

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ONTEL PRODUCTS CORPORATION

Petitioner

v.

HAPPY PRODUCTS, INC.

Patent Owner

Case IPR2025-01536
U.S. Patent No. RE48,479

PATENT OWNER'S PRELIMINARY RESPONSE

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U.S. Patent and Trademark Office
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Alexandria, VA 22313-1450
Submitted Electronically via P-TACTS

TABLE OF EXHIBITS

Exhibit	Description
2016	Patent Owner's Provisional Application, Ser. No. 61/896,540 ("Provisional")
2017	Patent Owner's First Non-Provisional Application, Ser. No. 14/518,443 ("Cannon Application")
2018	Continuation and Cannon Application Comparison
2019	Expert Declaration of James B. Babcock
2020	Ontel Products Corporation's Invalidity Contentions Appendix A for U.S. Patent No. RE48,479

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I. INTRODUCTION

Patent Owner Happy Products, Inc. (“Patent Owner”) respectfully submits this Preliminary Response to the Petition for *inter partes* review (“IPR”) of U.S. Patent No. RE48,479 (the “’479 patent”), a reissue of U.S. Patent No. 9,642,454 (the “’454 patent”), which advances the following grounds:

#	Claims	Basis	References
1	1-2, 8-10, 12-13, 15-17, & 19	Obviousness	<i>Cannon Publication</i> in view of: <i>Diebel</i> and/or <i>Barcalo</i> and/or <i>knowledge of a POSA</i>
2	12-13, 15-17, & 19	Obviousness	<i>Klepar I</i> in view of: <i>Barcalo</i> and/or <i>Dean</i> and/or <i>knowledge of a POSA</i>
3	20-21 & 27-29	Obviousness	<i>Barcalo</i> in view of: <i>Klepar I/II</i> and/or <i>Dean</i> and/or <i>knowledge of a POSA</i>

(Pet. at 4.) As set forth below, Petitioner has failed to meet its burden to show a reasonable likelihood that it would prevail with respect to at least one of the claims challenged in the Petition on any Ground. 35 U.S.C. § 314(a).

Moreover, each Ground in the Petition is fatally flawed. Petitioner has failed to show that the Cannon Publication and Klepar I are even prior art to begin with—and they are not—which is fatal to Grounds 1 and 2 where they are the primary references relied upon. *See infra*. And the purported disclosures of the other Ground 2 and 3 references—Barcalo, Klepar II, and Dean—were already considered and rejected by the Examiners during prosecution, while Diebel (relied on in Ground 1) is cumulative of art already considered and rejected by the Examiners.

Yet further, “the knowledge of a POSA” is not prior art and cannot be used in *inter partes review* to supply limitations that are missing from the prior art, as

Petitioner does for every Ground. *See* “ENFORCEMENT AND NON-WAIVER OF 37 C.F.R. § 42.104(B)(4) AND PERMISSIBLE USES OF GENERAL KNOWLEDGE IN INTER PARTES REVIEWS”¹ at 1; *see also Qualcomm Inc. v. Apple Inc.*, IPR2023-1208, 2023-1209, D.I. 55 (P.T.A.B. Apr. 23, 2025).

Each of Petitioner’s Grounds is without merit and the Petition must be denied.

II. BACKGROUND OF THE PATENT

A. Prosecution History of the ’454 and ’479 Patents

Patent Owner’s provisional application, Ser. No. 61/896,540 (“Provisional”), was filed on October 28, 2013. Ex. 2016. Patent Owner’s first non-provisional application, Ser. No. 14/518,443 (“Cannon Application”), was filed on October 20, 2014, claiming priority to the provisional; it published on April 3, 2015 as No. 2015/0115124 (“Cannon Publication”). Ex. 2017.

The application for the original ’454 patent, Ser. No. 15/192,737 (“Continuation”), was filed on June 24, 2016 as a continuation-in-part of the Cannon Application, and issued on May 9, 2017. Exhibit 2018 shows how the Continuation differs from its parent Cannon Application. In relevant part, where the Cannon Application stated, “In one embodiment, the first viewing angle 120a may be X degrees, the second viewing angle 120b may be X degrees, and the third viewing

¹https://www.uspto.gov/sites/default/files/documents/aapa_memo_final_signed.pdf?utm_campaign=subscriptioncenter&utm_medium=email&utm_source=govdelivery, accessed on Jan. 15, 2026.

angle 120c may be X degrees,” the Continuation replaced the three “X”s with “36,” “74,” and “49,” respectively, as recited in claim 1 of the ’454 and ’479 patents.

Patent Owner’s reissue application (Ser. No. 16/262,797) was filed on January 30, 2019 (“Reissue Application”) and issued on March 23, 2021 as the ’479 patent. Both the ’454 and the ’479 patents claim ultimate priority to the Provisional through the Cannon Application. The ’479 patent has the same figures, title, and descriptions as the ’454 patent, and includes the same first 10 claims as the ’454 patent, as well as 19 additional claims added during reissue.

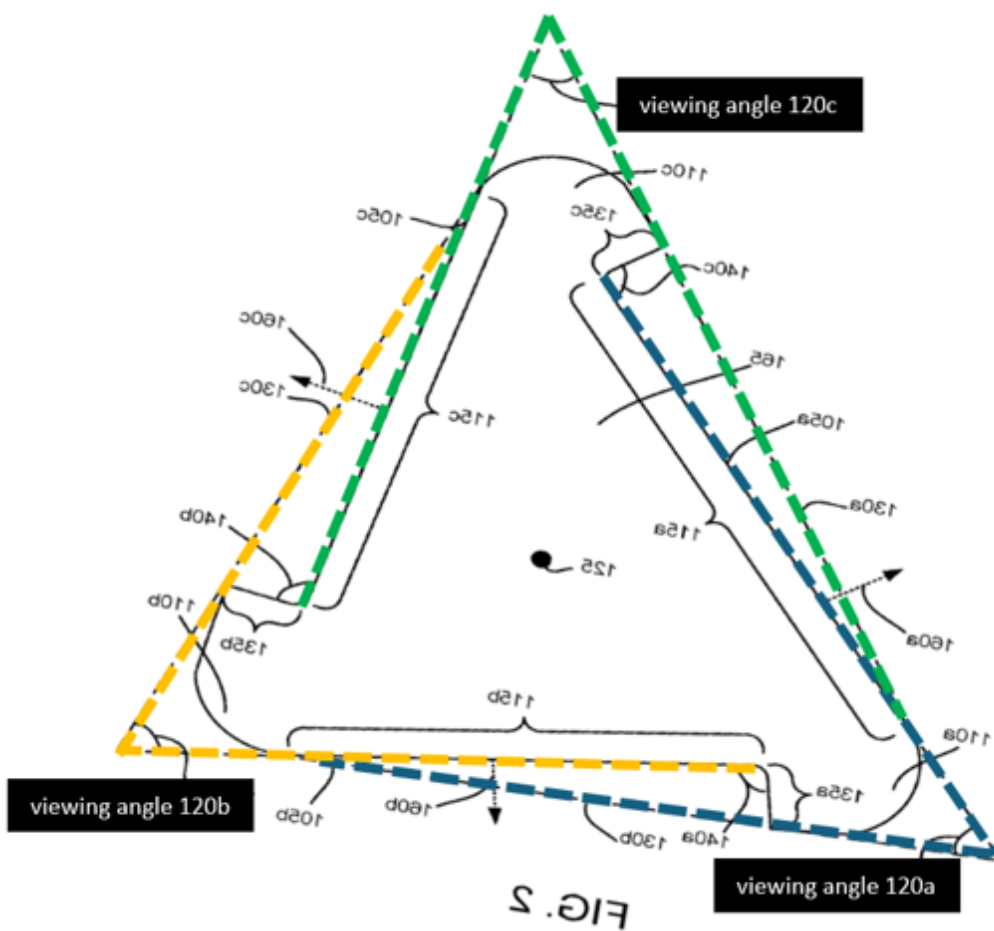
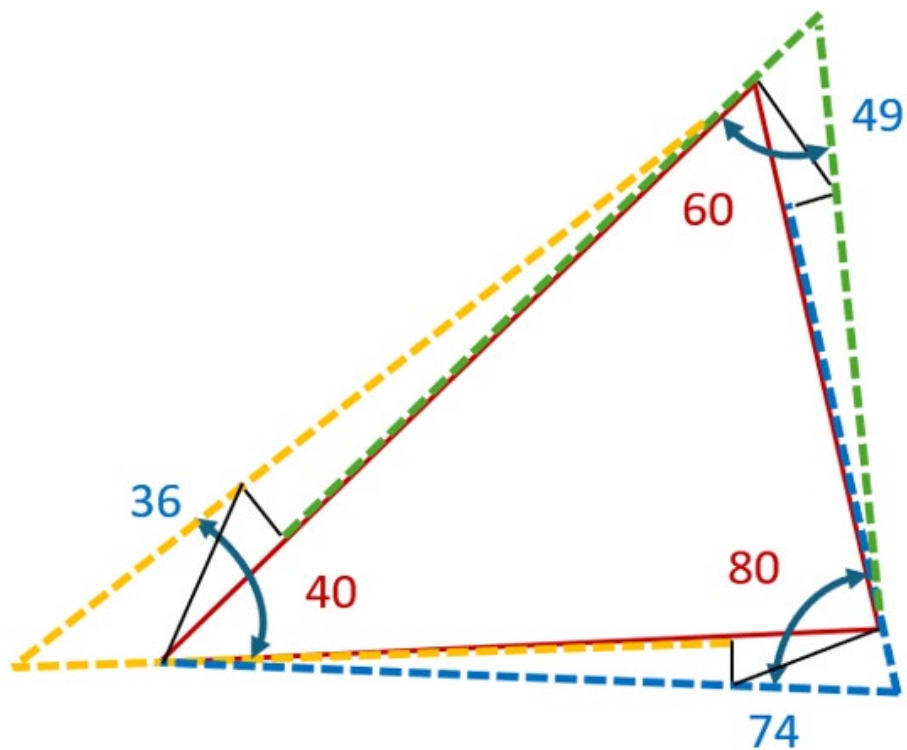
Collectively, the ’454 and ’479 patents spent about four and a half years in examination. The two different examiners each thoroughly identified and rigorously evaluated numerous references—including Klepar II (U.S. Pat. No. D703,216), Dean (U.S. Pat. No. 3,746,296), and Barcalo (U.S. Pat. No. 1,928,806), relied on by Petitioner in the Petition—before granting allowance.

B. Disclosures of the ’479 Patent and the Cannon Application to Which it Claims Priority

The ’479 patent, as well as the Cannon Application to which it claims priority, explain that the described device “provide[s] support for multiple viewing angles[, which] are carefully chosen to support the media on a table for a sitting user, in the lap of a sitting user, and on a lying user” such that “the media support [] provides a comfortable support at an appropriate angle for the most common viewing positions.” Ex. 1001 at 2:41–46; Ex. 2017 at [0015].

Both explain that the described “media support 100 include three support sides 155,” each of which “comprises a support back 105 and a support edge 110.” Ex. 1001 at 2:47–49; Ex. 2017 at [0016]. “A user may place the media support 100 on a table, in the user’s lap, or on the user while lying down.” Ex. 1001 at 2:15–16; Ex. 2017 at [0020]. “The user may place media on the edge support 110, [which] holds the media with the back of the media against the back support 105,” where each “back support 105[] has a longitudinal length 115.” Ex. 1001 at 3:19–27, 3:49–58; Ex. 2017 at [0020], [0022].

The ’479 patent and Cannon Application further explain that each back support forms a so-called “plane angle” relative to “a virtual plane [] between the top of a[] back support . . . and an outer edge of a[] edge support” of an adjacent support side, pointing to 120a, 120b, and 120c in Figure 2. Ex. 1001 at 3:31–48; Ex. 2017 at [0021]. Both the ’479 patent and the Cannon Application indicate that the three plane angles can be “in a range of,” respectively, “50 to 60 degrees,” “55 to 65 degrees,” and “50 to 75 degrees,” which encompasses three plane angles that sum to 180 degrees, *id.*, even though the plane angles as identified in Figure 2 would be understood to sum to less than 180 degrees, as illustrated schematically below. *See* Ex. 2019 (Babcock Decl.) at ¶¶ 63–67:



The “side supports 155 may be arranged to provide three different viewing angles 160.” Ex. 1001 at 2:63–67; Ex. 2017 at [0018]. “Th[at] arrangement of *the longitudinal lengths* 115 [of the back support 105 of the side support 155] *and the plane angles 120* generate[s] three distinct viewing angles 160,” where “[e]ach viewing angle [*sic.* – vector]² 160 is orthogonal to a support back 105.” Ex. 1001 at 3:59–60 & 2:63–67; Ex. 2017 at [0023], [0018]. In short, the “arrange[ment]” of the support back 105 against which a media device is placed, relative to plane angles formed with “a virtual plane” of an adjacent side (which sum to 180 in claim 1), is what provides the different viewing angles in these claims. Ex. 2019 at ¶¶ 59–69.

The Provisional is incorporated by reference into the ’479 patent and each of its priority applications, and it provides further support for their claims. Ex. 2019 at ¶¶ 90–99. The Provisional discloses angles between the support back of one side and that of an adjacent side ranging from 30 to 87 degrees, where each set of angles sums to 180. Ex. 1005 at 5. The Provisional also explains that these angles of the described device could be “something like” and/or “intermediate” between those shown in three exemplary figures, i.e., could vary and were approximate, rather than exact. And that is exactly how a POSA would have understood that explanation, as

² A POSA would have understood this non-standard terminology in context to refer to a vector normal to the plane of the back support (i.e., orthogonal to the vectors that comprise the back support) providing one of the two vectors that defines the viewing angle 160. See Ex. 2019 at ¶ 68 & n.2.

being particular illustrations of certain sets of angles within the broader context of a preferred embodiment of the invention. Ex. 2019 at ¶¶ 98–99.

In summary, the '479 patent and Cannon Application teach that each support side has a protruding edge support—which, in relation to the back support, forms “virtual” planes (on which the device can rest), so the angle of each back support relative to the virtual plane of an adjacent side can be “arranged” (slanted more or less) to provide “an appropriate angle for [a particular] viewing position[.]” Ex. 1001 at 2:41–46; Ex. 2017 at [0015]. The '479 patent is entitled to its priority claim.

III. ARGUMENT

The Petition relies extensively on the Cannon Publication and Klepar I in an effort to argue that the claims of the '479 patent are obvious. But this is based on Petitioner's assertion that Patent Owner is not entitled to its claimed priority dates. As discussed in § III.A.1 below, the '479 claims are fully entitled to the claimed priority dates. Accordingly, the Cannon Publication is not prior art for Ground I, nor is Klepar I for Grounds 2–3. And all three Grounds not only rely extensively on art that was already of record and considered during more than four years of examination, but further misuse “the knowledge of a POSA” to supply limitations absent from the cited references. Because each ground fails to make a *prima facie* showing of invalidity based on the disclosures of the references that actually qualify as prior art, Petitioner has failed to show a reasonable likelihood of prevailing on its

challenge on any one claim. Thus, the Petition should be denied and *inter partes* review ***not*** instituted.

A. Ground 1 Fails to Show a Reasonable Likelihood of Unpatentability

1. The '479 Patent is Entitled to Claim Priority to the Cannon Application Filed on October 20, 2014

Petitioner contends, but has failed to demonstrate, that the '479 patent is not entitled to its claimed priority date for independent claim 1 and dependent claims 2 and 8–10, and for independent claim 12 and dependent claims 13, 15–17, and 19. (Pet. at 22–26.) Petitioner mistakenly contends that the claims contain “new matter that was added but not disclosed” in the prior applications. (Pet. at 22.) But Petitioner misapprehends the priority chain. Rather, as discussed herein, the Cannon Application—which incorporates-by-reference and thus includes the full content of the Provisional—provides sufficient disclosure for the recited claim elements to support Patent Owner’s priority claims.

Claim 1 of the '479 patent specifically recites plane angles of 40, 60, and 80 degrees, and viewing angles of 36, 49, and 74 degrees. Petitioner contends that the Cannon Application does not provide sufficient disclosure of the claimed viewing angles and 2 of the 3 recited plane angles (Pet. at 24.) Petitioner is incorrect.

Simply put, the disclosure of the Cannon Application is ***not*** limited to its four corners, as Petitioner’s argument erroneously presumes. Here, the Cannon Application expressly incorporates by reference the Provisional, which thus includes the contents of the Provisional within the disclosure of the Cannon Application ***as a***

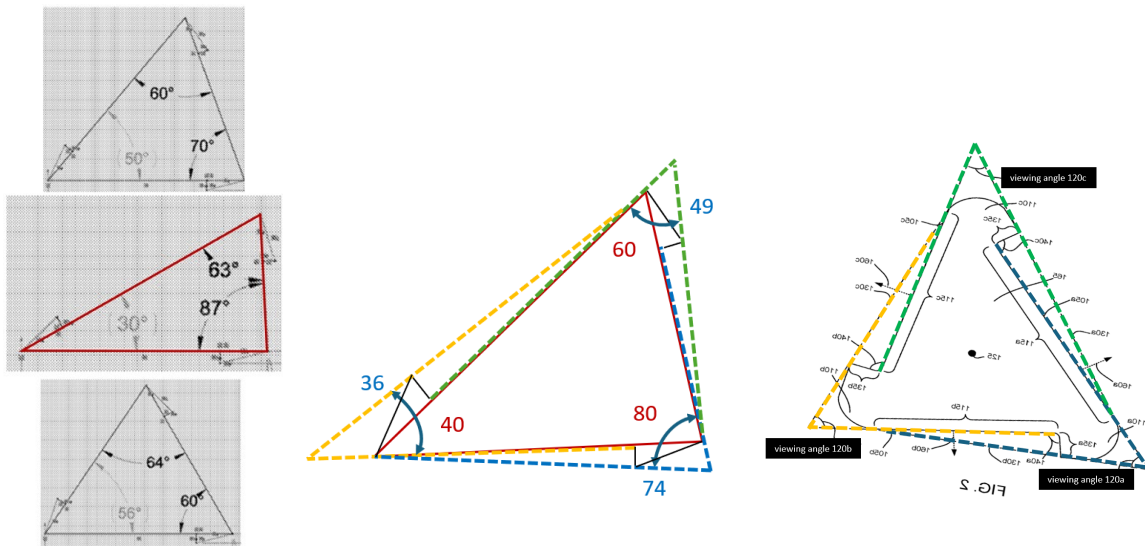
matter of law. See MPEP § 2163.07(b) (explaining that incorporation-by-reference treats the contents of the referred-to document as if they were fully contained within the incorporating document). But Petitioner simply ignores that incorporation-by-reference and—and thus fails to even consider the disclosure of the Provisional, which does support the disclosure of these limitations.

While neither the '479 patent nor the Cannon Application explicitly recites within its four corners plane angles of “40” or “80” degrees, nor sets of plane angles that sum to 180, both incorporate by reference the Provisional—which indicates plane angles of 37 to 87 degrees, notes that the specific angle combinations can vary, and provides three examples of angles that sum to 180 (see below). Ex. 2019 at ¶ 96; see Ex. 1005. Because “information incorporated [by reference] is as much a part of the application as filed as if the text was repeated in the application, and should be treated as part of the text of the application as filed,” the Cannon Application provides written description support for the plane angles of 40, 60, and 80 degrees recited in claim 1 of the '479 patent. See MPEP § 2163.07(b); Ex. 2019 at ¶ 106; see also ¶¶ 104–05.

In addition, both the '479 patent and the Cannon Application teach that “[t]he arrangement of the longitudinal lengths 115 [of the back support 105 of the side support 155] and the plane angles 120 generate three distinct viewing angles 160,” where “[e]ach viewing angle [sic – vector] 160 is orthogonal to a support back 105.” Ex. 1001 at 3:59–60 & 2:63–67; Ex. 2017 at [0023], [0018]. Both also identify the

angles 120a, 120b, and 120c in Figure 2 as first, second, and third viewing angles, respectively. Ex. 1001 at 3:61–63; Ex. 2017 at [0023]; Figure 2 (see below).

In view of the Provisional’s disclosure of sets of plane angles summing to 180 (below left), the teaching in the Cannon Application that viewing angles are created by “arranging” the back support relative to the plane angles, and the specific identification of viewing angles in Figure 2 (below right), one of skill in the art would have understood that the recited plane angles and corresponding viewing angles were among those that would be desirable. The drawings below show how the device of claim 1 (in the middle) is supported by the specification’s disclosures.



See Ex. 2019 at ¶¶ 57–69, 96, 104–06.

Accordingly, the Cannon Application provides disclosure for the recited claim elements sufficient to support the ’479 patent’s priority claim thereto.

The other claims challenged in Ground 1—claims 12–13, 15–17, & 19—do not recite any specific angles (other than the edge support angle). Petitioner

nonetheless argues that they are not entitled to claim priority to the Cannon Application because claim 12 recites a term—“support angle”—that is not used in the specification. (Pet. at 24.) However, as discussed below in § III.B.I, a specification does not need to recite the term in *haec verba* to be entitled to its claim of priority, as long as the disclosure reasonably conveys to a POSA that the inventor possessed the claimed subject matter. *In re Smith*, 481 F.2d 910, 914 (C.C.P.A. 1973). Here, it is clear that the Cannon Application *did* convey that its inventors possessed the recited “support angles.” *See* § III.B.I, *infra*; Ex. 2019 at ¶¶ 70–94.

Thus, the Cannon Publication is not prior art to any of the claims challenged in Ground 1.

2. Petitioner’s Challenge to the Priority Claim is Contradicted by Its Position in the Copending Litigation

Petitioner’s argument that the ’479 patent is not entitled to its claimed priority, date (Pet. at 24), i.e., that the Cannon Application does not provide adequate support for claim 1, wholly contradicts its position in the co-pending litigation.³ In the litigation, Petitioner has contended that the Cannon Publication anticipates all of the challenged claims; in other words, that the disclosures contained within its four corners—not including the disclosures of the Provisional—discloses *every* limitation of *every* asserted claim of the ’479 patent. Ex. 2020; *In re Robertson*, 169

³ At minimum, Petitioner was required to disclose its contrary position under the duty of candor and good faith owed to the USPTO. *See* MPEP § 2001.06(c) (one “example of such material information is any assertion that is made during litigation and/or trial proceeding which is contradictory to assertions made to the examiner”).

F.3d 743, 745 (Fed. Cir. 1999) (“anticipation requires that the four corners of a single prior art document describe every element of the claimed invention”). Petitioner cannot have it both ways.

3. Because the Priority Claim is Substantiated, the Cannon Publication Is Not Prior Art and Ground 1 Fails

As discussed above, the plane and viewing angles recited in claim 1 of the ’479 patent, and the “support angles” of claim 12, are—contrary to the arguments of the Petitioner—supported by the disclosures of the Cannon Application, which includes the Provisional Application that it incorporates by reference. Thus, claims 1 and 12 and their dependent claims are entitled to (at least) their claim of priority to the Cannon Application: October 20, 2014. Therefore, its April 30, 2015 publication (i.e., the Cannon Publication) is not prior art under 35 U.S.C. § 102(a)(1), as Petitioner contends. (Pet. at 27.) And because the Cannon Publication—the primary reference for Ground 1 and the sole reference cited for numerous limitations of claims 1 and 12 (Pet. at 37–46, 49–50, 52–57)—is not prior art to the challenged claims of the ’479 patent, Ground 1 fails to show a *prima facie* case of unpatentability.

4. The Priority Claim was Implicitly Considered by the Examiners

Petitioner’s Ground 1 based on the Cannon Publication was at least implicitly considered and rejected, as evidenced by the Examiner having relied on Klepar II (prior art as of August 2, 2013, before the filing date of the Provisional) during examination instead of Klepar I (which is prior art as of December 27, 2013, after

the filing date of the Provisional). Exs. 1012–13. Given the tools available to patent examiners,⁴ it cannot reasonably be inferred that the Examiner was aware of Klepar II but somehow overlooked a utility patent by the same inventor with nearly-identical figures but a far more detailed disclosure.

Rather, the evidence here at worst supports the opposite inference—that, if anything, the Examiner(s) were aware of Klepar I and its disclosure but did not consider it to be prior art. Here, the Examiner in the reissue expressly searched for references citing Klepar II (D703,216) on September 21, 2019, as shown by the search report below:

⁴ Klepar II was cited by the examiner during prosecution of Klepar I in early 2015. See <https://patents.google.com/patent/US20150189781A1#patentCitations>. And the Examiner of the Cannon Application searched in August of 2015 for references that cited Klepar II. This search should have identified Klepar I.

EAST Search History

EAST Search History (Prior Art)

Ref #	Hits	Search Query	DBs	Default Operator	Plurals	Time Stamp
L1	19	(US-1274616-\$ US-1541190-\$ US-1593876-\$ US-1880327-\$ US-1991812-\$ US-3029797-\$ US-3320319-\$ US-3364603-\$ US-3365687-\$ US-3805895-\$).DID.	US-PGPUB; USPAT; USOCR	OR	ON	2019/09/21 12:43
L2	8	(US-4462096-\$ US-7492538-\$ US-7626776-\$ US-7627238-\$ US-7639440-\$ US-7641403-\$ US-7652833-\$ US-7705909-\$).DID.	US-PGPUB; USPAT; USOCR	OR	ON	2019/09/21 12:45
L3	23	((("7852579") or ("d805895") or ("3364603") or ("4274616") or ("4541190") or ("4593876") or ("4880327") or ("4991812") or ("5029797") or ("d320319") or ("5365687") or ("5413305") or ("d365461") or ("5582382") or ("d391474") or ("6196512") or ("6270049") or ("6651367") or ("6934084") or ("d640112") or ("8038116") or ("d677669")).PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2019/09/21 12:52
L4	1	("d392474").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2019/09/21 12:53
L5	3	((("d690308") or ("d703216") or ("20030136036")).PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2019/09/21 12:54
S1	1	("9642454").PN.	US-PGPUB; USPAT; USOCR	OR	OFF	2019/08/15 11:38
S2	30	("0805895" "20030001063" "20030136036" "3364603" "4274616" "4541190" "4593876" "4880327" "4991812" "5029797" "5365687" "5413305" "5582382" "6196512" "6270049" "6651367" "6934084" "8038116" "D320319" "D365461" "D392474" "D640112" "D677669" "D690308" "D703216").PN. OR ("9642454").URPN.	US-PGPUB; USPAT; USOCR	OR	ON	2019/09/20 16:40

In addition, the examiner of Klepar I found and cited the Klepar II design patent on 4/21/2015; because Klepar I published on 7/2/2015, a search by the Examiner of the Cannon Application on 8/10/2015 for citations to D703,216 would have identified Klepar I in the same fashion.

So had the Klepar I utility patent qualified as prior art, the Examiner(s) would not have needed to resort to using the less fulsome—but earlier filed—Klepar II design patent in a rejection that Patent Owner subsequently overcame.

This further demonstrates that the Examiner(s) found no basis to dispute Patent Owner’s priority claim. Accordingly, it can be inferred that Examiner(s) implicitly considered and rejected Ground 1 and indeed, similarly rejected the Cannon Publication—cited as the Cannon Application and expressly identified as part of the priority chain to the Provisional—as prior art to the ’479 patent.

5. Even if the Cannon Publication were Prior Art, Petitioner Fails to Set Forth a *Prima Facie* Case of Obviousness

Even if, *arguendo*, Patent Owner were somehow not entitled to its priority claim (which Petitioner has failed to demonstrate (Pet. at 22–24), as discussed *supra*), the Cannon Publication does not render the ’479 patent obvious because Petitioner has failed to show how or why, either alone or in combination with other references, the disclosures ***within the four corners of the Cannon Publication itself*** would teach a POSA the limitations allegedly not adequately disclosed by the Cannon Application (including the disclosures of the Provisional incorporated by reference), for purposes of claiming priority. *See In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999).

The Petition instead relies on “the knowledge of the POSA” for Ground 1, and the other grounds, in a legally futile effort to bridge the gaps in the prior art for numerous claim limitations. Indeed, its statement of grounds explicitly (and

impermissibly) identifies the “knowledge of the POSA” as a “basis for unpatentability”:

Ground	Claims	Basis for Unpatentability
1	1-2, 8-10, 12-13, 15-17, and 19	Obvious based on Cannon in view of Diebel and/or Barcalo and/or the knowledge of a POSA
2	12-13, 15-17, and 19	Obvious based on Klepar I in view of Barcalo and/or Dean and/or the knowledge of a POSA
3	20-21, and 27-29	Obvious based on Barcalo in view of Klepar I or Klepar II and/or Dean and/or the knowledge of a POSA

The Petition’s descriptions of the prior art with respect to the claim limitations demonstrate that it is exclusively relying on the knowledge of the POSA to supply the purported disclosure for at least one limitation of each of the independent claims.

For example, for Ground 1 (and independent claim 1), Petitioner failed to identify the recited “plane angle of 40 degrees” anywhere in the Cannon Publication, asserting instead that “there is no criticality of this angle” and relying on the knowledge of a POSA: “it would have been obvious to a POSA to calibrate the back support relative to a virtual plane . . . such that a third plane angle is 40 degrees.” (Pet. at 45.) Petitioner similarly relies on the knowledge of the POSA to allegedly satisfy the claimed viewing angles of 36, 74, and 49 degrees. (Pet. at 46.) And that reliance is similarly unavailing because it does not satisfy Petitioner’s requirement to show the disclosure of those elements *in the cited prior art*. See *supra* note 1 and accompanying text.

For claim 12, Petitioner also fails to identify the recited “support angle” in any of the prior art references, contending instead that “[i]t would have been obvious to

a POSA to configure a media support apparatus having a support back and support edge that are configured to support a media device as a support angle.” (Pet. at 51.)

Because Petitioner has failed to show that each limitation of any one claim challenged in Ground 1 is disclosed anywhere in the prior art, Ground 1 independently fails for this reason alone.

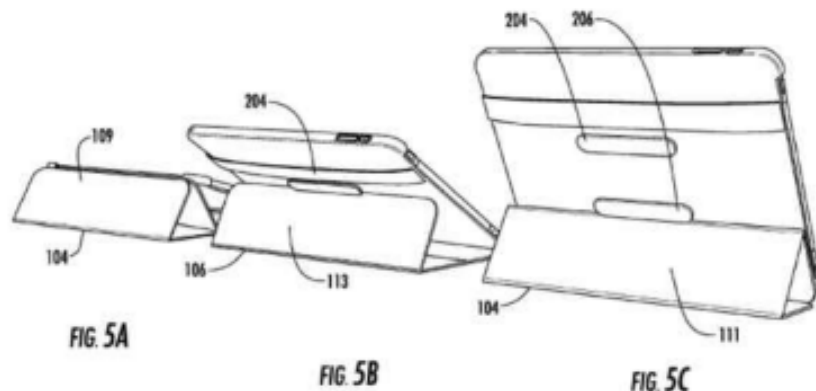
6. The References for Ground 1 That Remain, After Excluding References That Do Not Qualify as Prior Art, Are Inadequate

And the remaining references offer nothing more. As utilized in the Petition, Petitioner’s arguments for Barcalo were already extensively considered during reissue of the ’479 patent and therefore should not be given weight in the Petition. *See, e.g.*, Ex. 2001 at 87–92, 145–46, 173, 183–96. Even if they were, Barcalo does not disclose varying plane and viewing angles as required by claim 1, or varying support and viewing angles as required by claim 12.

While Petitioner also relies upon Diebel (which was not considered during prosecution), that reference (at most) discloses a hollow wedge that is triangular in cross section, which is cumulative of what was already considered. Diebel is only used for the claim limitation of varying viewing angles (Pet. at 47),⁵ but even then it does not disclose that limitation *as recited in claim 1*. Rather, any variation of angles as disclosed in Diebel occurs by changing the positioning of one side of the folded triangle relative to the other two in order to change the relative length of one

⁵ Petitioner otherwise fails to explain how Diebel discloses any features that were not already considered.

side of the triangular cross-section (i.e., folding it differently), thereby adjusting the angle.



(Pet. at 32.) So Diebel’s description of multiple viewing angles does not disclose the different viewing angles *recited in claim 1* because Diebel only has *one* back support—not three.

The Examiner previously considered *and rejected* prior art references with similar disclosures of mere variability in viewing angles without the recited three support backs, such as those in Klepar II. *See, e.g.*, Ex. 2011 at 22–25, 87–92, 145–46, 173, 183–96, 235. And the Examiner explained in the Notice of Allowance that “[t]he prior art of record does not disclose or fairly suggest an apparatus . . . configured to provide *first, second and third viewing angles of the first, second and third support backs* that are different from one another.” Ex. 2001 at 12 (emphasis added). Thus, Diebel is being relied upon for substantially the same—if not the same—argument already considered and rejected during prosecution. *See, e.g.*, Ex. 2001 at 87–92, 145–46, 173, 183–96.

Furthermore, insofar as the Cannon Publication does not disclose the recited angles—as Petitioner contends and as must be the case in order for the Cannon Publication to be prior art—Ppetitioner and its expert identify nothing added by Diebel or Barcalo to make those limitations evident to a POSA.

Because Ground 1 relies on *non-prior art* references to make out its obviousness case, and the remaining references do not disclose all the limitations of claim 1, Petitioner has failed to show a reasonable likelihood of prevailing on its challenge to any of the claims of Ground 1.

B. Ground 2 Fails to Show a Reasonable Likelihood of Unpatentability

1. Klepar I Is Not Prior Art

The Petition assumes that Klepar I (U.S. Pat. App. Pub. No. 2015/0189781 A1), filed on December 27, 2013 and published on July 2, 2015, is prior art to claims 12–13, 15–17, and 19 that are challenged by Ground 2 under 35 U.S.C. § 102(a)(1) (i.e., based on its publication date) and § 102(a)(2) (i.e., based on its priority date).

As noted above, Petitioner alleges that the claims challenged in Ground 2 (claims 12–13, 15–17, and 19) have an effective filing date of only January 30, 2019, because the recited phrase “support angle” was not used *in haec verba* in any application earlier in the priority chain. Petitioner is again incorrect, and these claims are entitled to their claimed priority date because the concept of a support angle as is recited is reasonably conveyed to a POSA by the disclosure of the Cannon Application. Ex. 2019 at ¶¶ 70–94; *see In re Smith*, 481 F.2d 910, 914 (C.C.P.A.

1973) (a specification need not describe the claimed invention in *haec verba* to satisfy written description or entitlement to priority, so long as the disclosure reasonably conveys to those skilled in the art that the inventor possessed the claimed subject matter).

Rather, a POSITA would have readily understood that the recited support angles are fully supported by the Cannon Application, and further supported by the Provisional. *See* Ex. 2019 at ¶¶ 70–94. Even though the Cannon Application does not use the term “support angle” *in haec verba*, it fully and completely discloses the concept of support angles precisely as set forth in the recitation of claim 12. *See id.*

As Mr. Babcock explains in detail in his Declaration supporting this Preliminary Response, the recitation of claim 12 itself explains that a support angle is what results from the media devices position when supported by the support back and support edge, relative to the virtual plane on which it is resting. Ex. 2019 at ¶ 72; *see also id.* at ¶¶ 73–78. Thus, a POSA would have understood that a support angle refers to the angle formed by a media device supported by a support back and a support edge, which angle is based in part on the plane angle between the support back itself and the virtual plane of an adjacent side. *See id.* ¶ 79; *see also id.* ¶¶ 77–78 & 80–85.

This is further supported by the disclosure of the Provisional, which also conveyed to a POSA that the inventors of the ’479 patent were in possession of the recited support angles. Ex. 2019 at ¶¶ 90–94. In particular, a POSA would have

readily understood the Provisional’s description of “bumper” holding the media device—“a ledge that helps hold and stabilize the device” to similarly describe the support edge. Ex. 2019 at ¶¶ 91–92. Likewise, the Provisional’s description of the working service being “at least somewhat acute to help give the tablet device some direction to lean so that it will stay in position” would have been understood by a POSA as explaining that the tablet will be leaning up against a back support and thus be disposed at a particular support angle. *See id.* at ¶ 92. Coupled with the disclosure that the user can choose how steeply the display is inclined for viewing, *id.* at ¶ 93, the disclosure of the Provisional also reasonably conveyed to a POSA that the named inventors were in possession of the “support angles” recited in claim 12.

Because the Cannon Application was filed October 20, 2014, and insofar as the claims challenged by Ground 2 are entitled to claim priority to it, Klepar I is not prior art under 35 U.S.C. § 102(a)(1). Nor is it prior art under § 102(a)(2), because it was filed after the Provisional—the October 28, 2013 priority date of which is correctly and expressly claimed by the ’479 patent. Because that priority date antedates Klepar I’s December 27, 2013 priority date, Klepar I is not prior art at all.

2. Ground 2 Fails Because Klepar I Is Not Prior Art

Because Klepar I does not qualify as prior art, and because it is Petitioner’s primary reference for Ground 2—and the sole reference cited for numerous limitations of claim 12—its exclusion from Ground 2 leaves no evidentiary basis for a finding of unpatentability. Specifically, without Klepar I, the Petition fails to cite

a reference disclosing three different configurations where the “support back” and “support edge” support a media device at any “support angle,” as claim 12 requires. (Pet. at 57–65.) For at least this reason, Ground 2 fails.

3. The Remainder of Ground 2 Relies Entirely on Prior Art Already Considered by the Patent Office

Moreover, with the sole exception of Klepar I—which (as discussed above) is not prior art—all of the remaining prior art references relied upon for Ground 2, Dean and Barcalo—were before the Examiners and considered in prosecution. Dean was identified by the Examiner of the ’479 Reissue Application and was a “reference cited” in the first office action dated October 18, 2019. Ex. 2001 at 235, 236. Barcalo was also identified by the Examiner of the ’479 Reissue Application starting with the first office action of October 18, 2019; and was relied upon and discussed extensively during prosecution of the ’479 patent. *See, e.g.*, 2001 at 87–92, 145–46, 173, 183–96. So ***all of*** the Ground 2 art that actually qualifies as prior art was already of record—presented to the Examiner(s), considered, and rejected.

Even considering these references yet again, significant and irremediable gaps remain in the Petition. Petitioner only relies on Barcalo for the claim limitations of a third support back and varying support angles as required in claim 12 of the ’479 patent. (Pet. at 59, 61.) But as noted *supra*, Barcalo does not disclose varying support angles as required by claim 12 and was considered and rejected by the Examiner(s). Likewise, Petitioner only relies on Dean for disclosing support

structures. (Pet. at 59.) But Dean does not disclose support structures and was previously considered and rejected by the Examiner(s).

Because Ground 2 offers nothing new, it fails to show a reasonable likelihood of prevailing on its challenge to any claim.

4. Even if Klepar I were Prior Art, Ground 2 Fails Because Petitioner Impermissibly Relies on the Knowledge of a POSA to Supply the Disclosure of at Least One Claim Limitation

As in Ground 1, Petitioner again impermissibly relies on the “knowledge of the POSA” to supply the purported disclosure of various claim limitations. The Petition relies extensively on the knowledge of the POSA to satisfy numerous limitations of the claims that simply did not exist in the prior art.

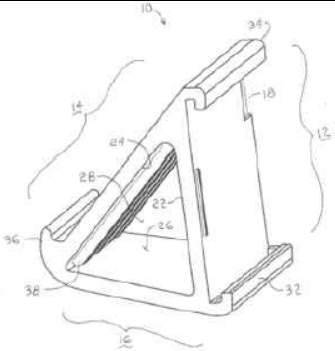
For example, for Ground 2 and independent claim 12, Petitioner does not identify the recited “support angle” in any of the prior art references on which it relies. Petitioner instead states that “[i]t would have been obvious to a POSA to configure a media support apparatus having a support back and support edge that are configured to support a media device as a support angle.” (Pet. at 51.) Further, Petitioner does not identify the recited “third support back” in any of the references on which it relies. Petitioner instead states that a POSA would be motivated “to change the orientation of L-channel (32) such that it generates three support backs . . .” (Pet. at 59.) Petitioner does not even provide a reasoned explanation as to *why* it would have been obvious to a POSA or *why* a POSA would have been

motivated to change anything, let alone cite to its expert’s declaration for support. (Pet. at 51, 59.) This is pure and unsupported attorney argument. It is insufficient.

Petitioner’s reliance on “the knowledge of a POSA” cannot be used to fill gaps in the disclosure of the cited prior art. Thus, Ground 2 lacks disclosure of those claim limitations, and fails to make even a *prima facie* invalidity showing.

5. Klepar I Is Cumulative of Klepar II Even If It Were Prior Art

Even if Klepar I were prior art—which it is not—the Petition fails to identify *any* disclosure within the four corners of Klepar I that a POSA would not have understood from the disclosure of Klepar II—which was already of record and considered by the Examiner(s). (Pet. at 33–35.) The table below compares the relevant figures of Klepar I and Klepar II:

Klepar I	Klepar II
 Fig. 1	 Fig. 2



Thus, as shown above, regardless of whether Klepar I qualifies as prior art, Petitioner has failed to show that it discloses anything beyond what was already considered from Klepar II during examination of the '454 patent and its reissuance as the '479 patent.

C. Ground 3 Fails to Show a Reasonable Likelihood of Unpatentability

1. Because Klepar I Is Not Prior Art, Ground 3 Relies Entirely on Prior Art Already Considered by the Patent Office

The primary reference for Ground 3, which challenges claims 20–21 and 27–29, is the same primary reference relied upon during examination of the reissue application. Petitioner’s further reliance on “Klepar I/II” and “Dean” adds nothing new. As discussed above, Klepar I is not prior art and is also duplicative of Klepar II, so all of the remaining prior art references relied upon for Ground 3 were previously before the Examiners and considered in prosecution:

	Claims	IPR Prior Art	Prosecution Prior Art
3	20, 21, 27–29	US 1,928,806 (“Barcalo”) US 2015/0189781 (“Klepar I”) US D703,216 (“Klepar II”) US 3,746,296 (“Dean”)	US 1,928,806 (“Barcalo”) US D703,216 (“Klepar II”) US 3,746,296 (“Dean”)

Klepar II was identified and relied on by the Examiner of the '454 patent starting with the first office action of August 14, 201. That examiner ultimately allowed the claims to issue, stating that the prior art of record did not disclose the limitations of the invention. *See, e.g.*, Ex. 2014 at 14. The Examiner of the '479 patent also considered the teachings of Klepar II and ultimately allowed the claims to issue, finding the recited limitations absent from the prior art of record. *See, e.g.*, Ex. 2001 at 12, 59–60, 74–75, 120–21, 233–36.

And the remaining references for Ground 3, Dean and Barcalo, were already of record—considered and rejected during examination, as discussed above. *See* § B.3, *supra*. Therefore, even to the extent that Ground 3 is based on references that qualify as prior art, ***all of that art*** was already presented to the Examiner(s) and of record. And because that art and these (or similar arguments) were already rejected, Petitioner has failed to show a reasonable likelihood on prevailing on its arguments regarding the unpatentability of any one claim. *See* 35 U.S.C. § 325(d).

2. Ground 3 Fails Because It Improperly Relies on the Knowledge of a POSA to Fill Gaps in What the Prior Art Disclosures

As in Grounds 1 and 2, Petitioner again impermissibly relies on the “knowledge of the POSA” to supply the purported disclosure of various claim limitations. The Petition relies extensively on the knowledge of the POSA to satisfy numerous limitations of the claims that simply did not exist in the prior art.

For example, for Ground 3 and independent claim 20, the Petition does not identify the recited “edge support width with an edge angle to an adjacent back

support in the range of 85 to 120 degrees to [a] back support” in any of the references, stating instead that “determining width and angle of the edge support . . . would be the routine work of the POSA” and “a POSA would have a reasonable expectation that the edge supports that would be configured . . . would be in the range of 85 to 120 degrees.” (Pet. at 74.) But Petitioner’s expert fails to offer any independent technical analysis or explanation, instead simply parroting that attorney argument. See Ex. 1013 at ¶¶ 241–43.

Petitioner likewise asserts that “a POSA would have understood that Barcalo, Klepar I and Klepar II disclosed edge angles within 85 to 120 degrees.” (Pet. at 73.) However, its expert offers no reasoned explanation as to how a POSITA would have understood this range of angles from the disclosures of any of those references, or why a POSA would have had a reasonable expectation of success, stating only that “[t]hese would be routine measurements that a POSA would carry out.” Ex. 1013 at ¶ 243. Conclusory *ipse dixit* by an expert more than a decade after the invention falls well short of even a *prima facie* showing of disclosure of the recited limitations in the prior art.

3. The Remaining References for Ground 3 Fail to Make a *Prima Facie* Showing of Invalidity, Let Alone a Reasonable Likelihood

After excluding references that are not prior art, Ground 3 is left as follows:

Ground	Claims	Basis for Unpatentability
3	20–21 & 27–29	Obvious based on Barcalo in view of Klepar I or Klepar II and/or Dean and/or the POSA’s knowledge

Petitioner only relies on Barcalo for disclosing a multi-position stand that can support media devices that facilitates viewing adjustably in various convenient reading positions. (Pet. at 77–78.) Klepar II is cited for disclosing two support backs, viewing angles and support edges, (*id.* at 70, 78) and Dean for disclosing support structures. (*Id.* at 69.) This leaves numerous gaps in a *prima facie* case for any unpatentability showing for these claims, as the Examiners have already recognized.

Specifically, Barcalo does not disclose any support edges or edge supports (as required by claim 20) and it was considered and rejected by the Examiner(s) as a basis for invalidating these claims. *See, e.g.*, Ex. 2001 at 12, 87–92, 145–46, 173, 184–96. Likewise, Dean not only fails to disclose support structures, but was also previously considered and rejected by the Examiner(s). *See, e.g., id.* at 12, 233–36.

Klepar II is similarly deficient: it does not disclose any support edges or edge supports. What Ontel characterizes as disclosing such elements are not “a surface of an interior” as these claims require, but rather, as the design patent’s use of solid lines indicates (*see* MPEP § 1504.01(b)), as shown in the annotated figures from Klepar II below, are instead separate elements attached to such a surface along those surfaces indicated by the solid lines between the “support edges” and the main body.

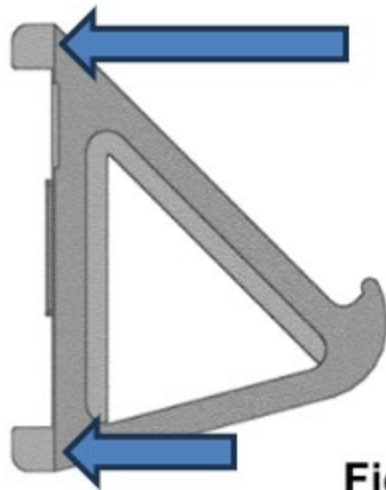


Fig. 7



Fig. 8

(Pet. at 36.) The Petition also fails to show that Klepar II discloses a first, second, and/or third viewing angle that are different from one another, as required by claim 20 of the '479 patent. Ex. 2001. Yet again, the Examiner allowed the patent to issue after considering Klepar II. *See, e.g.*, Ex. 2001 at 12, 59–60, 74–75, 120–21, 233–36.

Accordingly, because the remaining references lack at least the above limitations, and Ground 3 relies on *non-prior art* references to make out its obviousness case, Petitioner has failed to show a reasonable likelihood of prevailing on its challenge to any of the claims of Ground 3.

IV. CONCLUSION

Pursuant to 35 U.S.C. §§ 314 and 325(d), Patent Owner respectfully requests that the Board deny institution of *inter partes* review of the '479 patent because, as set forth above, Petitioner has failed to show a reasonable likelihood of patentability as to any one of the challenged claims.

Dated: January 22, 2026

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CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(b) and (d), the undersigned hereby certifies that this Patent Owner Preliminary Response complies with the type-volume limitation of 37 C.F.R. § 42.24(b)(1) because, exclusive of the exempted portions, it contains 6,614 words as counted by the word-processing system used to prepare the paper.

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served on January 22, 2026 via filing on P-TACTS and via electronic mail on the following counsel of record for Petitioner:

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