UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

SAUDER MANUFACTURING COMPANY
Patent Owner

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Case IPR2015-00774
Patent No. 8,585,136

CHAIR WITH COUPLING
COMPANION STOOL BASE

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**PATENT OWNER'S PRELIMINARY RESPONSE**
**PURSUANT TO 37 CFR §42.107**

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# EXHIBIT LIST

| Exhibit No. | Exhibit |
|---|---|
| 2001 | Motion for an Extension in N.D. of Ohio Case No. 14-cv-00962 |
| 2002 | Order Denying Motion for and Extension |
| 2003 | Motion to Stay Action Pending Inter Partes Review |
| 2004 | Order Denying Motion for Stay |
| 2005 | Joint Prehearing Statement |
| 2006 | Notice of Allowance |
| 2007 | US Patent No. 8,777,305 |

## I. INTRODUCTION

This is the preliminary response of Patent Owner, Sauder Manufacturing Company, to the Petition for Inter Parties Review filed February 19, 2015 on behalf of J Squared, Inc. d/b/a University Loft Company.

The Petition should be denied for the following reasons:

1. The Petition does not serve the fundamental goal of IPRs; i.e., it does not promote efficiency or reduce costs for adversaries in patent litigation, nor does it conserve government resources; if granted it will result in parallel proceedings in both the United States Patent and Trademark Office, and the United States District Court for the Northern District of Ohio;

2. The Petition is based in part on omissions and misrepresentations of material fact and law; and extrinsic evidence that is inconsistent with the content of the patent;

3. The Petitioner's claim constructions are manifestly unreasonable as inconsistent with the patent specification, the prosecution histories of two issued patents-in-suit, and constructions of substantially identical terms used by Petitioner is in its own U.S. Patent No. 8,777,305 disclosing nearly identical subject matter; and

4. Patent Owner shows herein that the broadest reasonable interpretations of the two independent claims are substantially different than those urged by Petitioner.

## II. THE PETITION DOES NOT SERVE THE FUNDAMENTAL GOALS OF IPRS

The legislative intent for IPR's is to spare parties to litigation, unnecessary expense, and conserve governmental resources by confining the complicated review of patentability to one forum by timely filed Petitions. In this case, that objective is not being realized.

In fact, the very issues which are raised in this Petition are currently being litigated through Markman proceedings in the United States District Court for the Northern District of Ohio, Western Division (Toledo, Ohio); Civil Action No. 3:14-cv-00962-JZ. That suit was filed in March 2014, and a full Markman hearing was held on Thursday, May 21, 2015. A decision may be issued before the IPR, should the Petition be granted, will even be off the ground.

It makes little or no sense for the same issues to be litigated in two forums at the same time, placing unnecessary burdens on both parties and on U.S. taxpayers. That this unfortunate multiplication of effort and the potentially inconsistent results that may obtain could have been avoided by timely acts on Petitioner's part is discussed in the next section.

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