Paper No. 11
Filed: February 23, 2016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ALLSTEEL INC.
Petitioner

v.

DIRTT ENVIRONMENTAL SOLUTIONS LTD.
Patent Owner

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

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)

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Page(s)

FEDERAL CASES

RULES

REGULATIONS

OTHER AUTHORITIES

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,[1] 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.

[1] 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.

DOCKET ALARM

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.