

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

J SQUARED, INC. d/b/a UNIVERSITY LOFT COMPANY,

Petitioner,

v.

SAUDER MANUFACTURING COMPANY,

Patent Owner.

Case IPR2015-00774

U.S. Patent No. 8,585,136

EXHIBIT 1028

Please note that at page 23 of the transcript, Patentee indicated it would provide a redacted version, which has not yet been received. Thus, a redacted version will be uploaded when provided.

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UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

J SQUARED, INC. d/b/a)
UNIVERSITY LOFT COMPANY,)
)Case IPR2015-00774
Petitioner,)Case IPR2015-00958
)Patent 8,585,136
vs.)
)
SAUDER MANUFACTURING)Oblon Docket No.:
COMPANY,)464032US and
)464045US
Patent Owner.)
-----)

CONFIDENTIAL

DEPOSITION OF PHILIP E. BONTRAGER
Troy, Michigan
Thursday, January 21, 2016

Reported by:
Paula S. Raskin, CSR-4757
JOB NO. 102145

Page 2

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3
4 January 21, 2016
5 9:35 a.m.
6
7
8 Deposition of PHILIP E. BONTRAGER,
9 held at the offices of Young Basile Hanlon
10 & MacFarlane, PC, 3001 West Big Beaver
11 Road, Suite 624, Troy, Michigan, before
12 Paula Raskin, CSR-4757, a Notary Public of
13 the State of Michigan.
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Page 3

1
2 A P P E A R A N C E S:
3
4
5 OBLON, MCCLELLAND, MAIER & NEUSTADT
6 Attorneys for Petitioner
7 1940 Duke Street
8 Alexandria, Virginia 22314
9 BY: SCOTT MCKEOWN
10 RUBY NATNITHITHADHA
11
12 and
13
14 BAHRET & ASSOCIATES
15 Attorney for Petitioner
16 320 North Meridian Street
17 Indianapolis, Indiana 46204
18 BY: WILLIAM BAHRET
19
20
21 YOUNG BASILE HANLON & MACFARLANE
22 Attorneys for Patent Owner
23 3001 West Big Beaver Road
24 Troy, Michigan 48084
25 BY: THOMAS YOUNG

Page 4

1 PHILIP E. BONTRAGER,
2 called as a witness, having been duly sworn
3 by a Notary Public, was examined and
4 testified as follows:
5 MR. MCKEOWN: Good morning. Can you
6 state your name for the record, please.
7 THE WITNESS: I am Philip E.
8 Bontrager, and I'm the president and CEO of
9 Sauder Manufacturing since October of 2005.
10 MR. MCKEOWN: Okay. Why don't we
11 enter appearances again just for the sake
12 of the record. The gentleman to your left,
13 I guess.
14 MR. YOUNG: I'm Thomas Young. I'm
15 attorney for Sauder Manufacturing Company
16 and the witness.
17 MR. MCKEOWN: I'm Scott McKeown of
18 the Oblon firm in Alexandria, Virginia. I
19 represent University Loft in this
20 proceeding. And to my immediate right
21 is...
22 MR. BAHRET: Bill Bahret from
23 Indianapolis. I represent the petitioner,
24 University Loft Company.
25 MS. NATNITHITHADHA: My name is Ruby

Page 5

1 PHILIP E. BONTRAGER
2 Natnithithadha. Let me spell that,
3 N-A-T-N-I-T-H-I-T-H-A-D-H-A, and I work at
4 Oblon with Scott McKeown.
5 MR. MCKEOWN: Mr. Bontrager, I know
6 you've attended some of the other
7 depositions today so -- excuse me --
8 earlier this week so I think we can
9 dispense with some of the formalities, but
10 have you been deposed before?
11 THE WITNESS: I have.
12 MR. MCKEOWN: Okay. So let's just
13 make sure we answer clearly and no
14 gesticulations so we can create the record.
15 Okay?
16 THE WITNESS: I understand.
17 MR. MCKEOWN: Of course, if you need
18 a break, please just ask for one.
19 THE WITNESS: Thank you.
20 I have some modest corrections and
21 clarifications that I'd like to get into
22 the record in my declaration, if I might,
23 please.
24 MR. MCKEOWN: Sure. Well, before we
25 get to that, why don't I give you a copy of

Page 6

1 PHILIP E. BONTRAGER
 2 your declaration so we're all talking about
 3 the same thing.
 4 EXAMINATION
 5 BY MR. MCKEOWN:
 6 Q. So I've handed you Exhibit 2008,
 7 which from IPR 2015-774, and you've also
 8 submitted a declaration in IPR 2015-958. I
 9 believe those are identical, so I won't give
 10 you a second copy. Is that your understanding?
 11 A. That would be my understanding. And
 12 I'm going to be citing my clarifications from a
 13 copy that I brought with me that is also
 14 labeled Exhibit 2008 from IPR 2015-00774.
 15 Q. Okay.
 16 A. First of all, on Page 30 of 102, at
 17 the bottom of the page, Footnote 31, just a
 18 clarification of the language. I would like to
 19 change the footnote to read:
 20 "Lower portion is described in the
 21 '136 patent. My interpretation begins on
 22 Page 40 of this declaration."
 23 Q. Okay.
 24 A. The second correction/clarification
 25 that I'd like to read into the record is on

Page 8

1 PHILIP E. BONTRAGER
 2 A. That is correct.
 3 Q. And how long have you been employed
 4 by Sauder?
 5 A. I had been at Sauder Woodworking,
 6 which is our parent company, since 2003. I
 7 transferred to Sauder Manufacturing in October
 8 of 2005, and have been in my current role since
 9 that time.
 10 Q. And as you say, your current role
 11 is?
 12 A. I am the president and chief
 13 executive officer of Sauder Manufacturing
 14 Company.
 15 Q. At Page 3 of your declaration, it
 16 looks like the first full paragraph below the
 17 bullet points, you state that you hold a
 18 master's in business administration with
 19 distinction from the Ross Graduate School of
 20 Business, the University of Michigan; and a
 21 bachelor of arts, economics, from Goshen
 22 College. Is that correct?
 23 A. That is correct.
 24 Q. Is that the entirety of your formal
 25 education?

Page 7

1 PHILIP E. BONTRAGER
 2 Page 76, and this concerns the Yu patent.
 3 Page 76, at top of the page, the
 4 first line in the second paragraph, I would
 5 like to correct the last number in that line
 6 from number 24 to number 40. So the last
 7 phrase should read "when the plates 2340 are
 8 joined by fastener bolts."
 9 And then in the subsequent
 10 paragraph, in the second line of that third
 11 paragraph, I would like to correct the word
 12 "cover" to "support," so that beginning with
 13 the second line, "support plate 23. Support
 14 plate 23 as depicted in Figure 3."
 15 Those are two corrections from
 16 errors I committed when I typed my declaration.
 17 Q. Okay. Are those the only changes?
 18 A. Those are the only ones. There's a
 19 few other miscellaneous typos, but they're not
 20 material in terms of the understanding or
 21 interpretation of what's in the declaration.
 22 Q. Understood. So, Mr. Bontrager, as
 23 you stated at the outset, you are currently
 24 employed by Sauder Manufacturing. Is that
 25 correct?

Page 9

1 PHILIP E. BONTRAGER
 2 A. Well, I have elementary school and
 3 high school. But in terms of post high school
 4 graduation, apart from periodic seminars,
 5 workshops, professional development, that would
 6 constitute my formal education, yes.
 7 Q. On the next page, Page 4, you
 8 state -- well, at the end of the second
 9 paragraph, the last sentence, sort of the last
 10 clause:
 11 "I have gained significant
 12 experience in design and manufacture of
 13 institutional furniture."
 14 Could you expand upon what you mean
 15 by institutional furniture?
 16 A. Yes. Institutional furniture in the
 17 trade would be furniture that is sold to
 18 commercial customers as opposed to residential
 19 furniture. So it's probably best talked
 20 about -- or part of talking about it is
 21 describing what it is not.
 22 It is not furniture that is sold
 23 typically via retail stores or furniture stores
 24 for use in private consumer residences. Rather
 25 it is furniture that is sold into a variety of

Page 10

1 PHILIP E. BONTRAGER
 2 commercial establishments, the for-profit and
 3 not-for-profit, that would be considered
 4 institutions.
 5 It would be -- the term would be
 6 used interchangeably with contract furniture.
 7 For example, the furniture in this room would
 8 be considered institutional furniture or
 9 contract furniture.
 10 Q. And contract furniture refers to the
 11 manner in which it's sold? The channels in
 12 which it's sold?
 13 A. It would refer to a combination of
 14 both the specifications, the design, the sales
 15 channels, the sales conditions under which it
 16 is sold.
 17 Q. And is that institutional
 18 furniture -- just referencing Page 5, you refer
 19 to Sauder Manufacturing as America's largest
 20 manufacturer of ready-to-assemble residential
 21 furniture. Is that something different than
 22 institutional furniture?
 23 A. Yes. Sauder Woodworking is the
 24 manufacturer of ready-to-assemble furniture.
 25 We are a wholly owned and independently

Page 12

1 PHILIP E. BONTRAGER
 2 employment with the Hill-Rom Company, and you
 3 state that Hill-Rom Company's -- you served as
 4 a senior executive of the Hill-Rom Company's
 5 hospital patient room furniture business.
 6 A. Yes.
 7 Q. Can you give me a little bit more
 8 detail on what that business was?
 9 A. Well, if you -- I'll refer you back
 10 to Page 2 and Page 3 of the same declaration.
 11 Q. Uh-huh.
 12 A. At the time that I worked at
 13 Hill-Rom, it was a wholly owned subsidiary of
 14 Hillenbrand Industries with more than \$1.2
 15 billion in global revenue. Hillenbrand was a
 16 publically traded company. Today Hill-Rom
 17 continues to be a public company and is
 18 independent of Hillenbrand Industries.
 19 At the top of Page 3, I note in my
 20 declaration that I had several different roles,
 21 and the time frames, the nature of the overall
 22 roles are described there.
 23 Working from the most recent to the
 24 oldest, from 1997 to 1999, I was the vice
 25 president and general manager for architectural

Page 11

1 PHILIP E. BONTRAGER
 2 operated subsidiary of Sauder Woodworking. We
 3 have one of our plants that is on the same
 4 campus as Sauder Woodworking. Our operations,
 5 our customers, our sales force, our product
 6 development efforts are independent.
 7 As I tell some people, on one campus
 8 we share a dust collection system, and that's
 9 about the extent of what we share.
 10 Q. Do you know what percentage of
 11 products of Sauder Manufacturing are
 12 constructed of wood?
 13 A. Historically a hundred percent of
 14 them would have been constructed predominantly
 15 of wood and wood products.
 16 Today many of our products -- the
 17 majority of our products, overwhelming majority
 18 of our products, would still contain wood in
 19 one form or another, but not all of them. They
 20 would also contain plastic, they would contain
 21 wood, they would -- or excuse me -- metal, they
 22 would contain urethane, they contain fabrics.
 23 They have many different materials included in
 24 them beyond just wood.
 25 Q. On Page 4 you mention your previous

Page 13

1 PHILIP E. BONTRAGER
 2 products, which was the portion of the business
 3 that manufactured medical gas products in
 4 modular headwalls that go into patient rooms to
 5 deliver medical gases to the patient, as well
 6 as into operating rooms.
 7 From 1993 to 1997, I was the vice
 8 president and general manager for Hill-Rom's
 9 European therapy bed business and had overall
 10 responsibility across seven countries and full
 11 profit and loss responsibility for that
 12 business.
 13 And then from '86 to 1993, I was a
 14 vice president of business strategy for
 15 Hill-Rom's worldwide hospital furniture and
 16 medical device business.
 17 Q. Did Hill-Rom make furniture for
 18 businesses outside of the hospital and medical
 19 industry?
 20 A. No. Hill-Rom manufactured hospital
 21 furniture predominantly in the acute care
 22 marketplace. There was a smaller portion that
 23 was used in long-term care facilities, and
 24 there was yet a third portion that -- whose
 25 products were designed and developed for and

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