the three specific viewing angles (36, 74, 49), the '454 Patent claimed less than HPI had a right to claim. Indeed, the Examiner of the underlying patent indicated, in the Reasons for Allowance dated January 6, 2017, that the allowance was made because the prior art didn't disclose "three distinct display angles" (i.e., the specific viewing angles recited in the claim were not required for novelty). Claims 12 and 20 of the reissue '479 patent rectified the error of the prior prosecuting attorney, namely, the unnecessarily narrow amendments to the claims, and changed the requirement of the three specific viewing angles to a more fulsome requirement including viewing angles that are "different from one another." This was not a violation of the rule against reissue recapture.

The court-developed doctrine of reissue recapture is intended to prevent the broadening of claims in order to recapture claim scope that was appropriately surrendered during prosecution. "In operation, the recapture rule excludes earlier deliberate withdrawals and amendments from the allowable scope of a reissue patent. 'Under the recapture rule, claims that are broader than the original patent claims in a manner directly pertinent to the subject matter surrendered during prosecution are impermissible.'" *MBO Laboratories, Inc. v. Becton, Dickinson & Co.*, 474 F.3d 1323, 1332 (Fed. Cir. 2007) (citing *Hester Indus., Inc. v. Stein, Inc.*, 142 F.3d 1472, 1480 (Fed. Cir. 1998)). Claims 12 and 20 of the '479 patent do not violate the rule against reissue recapture. The previous introduction of the specific viewing angles was erroneous and not a deliberate withdrawal or amendment to be addressed by this rule, and the new claims maintained the requirement of viewing angles but in a different way.

The Federal Circuit has adopted a three-step analysis to determine whether a patentee impermissibly recaptured subject matter: “(1) first, we determine whether, and in what respect, the reissue claims are broader in scope than the original patent claims; (2) next, we determine whether the broader aspects of the reissue claims relate to subject matter surrendered in the original prosecution; and (3) finally, we determine whether the reissue claims were materially narrowed in other respects, so that the claims may not have been enlarged, and hence avoid the recapture rule.” *N. Am. Container, Inc. v. Plastipak Packaging, Inc.*, 415 F.3d 1335, 1339 (Fed. Cir. 2005) (citing *Pannu v. Storz Instruments, Inc.*, 258 F.3d 1336, 1371 (Fed. Cir. 2001)). Ontel’s Invalidity Contentions fail to set forth any analysis of the reissue-recapture doctrine under the applicable law. HPI reserves the right to respond to any such analysis if and when it is permissibly provided.

Ontel provides extensive summary and quotation from the prosecution of the reissue ’443 application (Ser. No. 14/518,443) and the applications that resulted in the underlying patent (US 9,642,454). HPI disagrees with the characterization. It is incomplete and does not appropriately represent the scope, assessments, arguments and/or conclusions made during the rigorous examination of the ’443 application and/or the examination resulting in quick issuance of the underlying patent (US 9,642,454). For example, the prosecution arguments summarized at pages 139-140 of the Invalidity Contentions were made to distinguish the new claims from the prior art reference Barcalo, not to address recapture; to address recapture, it was noted that the Examiner had already admitted that the new requirement of “different” viewing angles was a material narrowing that avoided improper reissue recapture. HPI reserves the right to identify and discuss the relevant portions of the file histories if and when Ontel permissibly provides an appropriate legal analysis.

It is unclear what Ontel contends about “solid interior” or why it is referencing HPI’s infringement contentions. HPI reserves the right to respond if and when such contentions are

permissibly clarified. Ontel otherwise appears to content that the Examiner's rejection of the HPI's new reissue claims for improper reissue-recapture, for failure to recite viewing angles of 36, 74, and 49 degrees, was not overcome by HPI's amendments and responses, i.e., the Examiner got it wrong. HPI responds that the Examiner got it right.

E. L. Pat. R. 3.4A (d). For each asserted grounds of invalidity under L.Pat.R.3.3(d), a detailed explanation of how the asserted claim complies with 35 U.S.C. §112

1. Alleged Indefiniteness

By statute, a patentee is required to provide claims “particularly pointing out and distinctly claiming the subject matter which the inventor[s] ... regard[] as the invention.” 35 U.S.C. § 112. Section 112(b) requires that the claims “be cast in clear—as opposed to ambiguous, vague, indefinite—terms.” *In re Packard*, 751 F.3d 1307, 1313 (Fed. Cir. 2014) (citing *Merrill v. Yeomans*, 94 U.S. 568, 573–74 (1876) and *United Carbon Co. v. Binney & Smith Co.*, 317 U.S. 228, 236 (1942)). Clarity is required so that the claims will “notify the public of what is within the protections of the patent, and what is not” and will do so with “reasonable certainty.” *Id.*; *see also Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U.S. 898, 909 (2014).

Ontel contends, at pages 140-150 of the Invalidity Contentions, that “[t]o the extent the Asserted Claims are not invalid as obvious or anticipated, and ... are enabled and sufficiently described ..., [they] are invalid for indefiniteness.” Specifically, Ontel contends that the terms and claims identified in the headings below are indefinite. HPI provides specific responses to each of Ontel's contentions below.

In general, though, Ontel's contentions of indefiniteness fail because they rely completely on attorney argument, and do so without any identification of any purported support for them. *See, e.g., Gemtron Corp. v. Saint-Gobain Corp.*, 572 F.3d 1371, 1380 (Fed. Cir. 2009) (emphasizing that “unsworn attorney argument ... is not evidence”); *WesternGeco L.L.C. v. ION Geophysical*

Corp., 876 F. Supp. 2d 857, 875 (S.D. Tex. 2012) (“Defendants’ unsupported attorney argument fails to prove indefiniteness by clear and convincing evidence”). Patent Local Rules 3.4(c) and (d) required that Ontel “produce any [] document or thing on which it intends to rely in support of its assertion” and “identify by production number which documents correspond to each category.” Ontel did not produce *any* documents identified as pertaining to its contentions under 35 U.S.C. § 112 and it did not produce any expert declaration or testimony in support of any of its positions. Because it was required to do so under the Local Patent Rules, Ontel has waived its right to identify evidence in support of its indefiniteness positions, which therefore must fail.

HPI further notes that “[i]n the face of an allegation of indefiniteness, general principles of claim construction apply.” *Biosig Instruments, Inc. v. Nautilus, Inc.*, 783 F.3d 1374, 1377 (Fed. Cir. 2015). Because issues of indefiniteness are typically resolved via the process of claim construction, HPI reserves the right to respond fully and completely to arguments that Ontel makes regarding the terms below in such context.

a. “viewing angle” (claims 1, 12, 20, and asserted dependent claims)

Ontel contends at page 141 that the term “viewing angle” is indefinite because the specification “has no clear definition or scope” and thus “fail[s] to inform a POSA of the scope of the claimed invention with reasonable certainty.”¹⁰ Whether a *specification* provides a “clear definition or scope” is not dispositive of the issue of indefiniteness. Rather, the issue is whether the *claims* are “cast in clear ... terms.” *In re Packard*, 751 F.3d at 1313. A patent is invalid for indefiniteness when “its claims, *read in light of the specification ... and the prosecution history*,

¹⁰ Ontel also provides attorney argument at pages 142-143 that an apparatus having viewing angles of 36, 74, and 49 degrees “is not practical for the asserted purpose of ‘provid[ing]’ support for multiple view angles,” and purport to demonstrate this with a drawing. It is unclear how the drawing was obtained or what it is supposed to show. HPI reserves the right to respond to this argument if and when it is permissibly clarified.

fail to inform, with reasonable certainty, those skilled in the art about the scope of the invention.” *Nautilus, Inc. v. Biosig Instruments, Inc.*, 572 U.S. 898, 909 (2014).

HPI submits that the scope of claims 1, 12, and 20 based on their recitation of the term “viewing angle” would be clear to a POSITA when read in light of the specification and prosecution history. The specification describes a media device have three “viewing angles” “different from one another,” and explains the illustrated embodiments and the identification of “viewing angles 160” in Figures 1 and 2. It explains, for example at 2:63-66, that “[t]he side supports 155 may be arranged to provide three different viewing angles 160 for three different user position” where “[e]ach viewing angle 160 is orthogonal to a support back 105,” and clarifies in at 2:48-49 that “[e]ach support side 155 comprises a support back 105 and a support edge 110.” In short, as stated at 4:18-20, the “three support sides 155 [are arranged] to generate three distinct viewing angles 160.”

The prosecution history of the ’797 reissue application explains this at page 14 of the Response filed May 19, 2020. It uses an annotated version of Figure 1 to show that the “[c]laimed media device rests on [a] virtual plane created by a portion of back support 155 and edge support 110,” which “allows the support sides 105 to be tilted at a more custom-controlled angle as by enlarging or reducing the size of the downward-facing edge support.” The Appeal Brief filed August 24, 2020 provides the same diagram and states even more specifically, at page 5, that the “[c]laimed media device rests on [a] virtual plane created by a portion of back support 105 and edge support 110 to yield viewing angle 160.” In other words, the viewing angle 160 is defined “with respect to” the virtual plane on which the claimed media support device rests. *Id.* at p. 14; *see also* p. 22.

Also, a POSITA would have been familiar with the concept of a “viewing angle” for a media stand. This is demonstrated for example by prior art references identified in Appendix A to

the Invalidity Contentions including, for example, Baek (Abstract, [0009], Figs. 12 and 13, [0062]-[0064], [0068]-[0070]), Huang (Abstract), Diebel 2011 (8:14-60), Diebel 2013 (Abstract, 2:47-48, 2:66-67, Figs. 5A-5b, 7a-7d; 5:57-67, Table A, 6:65-7:7, 7:22-29,), Padilla 2014¹¹ (Abstract, [0008], [0021]).

For at least these reasons, none of claims 1, 12, and 20, or the asserted dependent claims, are indefinite based on their use of the term “viewing angle.”

b. “edge angle” (claim 12 and asserted dependent claims)

Ontel contends at pages 143-147 that “edge angle” as used in claim 12 is indefinite because the specification “has no clear definition or scope” and thus “fail[s] to inform a POSA of the scope of the claimed invention with reasonable certainty.” As discussed above in section a, and incorporated here by reference, this is not dispositive of the issue of indefiniteness.

HPI submits that the scope of claim 12 and asserted dependent claims based on the recitation of the term “edge angle” would have been perfectly clear to a POSITA when read in light of the specification and prosecution history.

Figures 1 and 2 illustrate the “edge support 110” and the “back support 105” and the specification explains that “each edge support 110 forms an edge angle 140 with an adjacent back support 105” (3:64-65). The edge angle 140 is shown in Figure 2 and would be understood by a person of skill in the art in view of this cross-section and the three-dimensional views in Figures 1, 3 and 4. These figures show the edge support to be relatively flat and of a rectangular shape. The specification explains that the edge support has “a latitudinal length 150” (2:56-62) and may have width 135 (3:67-4:3). These figures also show the back support 105 to be planar, and the specification indicates “a plane” of back support 105a (3:30-31).

¹¹ Padilla 2014 is of record in the '797 reissue application file.

Ontel contends that “edge angle” is indefinite because “neither the detailed description nor the figures describe how the edge angle is to be measured.” But the “edge angle 140” is indicated in Figure 2 with a typical “angle curve” to be defined by the plane of each back support 160 and the plane of each respective edge support 140. A person of ordinary skill (indeed, most grammar-school students) would have understood how to measure the angle between two lines that intersect, such as the plane of the edge support and the plane of the back support. *See, e.g.*, “Flash Angle Measure,” TEACHERLED, <https://www.teacherled.com/2010/01/03/angle-measure> (last visited July 13, 2025); “Measuring Angles,” ONLINEMATH4ALL, https://www.onlinemath4all.com/measuring-angles.html#google_vignette (last visited July 13, 2025); Angle Between Two Straight Lines,” ALLEN, <https://allen.in/jee/maths/angle-between-two-lines> (last visited July 13, 2025).

Ontel’s attorney-argument that a person of skill would not have been able to determine an edge angle because the planes as shown in the patent figures are slightly curved where they intersect has no support and is not well-founded. Absolute precision is not required. Moreover, the specification specifically indicates that the “edge angle” may be “in the range of 85 to 120 degrees, and may be 90 degrees (3:65-67), suggesting that measurements may lack precision. The figures in the provisional application 61/896,540, which is incorporated by reference at 1:19-23, further demonstrate variation in edge angles.

For at least these reasons, neither claim 12 nor the asserted dependent claims are indefinite based on their use of the term “edge angle.”

c. **“plane angle” (claim 1¹² and asserted dependent claims) and “first plane angle of 60 degrees,” “second plane angle of 80 degrees,” “third plane angle of 40 degrees” (claim 1 and asserted dependent claims 2, 8-10)**

Ontel contends at page 147 that the term “plane angle” is indefinite because the specification “has no clear definition or scope” and thus “fail[s] to inform a POSA of the scope of the claimed invention with reasonable certainty.” As discussed above in section a, and incorporated here by reference, this is not dispositive of the issue of indefiniteness.

HPI submits that the scope of claim 1 and asserted dependent claims based on the recitation of the term “plane angle” would have been clear to a POSITA when read in light of the specification and prosecution history.

As an initial matter, HPI notes that the plane angles recited in claim 1 (60/80/40 degrees) sum to 180, as do those in the embodiment described at 3:53-58 (60/68/52 degrees). The POSITA would be skilled in geometry, and would therefore have understood that plane angles summing to 180 are not the plane angles identified in Figure 2 as 120a, 120b, and 102c, as those angles (which rely on the virtual planes 130a, 130b, and 130c) sum to less than 180. Rather, plane angles that sum to 180 are defined by the plane of one back support and a virtual plane that essentially coincides with the plane of an adjacent back support as shown in Figure 2. This was explained during prosecution of the '797 reissue application, for example, at pages 11, 12, 13, and 14 of the brief filed August 24, 2020, which emphasized that the “plane angles” of the claimed invention ***“can but are not required to equal a total of 180 degrees.”***

A POSITA would have further understood, for example, from the descriptions in the specification and the figures shown in the provisional application 61/896,540 (incorporated by

¹² HPI notes that claim 20 also recites “plane angle.” Ontel does not, however, contend that claim 20 or any of its dependents are invalid for indefiniteness based on the use of “plane angle.” Ontel has waived any such argument and HPI therefore does not address it here.

reference at 1:19-223), that different sets of plane angles (i.e., different triangles) could be used, including at least those ranging from 30/63/87 to 50/60/70 to 56/60/64, i.e., encompassing a set of plane angles of 40/60/80 as recited in claim 1.

For at least these reasons, neither claim 1 nor the asserted dependent claims are indefinite based on their use of the term “plane angle.”

d. “support angle” (claim 12 and asserted dependent claims)

Ontel contends at pages 148-149 that the term “support angle” is indefinite because the specification “has no clear definition or scope” and thus “fail[s] to inform a POSA of the scope of the claimed invention with reasonable certainty.” As discussed above in section a, and incorporated here by reference, this is not dispositive of the issue of indefiniteness.

HPI submits that the scope of claim 12 and asserted dependent claims based on the recitation of the term “support angle” would have been clear to a POSITA when read in light of the specification and prosecution history.

Claim 12 requires a “media support apparatus [] configured to provide” “a first viewing angle of the media device when the media support apparatus body rests on the first virtual plane and the media device is supported at the first support angle.” Even though the specification does not use the words “support angle,” it discloses an embodiment having the limitation of a “media support apparatus [] configured to provide a first viewing angle of the media device when the media support apparatus body rests on the first virtual plane and the media device is supported at the first support angle” as recited in claim 12. For example, Figure 4 shows “media disposed on a media support” (1:55-56), which may be placed “on a table” (3:3:16) and Figure 2, which shows the “virtual plane 130b” (3:33) on which it “rests,” and Figure 1, which shows “viewing angle 160” for the media and demonstrates “media support 100” that can “position media at one of three varied ... angles.” The specification analogously describes the second and third support angles.

Thus, the plain language of claim 12 and the specification demonstrate that the “support angle” is the angle between the media device (e.g., as it is resting against the back support) and the virtual plane (on which the device is resting).

Ontel notes at page 149 that HPI referred to the “viewing angles” recited in claim 1 as “support angles,” citing page 10 of HPI’s August 24, 2020 appeal brief filed during prosecution of the ’797 reissue application. This is correct. As discussed above, the specification and its file history explain that “viewing angles” are determined by a vector orthogonal to the back support 155 (160) – i.e., at 45 degrees to the back support 155 – and a virtual plane “created by a portion of back support 105 and edge support 110.” Thus, the viewing angle would be defined, geometrically, by the angle between the back support and the virtual plane, i.e., the support angle.

At page 149, in its discussion of “support angles,” Ontel curiously points to an apparent numbering error in the specification at 3:59-63, namely: “The arrangement of the longitudinal lengths 115 and the plane angles 120 generate three distinct viewing angles 160. In one embodiment, the first viewing angle 120a [sic – 160a] may be 36 degrees, the second viewing angle 120b [sic – 120b] may be 74 degrees, and the third viewing angle 120c [sic – 160c] may be 49 degrees” (emphasis added). Ontel contends that this is an error based on the first sentence and the corresponding statement in the specification at 2:63-67: “The side supports 155 may be arranged to provide three different viewing angles 160 for three different user positions. Each viewing angle 160 is orthogonal to a support back 105.” The relevance of this to the term “support angle” is unclear. HPI reserves the right to respond on this point if and when Ontel provides a permitted clarification.

For at least these reasons, neither claim 12 nor the asserted dependent claims are indefinite based on their use of the term “support angle.”

2. Alleged Lack of Enablement

Ontel contends, at pages 150-151 of the Invalidity Contentions, that “[t]o the extent the Asserted Claims are not invalid as obvious or anticipated, and are sufficiently definite, and described ..., [they] are invalid for lack of enablement” — “[f]or at least the reasons set forth at Section VII.C [“Improper Recapture Under 35 U.S.C. 251(d)”]. HPI does not understand how any of the arguments provided by Ontel with respect to reissue recapture pertain to the assessment of enablement. HPI reserves the right to respond to any such arguments if and when Ontel is permitted to clarify them, notwithstanding having waived its right to make such arguments by failing to detail them in its Invalidity Contentions.

Ontel states that “[t]here is no teaching that renders the scope of the limitation of claims 1, 12, and 20 of a ‘viewing angle’ clear, and therefore possible to be enabled.” Similarly, Ontel states that “[t]here is also no teaching that renders the scope of the limitation ‘edge angle’ of claims 1, 12, and 20, ‘support angle’ or ‘plane angle’ clear such that they may be enabled.” What is unclear is how “clarity” in claim scope pertains to the assessment of enablement. If the claims are not indefinite (as Ontel explicitly assumes for purposes of this section), then they have a certain claim scope—even though that claim scope may have to be determined by the Court through the process of claim construction. Whether or not they are enabled is a separate assessment.

For a claim to be “enabled,” the specification must describe the invention in such terms that one skilled in the art can make and use the claimed invention. 35 U.S.C. § 112. Assessing enablement generally requires assessing the amount of experimentation needed to practice the invention. If “undue” or “unreasonable” experimentation is required to practice the invention, the claim is not enabled. *Minerals Separation Ltd. v. Hyde*, 242 U.S. 261, 270 (1916); *see also In re Wands*, 858 F.2d 731, 737 (Fed. Cir. 1988). However, a patent “need not disclose what is well known in the art.” *In re Buchner*, 929 F.2d 660, 661 (Fed. Cir. 1991).

HPI maintains that one of skill in the art would have been able to practice the claimed inventions, including their requirements for “viewing angle” and “support” or “plane” angle, given their knowledge and skill and the disclosures of the patent application, including the disclosures of the provisional application 61/896,540 (which is incorporated by reference at 1:19-23).

HPI submits that a POSITA would have readily understood how to provide different “viewing angles” in an apparatus according to the limitations of claims 1, 12, and/or 20. As demonstrated, for example, by various prior art references identified in Appendix A to the Invalidity Contentions, the concept of a “viewing angle” for a media stand was known as of the earliest priority date for the ’479 patent and was used with respect to media supports. In addition, the ’479 patent shows and describes the concept of an apparatus that provides three different viewing angles by “rotat[ion]” of the apparatus “to select a back support with a comfortable viewing angle 160” (3:19-21) and it does so with respect to clearly disclosed embodiments. Specifically, it defines and shows three different “viewing angles 160” in Figures 1 and 2, and explains at 2:63-66 that “[t]he side supports 155 may be arranged to provide three different viewing angles 160 for three different user position” where “[e]ach viewing angle 160 is orthogonal to a support back 105.” In addition, provisional application 61/896,540 (which is incorporated by reference at 1:19-23), demonstrates to a POSITA that different sets of angles, i.e., different triangles, used with the added edge (ledge) can be used to provide different combinations of viewing angles—ranging from a “near-equilateral” embodiment (providing three viewing angles that differ only slightly) to a “more extreme” embodiment (for which the three viewing angles vary significantly). For at least these reasons, the specification enables one of skill in the art to practice the “viewing angle” limitations of claims 1, 12, and 20.

HPI further submits that a POSITA would have readily understood how to provide different “support angles” in an apparatus according to the limitations of claim 12, which recites a “media

support apparatus [] configured to provide a first viewing angle of the media device when the media support apparatus body rests on the first virtual plane and the media device is supported at the first support angle,” and, analogously, second/third viewing angles and second/third support angles. The specification shows and describes embodiments as recited in claim 12, based on which one of skill in the art would be able to practice the invention. For example, Figure 4 shows “media disposed on a media support” (1:55-56), which may be placed “on a table” (3:3:16) and Figure 2 shows the “virtual plane 130b” (3:33) on which it “rests,” and Figure 1 shows “viewing angle 160” for the media. The patent explains, for example, that “media support 100” can be used to “position media at one of three varied ... angles” (2:23-25), and the user can “rotate the media support 100 to select a back support 105 with a comfortable viewing angle.” (3:19-21). The specification analogously describes the second and third support angles. For at least these reasons, the specification enables one of skill in the art to practice the “support angle” limitations of claim 12.

Lastly, HPI submits that a POSITA would have readily understood how to provide different “plane angles” in an apparatus according to the limitations of claims 1 and/or 20. A POSITA would be skilled in geometry and would have understood from claim 1, which recites plane angles of 60, 80, and 40 degrees, and the embodiment described at 3:53-58, which has plane angles of 60, 68 and 52 degrees, that plane angles may sum to 180 degrees—i.e., they can be the angles of a triangle. A POSITA would therefore have understood that the recited plane angles summing to 180 are not the plane angles identified in Fig. 2 (i.e. not 120a, 120b, and 102c), as those angles necessarily (because they rely on the virtual planes 130a, 130b, and 130c) sum to less than 180. A POSITA would further have understood, for example, from the descriptions in the specification and the figures shown in the provisional application 61/896,540 (incorporated by reference at 1:19-23), that different sets of plane angles (i.e., different triangles) could be used, including at least

those ranging from 30/63/87 to 50/60/70 to 56/60/64. For at least these reasons, the specification enables one of skill in the art to practice the “plane angle” limitations of claims 1 and 12.

The asserted claims accordingly comply with the enablement requirement of 35 U.S.C. § 112. HPI reserves the right to provide further explanation and support, including further discussion of the patent disclosures and expert testimony, if and when Ontel’s contentions are permissibly clarified.

3. Alleged Lack of Written Description

Ontel contends, at pages 151-152 of the Invalidity Contentions, that “[t]o the extent the Asserted Claims are not invalid as obvious or anticipated, and are sufficiently definite, and enabled ..., [they] are invalid for lack of written description” — “[f]or at least the reasons set forth above.” In view of the summary of those points, HPI understands the “reasons set forth above” to be the Ontel’s arguments provided with respect to indefinites and lack of enablement under 35 U.S.C. § 112. HPI incorporates by reference its responses to those arguments as set forth above.

Ontel briefly summarizes its prior points, noting “the term ‘support angle’ is not disclosed in the specification,” “the term[s] ‘viewing angle’ and ‘plane angle’ are unclear because [the specifications] contained an [unspecified] error” and “the patent provides no discussion of how to achieve three distinct viewing angles, no explanation as to where the edge angle is measured (or what angle the edge angle refers to), and no explanation for what a ‘support angle’ is or a range for ‘plane angle’ which encompasses the claimed plane angles of Claim 1.”

However, Ontel offers no contentions of lack written description under the applicable law. To satisfy the written description requirement, a patent specification need only describe the claimed invention in sufficient detail to show one skilled in the art that the inventor had possession of the claimed invention. *See, e.g., Moba, B.V. v. Diamond Automation, Inc.*, 325 F.3d 1306, 1320–21 (Fed. Cir. 2003); *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1562-63 (Fed. Cir. 1991).

This does not depend only on the words used in the specification; rather, the combination of words, structures, figures, diagrams, and formulas can be used to set forth the claimed invention. *See, e.g., Space Sys./Loral, Inc. v. Lockheed Martin Corp.*, 405 F.3d 985, 987 (Fed. Cir. 2005).

Even though the specification does not use the words “support angle,” it discloses an embodiment having the limitation of a “media support apparatus [] configured to provide a first viewing angle of the media device when the media support apparatus body rests on the first virtual plane and the media device is supported at the first support angle,” for example, in Figure 4, which shows “media disposed on a media support” (1:55-56), which may be placed “on a table” (3:3:16) and Figure 2, which shows the “virtual plane 130b” (3:33) on which it “rests,” and Figure 1, which shows “viewing angle 160” for the media and demonstrates “media support 100” that can “position media at one of three varied ... angles.” The specification analogously describes the second and third support angles. For at least these reasons, the specification satisfies the written description requirement with respect to the “support angle” limitations of claim 12.

HPI also submits that a POSITA would readily have understood the term “viewing angle,” as demonstrated for example by various prior art references identified in Appendix A to the Invalidity Contentions. The POSITA would certainly have understood that the inventors had “possession” of a media device have three “viewing angles” “different from one another,” for example, in view of the descriptions of the illustrated embodiments and the identification of “viewing angles 160” in Figures 1 and 2, as well as the explanation at 2:63-66 that “[t]he side supports 155 may be arranged to provide three different viewing angles 160 for three different user position” where “[e]ach viewing angle 160 is orthogonal to a support back 105.” For at least these reasons, the specification satisfies the written description requirement with respect to the “viewing angle” limitations of the asserted claims.

A POSITA would further have understood and appreciated that the inventors had possession of a media device having the claimed “edge angle” in view of, for example, Figures 1 and 2 together with the explanation that “each edge support 110 forms an edge angle 140 with an adjacent back support 105” (3:64-65), as well as additional disclosures as to particular dimensions and orientations (e.g., 3:65-4:3 and the figures of the provisional application 61/896,540 incorporated by reference at 1:19-23). For at least these reasons, the specification satisfies the written description requirement with respect to the “edge angle” limitations of the asserted claims.

Lastly, a POSITA would have understood that the inventors were in possession of plane angles including plane angles that summed to 180 as recited in Claim 1, for example, in view of the embodiment described at 3:53-58, having plane angles of 60, 68 and 52 degrees. The POSITA would be skilled in geometry, and would therefore have understood that plane angles summing to 180 are not the plane angles identified in Fig. 2 (i.e. not 120a, 120b, and 102c), as those angles necessarily (because they rely on the virtual planes 130a, 130b, and 130c) sum to less than 180. A POSITA would further have understood, for example, from the descriptions in the specification and the figures shown in the provisional application 61/896,540 (incorporated by reference at 1:19-223), that different sets of plane angles (i.e., different triangles) could have been used, including at least those ranging from 30/63/87 to 50/60/70 to 56/60/64. For at least these reasons, the specification satisfies the written description requirement with respect to the “plane angle” limitations of claims 1 and 20.

For all and at least these reasons, the asserted claims comply with the written description requirements of 35 U.S.C. § 112. HPI reserves the right to provide further explanation and support, including further discussion of the patent disclosures and expert testimony, if and when Ontel’s contentions are permissibly clarified.

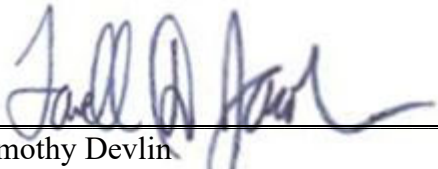
F. L. Pat. R. 3.4A (e). The production or the making available for inspection and copying of any document or thing that the party intends to rely on in support of its Responses herein.

HPI expects to rely on the '479 patent as well as the applications to which it claims priority and the prosecution histories thereof, all of which were previously made available for inspection pursuant to Local Pat. R. 3.2. HPI may also rely on the prior art documents identified or described in Ontel's Invalidity Contentions and/or produced by Ontel on June 30, 2025 (including documents or portions thereof not cited in the Invalidity Contentions).

HPI may rely on other publications, documents and expert testimony to provide context and/or as aids to understanding and interpreting the references relied upon in the Invalidity Contentions and to rebut any allegation that (i) a limitation would have been obvious to a person of ordinary skill in the art in view of a identified prior art reference or (ii) that a person of ordinary skill would have been motivated to modify or combine any of the cited references so as to render any of the claims obvious. HPI expects to rely on evidence demonstrating secondary indicia of non-obviousness of the claimed invention, including evidence demonstrating the commercial success of Flippy, the long-felt but unresolved need for a media stand such as the patent invention, the failure of others to achieve the claimed invention despite such need, praise of the invention by others, and the copying of the invention by Ontel.

As part of the process of claim construction, including construction of the terms that Ontel alleges in its Invalidity Contentions to be obvious, HPI may rely on extrinsic evidence including expert testimony, dictionary definitions, and learned treatises and will produce such information at the appropriate time in accordance with the Local Patent Rules.

Dated: July 14, 2025

/s/ 
Timothy Devlin
tdevlin@devlinlawfirm.com
Lowell D. Jacobson**
ljacobson@devlinlawfirm.com
DEVLIN LAW FIRM, LLC
1526 Gilpin Avenue
Wilmington, Delaware 19806
Tel: (302) 449-9010 Fax: (302) 353-4251

**admitted *pro hac vice*

Attorneys for Plaintiff Happy Products, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on July 14, 2025, I served a copy of the above document via email on the counsel for Defendant.


/s/ _____
Lowell D. Jacobson