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Paper 73
Date: March 27, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LKQ CORPORATION
Petitioner

v.

CLEARLAMP, LLC
Patent Owner

Case IPR2013-00020
Patent 7,297,364

Before SALLY C. MEDLEY, KEVIN F. TURNER and JOSIAH C. COCKS, *Administrative Patent Judges.*

COCKS, *Administrative Patent Judge.*

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

A. Summary

LKQ Corporation ("LKQ") filed a petition on October 17, 2012 (Paper 1, "Pet.") requesting *inter partes* review of claims 1-24 of U.S. Patent No. 7,297,364 ("the '364 patent") (Ex. 1001) pursuant to 35 U.S.C. §§ 311-319. On March 29, 2013, the Board instituted a trial for each of claims 1-24 on two grounds of unpatentability.[1]

After institution of trial, the Patent Owner, Clearlamp, LLC ("Clearlamp") filed a Patent Owner Response ("PO Resp.") to the petition. Papers 33, 35[2]. LKQ filed a Reply to Clearlamp's Response on September 30, 2013 ("Pet. Reply"). Paper 50. Clearlamp also filed a Motion to Amend (Paper 38), a "Motion for Entry of Protective Order and to Seal Under 37 C.F.R. 42.54" (Paper 34), and a "Motion for Entry to Seal Under 37 C.F.R. 42.54" (Paper 41). LKQ has filed a Motion to Exclude Evidence (Paper 58).

Oral hearing was conducted on January 2, 2014.[3]

The Board has jurisdiction under 35 U.S.C. § 6(c). Pursuant to 35 U.S.C. § 318(a), this decision is "a final written decision with respect to the patentability of any patent claim challenged by the petitioner."

LKQ has shown by a preponderance of the evidence that claims 1-10, 13, and 14 are unpatentable. LKQ has not shown that claims 11, 12, and 15-24 are unpatentable.

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[1] *See* Paper 18 ("Institution Decision" or "Inst. Dec.").

[2] Paper 33 is a version of Clearlamp's Response filed with portions redacted. Paper 35 is an unredacted version of the Response filed under seal.

[3] A transcript of the oral hearing has been entered into the record as Paper 72 ("Hr'g Tr.").

Clearlamp's Motion to Amend is *denied*.

LKQ's Motion to Exclude Evidence is *dismissed*.

Clearlamp's "Motion for Entry of Protective Order and to Seal Under 37 C.F.R. 42.54" (Paper 34) is *granted*.

Clearlamp's "Motion for Entry to Seal Under 37 C.F.R. 42.54" (Paper 41) is *granted*.

B. The '364 Patent

The '364 patent relates to the refurbishing of lamp surfaces of a vehicle so as to remove surface wear and scratches. Ex. 1001, col. 1, ll. 8-12. The '364 patent includes twenty-four claims. Claims 1 and 13 are independent claims and are reproduced below:

> 1. A method for refurbishing a lamp surface of a lamp having surface damage, the method comprising the steps of:
>
> removing the lamp from a motor vehicle;
>
> removing an original clear coat finish from the lamp surface of the lamp;
>
> evening the lamp surface;
>
> grinding swirls and scratches out of the lamp surface;
>
> buffing the lamp surface;
>
> cleaning the lamp surface;
>
> spraying a replacement clear coating material over the lamp surface; and
>
> curing the replacement clear coat material.

13. A method for refurbishing a lamp surface of a lamp having surface damage, the method comprising the steps of:

removing the lamp from a motor vehicle;

removing an original clear coat finish from the lamp surface of the lamp;

evening the lamp surface;

grinding swirls and scratches out of the lamp surface;

buffing the lamp surface;

cleaning the lamp surface;

statically neutralizing debris on the lamp surface to facilitate the removal of all of the debris on the lamp surface;

spraying a replacement clear coating material over the lamp surface; and

curing the replacement clear coat material.

Id. at col. 4, ll. 33-45; col. 5, ll. 19-32.

C. Prior Art

The following items of prior art are involved in this *inter partes* review:

US 2005/0208210 A1("Kuta")	September 22, 2005	Ex. 1002
US 6,106,648 ("Butt")	August 22, 2000	Ex. 1003

Forum posts from Eastwood ShopTalk website[4] ("Eastwood") Ex. 1004

D. The Asserted Grounds of Unpatentability

The Board instituted trial on the following grounds of unpatentability:

Claims 1-24 are unpatentable under 35 U.S.C. § 103(a) as obvious over Kuta and Butt.

Claims 1-24 are unpatentable under 35 U.S.C. § 103(a) as obvious over Kuta and Eastwood.

II. ANALYSIS

A. Claim Construction

The Board construes a claim of an unexpired patent in an *inter partes* review using the "broadest reasonable construction in light of the specification of the patent in which it appears." 37 C.F.R. § 42.100(b); *see* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,766 (Aug. 14, 2012). Claim terms usually are given their ordinary and customary meaning as would be understood by one of ordinary skill in the art in the context of the underlying patent disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Indeed, the ordinary and customary meaning usually applies unless an inventor has acted as his or her own lexicographer and has set forth a special meaning for a claim term. *Multiform Desiccants, Inc. v. Medzam, Ltd.*, 133 F.3d 1473, 1477 (Fed. Cir. 1998).

Neither LKQ nor Clearlamp contends that the inventors of the '364 patent have acted as their own lexicographer and given any claim term a special meaning. Accordingly, we give all terms of the claims their ordinary

[4] http://forum.eastwood.com/showthread.php?118-Plastic-headlight-re-sealing&s=d3d5c104c4068d77bcc48e2e5ad4922.

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