

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 IPR2015-01691
Patent No. 8,024,901

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

**PETITIONER'S SUPPLEMENTAL BRIEF ADDRESSING NEWLY
INSTITUTED CLAIMS 8, 11, 13, AND 21-23**

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Newly instituted claims 8, 11, 13, and 21-23 do not add patentably relevant limitations to Claim 1 of the '901 patent, which the Board has already held is obvious along with every other originally instituted claim. Patent Owner did not argue for the separate patentability of any dependent claim at the Board hearing or in the Federal Circuit appeal, effectively conceding that each claim rises or falls with Claim 1. The newly instituted claims are no different: each adds to Claim 1 nothing but conventional features of prior art wall systems according to their known uses. The Board should hold that all challenged claims of the '901 patent are unpatentable under 35 U.S.C. § 103 for the same reasons and in view of the same prior art combinations first set forth in the Petition and Dr. Beaman's initial declaration, which are further discussed below.

I. Claim 8 Is Obvious in View of Raith and Yu.

Claim 8 adds that the horizontal stringers of claim 1 can be configured as “cantilever channel stringers” as follows:

Claim 8. The movable reconfigurable wall system of claim 1, wherein said stringers include a cantilever channel stringer, said cantilever channel stringer having: a central horizontally extending channel portion with a generally L-shaped slot, said L-shaped slot adapted to receive and engage a substantially L-shaped hook formed on a wall accessory; an upper portion having a tile support; a lower

portion having a tile support; and a pair of extending webs connecting said channel portion to said upper and a lower portion. (Ex. 1001.)

The Board agreed with Petitioner that Yu discloses nearly every limitation of Claim 8, but denied institution on Claim 8 because, according to the Board, “Petitioner has not directed [the Board] to where in Yu bracket 189-5 engages connector bracket 26.” Petitioner moved for rehearing as to Claim 8 and explained, among other points, that the language of Claim 8 does not require that every surface of the claimed “channel portion having a generally L-shaped slot,” the longer portion of which is defined in Yu by brackets 189-5, to directly engage every portion of the claimed “substantially L-shaped hook formed on a wall accessory.” (Motion for Rehearing at 13-15.)

The Board appeared to agree that Claim 8 does not include this requirement, but nonetheless declined to reverse its denial of institution on Claim 8 because, according to the Board, “neither the Petition nor the Rehearing Request show or explain sufficiently how the confines of what Petitioner asserts is the Yu L-shaped slot is adapted to receive and engage a substantially L-shaped hook.” (Order Denying Rehearing at 4.) This conclusion misapprehends or overlooks arguments and evidence set forth in the Petition and in Dr. Beaman’s initial declaration. (Ex. 1038 at ¶¶ 5-7.)

Specifically, the Petition expressly argued that “it is clear from Yu that

the ‘hook like projections,’ or ‘L-shaped hooks’ of Yu’s connector brackets, which support furniture components, are received in the channels 51-5.” (Petition at 35 (citing Ex. 1005 at 13:65-14:3;14:51-66; 24:51-60; 25:24-40; Figs. 2, 17A, 28, 30; Ex. 1018, ¶ 155); *see also* Ex. 1038 at ¶¶ 5-7.) Moreover, the portion of Dr. Beaman’s declaration cited by the Petition—Ex. 1018 ¶ 155—explains with numerous citations to Yu exactly how “Yu further teaches that the L-shaped hooks [labeled 101-4 in Yu] are secured in the channels 51-5” of Yu. (Ex. 1018 ¶ 155 (citing Ex. 1005 at 21:32-36, Figs. 19, 20); *see also* Ex. 1038 at ¶¶ 5-7.) Accordingly, and contrary to the Board’s decision denying rehearing, the Petition and Beaman Declaration clearly show and explain how and where in Yu the claimed “channel portion with a generally L-shaped slot” is “adapted to receive and engage a substantially L-shaped hook.” Fairly considered, the Petition and Beaman Declaration expressly show and sufficiently explain how these elements (and every other element of Claim 8) are disclosed in Yu such that a person of skill would have found Claim 8 to be obvious. For the reasons given above and previously in Petitioner’s Motion for Rehearing and Petition, Claim 8 is obvious.

II. Claims 11 and 13 Are Obvious in View of Raith and EVH.

Claim 11 (reproduced below) depends from Claim 1 and adds a conventional leveling system, an example of which is expressly disclosed in EVH.

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