

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
Patent 8,585,136 B2

Before LINDA E. HORNER, JOSIAH C. COCKS, and JAMES A.
WORTH, *Administrative Patent Judges*.

HORNER, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. Background

Petitioner, J Squared, Inc. d/b/a University Loft Company (“J Squared”), filed a Petition (Paper 1, “Pet.”) requesting institution of an *inter partes* review of claims 1–14 of U.S. Patent No. 8,585,136 B2 (“the ’136 patent,” Ex. 1001). Patent Owner, Sauder Manufacturing Company (“Sauder”), filed a Preliminary Response. Paper 6 (“Prelim. Resp.”).

We instituted an *inter partes* review based on the grounds that claims 1, 2, 4, 5, 8, 10, and 11 are unpatentable under 35 U.S.C. § 102 as anticipated by Mackey¹ and claims 1, 2, and 6–14 are unpatentable under 35 U.S.C. § 103 as obvious over Pollack II² and Pollack I.³ Paper 7 (“Decision” or “Dec.”).⁴ Sauder subsequently filed a Patent Owner Response (Paper 13, “PO Resp.”), to which J Squared replied (Paper 21, “Pet. Reply”). An oral hearing was conducted on April 21, 2016, and a transcript of that hearing has been entered into the record (Paper 34, “Tr.”).

For the reasons explained below, and on the record now before us, we determine the following: (1) J Squared has shown by a preponderance of the evidence that claims 1, 2, 8, 10, and 11 are anticipated by Mackey; (2) J Squared has not shown by a preponderance of the evidence that claims 4 and 5 are anticipated by Mackey; (3) J Squared has shown by a preponderance of the evidence that claims 1, 2, 6–8, 10, and 11 are unpatentable as obvious over Pollack II and Pollack I; and (4) J Squared has

¹ U.S. Patent No. 794,461 issued to Mackey (July 11, 1905) (Ex. 1003).

² U.S. Patent No. 2,689,598 issued to Pollack (Sept. 21, 1954) (Ex. 1005).

³ U.S. Patent No. 2,644,506 issued to Pollack (July 7, 1953) (Ex. 1006).

⁴ We did not institute *inter partes* review of claim 3 based on any ground.

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not shown by a preponderance of the evidence that claims 9 and 12–14 are unpatentable as obvious over Pollack II and Pollack I.

B. Related Matters

Sauder has sued J Squared for infringing the '136 patent in *Sauder Manufacturing Company v. J Squared, Inc. d/b/a University Loft Company*, Case No. 3:14-cv-00962-JZ, pending in the United States District Court for the Northern District of Ohio (“the infringement litigation”). Pet. 2. The district court issued a Markman Order in the infringement litigation on June 9, 2015. Ex. 3001.

J Squared also challenged claims 1, 2, and 4–14 of the '136 patent in a petition for *inter partes* review filed on March 27, 2015. *J Squared, Inc. v. Sauder Mfg. Co.*, Case IPR2015-00958 (“the related petition”). We instituted *inter partes* review of claims 1, 2, and 4–14 in the related petition and consolidated the proceedings solely for the purpose of conducting an oral hearing. IPR2015-00958, Papers 7, 30. We issue concurrently with this decision a separate Final Written Decision in the related proceeding.

U.S. Patent Application No. 14/596,623, filed January 14, 2015, now U.S. Patent No. 9,370,249, issued June 21, 2016, is a continuation of U.S. Patent Application No. 14/057,781 ('781 application), filed October 18, 2013, now U.S. Patent No. 8,960,787 B2 ('787 patent), which is a continuation of U.S. Patent Application No. 13/277,778, filed October 20, 2011, now the '136 patent, which Petitioner challenges in the present matter. J Squared also challenged claims 1–21 of the '787 patent in a petition for *inter partes* review filed on December 29, 2015. *J Squared, Inc. v. Sauder Mfg. Co.*, Case IPR2016-00413 (“the '413 IPR”). Sauder filed a Patent Owner Preliminary Response, and the Board issued a decision in the '413 IPR denying institution on June 9, 2016.

180 extend generally downward from lower portion 106 and are configured as rockers, so as to render the chair portion capable of use as a floor rocker when the chair is set upon a generally horizontal supporting surface. *Id.* at 6:36–39, 45–46. Upper portion 104 provides a back rest and lower portion 106 includes a sitting portion. *Id.* at 4:33, 61–62. Base portion 300 has saddle 310, which is connected via post 334 to five legs 330. *Id.* at 7:20–28.

Figures 11 and 12 depict coupling of chair portion 100 and base portion 300. Figures 11 and 12 are reproduced below.

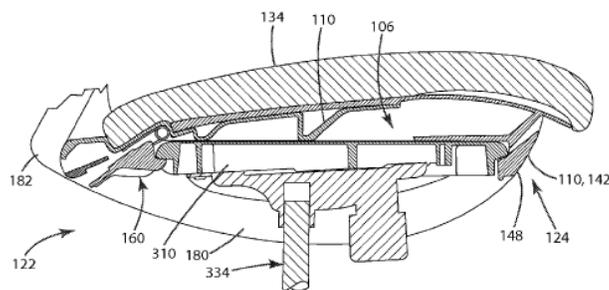
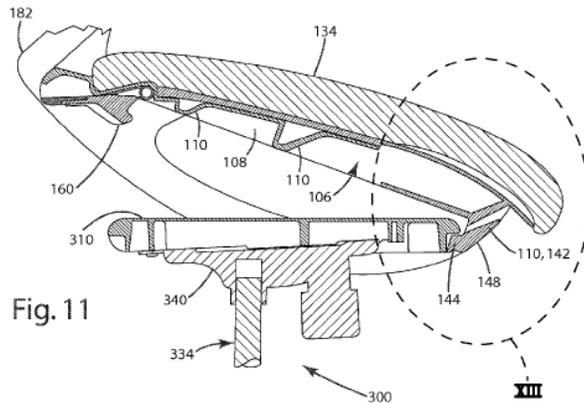


Fig. 12

Figures 11 and 12 depict side elevation views showing coupling and uncoupling of chair portion and companion stool base portion, with a portion chair portion and stool base portion in cross section.

As depicted in Figures 11 and 12, lower portion 106 includes claw 142 and clip clamp latch 160. *Id.* at 4:64–67. Claw 142 and clip clamp latch

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