

Paper No. 11  
Filed: February 23, 2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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ALLSTEEL INC.  
Petitioner

v.

DIRTT ENVIRONMENTAL SOLUTIONS LTD.  
Patent Owner

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Case IPR2015-01690  
Patent No. 8,024,901

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Before SALLY C. MEDLEY, SCOTT A. DANIELS, and  
JACQUELINE T. HARLOW, *Administrative Patent Judges*.

**PETITIONER'S MOTION FOR REHEARING  
PURSUANT TO 37 C.F.R. § 42.71(d)**

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## I. INTRODUCTION AND STATEMENT OF RELIEF REQUESTED

The Panel’s decision not to institute *inter partes* review (“IPR”) of Claim 1 of U.S. Patent No. 8,024,901 (“’901 Patent”), and consequently failing to even consider the dependent claims flowing therefrom,<sup>1</sup> represents an abuse of discretion because it overlooked significant portions of Dr. Joseph Beaman’s expert declaration (Ex. 1018) and ignored critical components of obviousness law.

The technology here and the corresponding obviousness analysis could not be simpler—the sole difference between Claim 1 and Price (Ex. 1002) is a simple, non-inventive mirror image alteration of one mechanical snap-fit feature. Petition, at 17–18. Under a “reasonable likelihood of success” standard of review, which the Federal Circuit recognizes is “significant[ly] differen[t]” from the standard of review applied in a Board’s Final Written Decision, *see Trivascular, Inc. v. Samuels*, No. 2015-1631, 2016 WL 463539, at \*9 (Fed. Cir. Feb. 5, 2016), Allsteel’s petition provided at least three independent bases for obviousness—all replete with authoritative support in precedent.

First, Allsteel presented the Panel with a thorough obviousness expert declaration from Dr. Beaman which the Panel misapprehended by overlooking significant portions and taking others out of context to reach its conclusion.

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<sup>1</sup> This Motion for Rehearing is only for Claim 1 because the Panel did not consider any of the dependent claims addressed in the Petition. *See* Paper 10.

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