

Filed on behalf of The Gillette Company

By: David L. Cavanaugh, Reg. No. 36,476 (Lead Counsel)
Yung-Hoon Ha, Reg. No. 56,368 (Back-up Counsel)
Wilmer Cutler Pickering Hale and Dorr LLP
1875 Pennsylvania Avenue NW
Washington, DC 20006
Tel: (202) 663-6025
Email: David.Cavanaugh@wilmerhale.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE GILLETTE COMPANY

Petitioner

v.

ZOND, LLC

Patent Owner of

U.S. Patent No. 6,896,775

IPR Trial No. IPR2014-00604

PETITIONER'S REPLY

Claims 30-37

TABLE OF CONTENTS

I. INTRODUCTION.....1

II. ZOND CONCEDES THAT INDEPENDENT CLAIMS 30, 36 AND 37 ARE TAUGHT BY THE PRIOR ART2

III. ONE SKILLED IN THE ART WOULD HAVE BEEN ABLE TO COMBINE THE CITED REFERENCES WITH PREDICTABLE RESULTS.....8

IV. DEPENDENT CLAIMS ARE ALSO OBVIOUS11

A. Dependent Claim 3311

V. CONCLUSION.....13

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>In re Mouttet</i> , 686 F.3d 1322, 1332 (Fed. Cir. 2012).....	10
<i>KSR</i> , 550 US at 420-21.....	10

I. INTRODUCTION

In its Decision on Institution (“DI”), the Board recognized there is a reasonable likelihood that the challenged claims 30-37 should be cancelled. *See* IPR2014-604 DI at p. 22. None of the arguments raised by Zond provides any reason to alter the determination of the Board in the Decision on Institution.

First, Zond attempts to require a particular ordering of the method claims in a manner which is not consistent with the patent specification, and which is refuted by Zond’s own expert, Dr. Hartsough.

Second, Zond attempts to import the structural feature of a “gap” in the claim limitation “means for ionizing.” However, the cross examination of Dr. Hartsough reveals the “gap” is indeed taught by the prior art.

Third, Zond argues that one dependent claim (i.e., claim 33) adds patentable subject matter. However, Dr. Hartsough’s cross examination testimony demonstrates that Zond’s arguments are wrong.

The Petition, supported by Mr. DeVito’s declaration, demonstrates why one of ordinary skill in the art would have combined the teachings of the cited references. The cross examination testimony of Dr. Hartsough further demonstrates that the references would have been combined. Petitioner also provides the declaration of Dr. John Bravman, who reached the same conclusion that references would have been combined by one of ordinary skill in the art and that the challenged claims are

unpatentable.¹

II. ZOND CONCEDES THAT INDEPENDENT CLAIMS 30, 36 AND 37 ARE TAUGHT BY THE PRIOR ART

Zond's own declarant, Dr. Larry Hartsough, explicitly conceded that just about all the limitations recited in the independent claims were well known before the effective date of the '775 patent. *See* Ex. 1119 ("775 Hartsough Depo.") at 42:4 – 45:18.

Zond nevertheless argues that method claim 30 requires a specific order, and that the cited references do not suggest "a means for ionizing." Both of these arguments are refuted by the cross examination testimony of Dr. Hartsough.

Claim 30 does not require a specific order

Zond asserts that method claim 30 requires the step of "ionizing a feed gas..." to occur before "generating a magnetic field..."² IPR2014-604 PO Resp. at pp. 34-37. However, Dr. Hartsough unequivocally concedes that this is not the case, as reproduced below:

Q: In Claim 15 of the '775 patent, the step of ionizing a feed gas does not have to occur before the generation of a magnetic field; right?

¹ Mr. DeVito is no longer available to provide testimony.

² Zond argues that "Mr. DeVito's comments concerning claim 15 apply equally to claim 30." IPR2014-604, PO Resp. at p. 36.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.