

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

SUPPLEMENTAL DECLARATION OF JOSEPH J. BEAMAN JR.

Introduction and Summary of Opinion

1. This declaration is in response to the Board's recent institution of *inter partes* review of Claims 8, 11-13, and 21-23 of '901 patent in Case No. IPR2015-001691. I have previously opined on these newly instituted claims, and I incorporate by reference my statements and opinions expressed in my previous declaration and deposition as they relate to the newly instituted claims (Ex. 1018; Beaman Deposition). In addition to the documents listed in Appendix B of Ex. 1018, I have also considered the following documents for this report: (1) Patent Owner's Response (Paper 24); (2) Declaration of Rollin C. Dix, Ph.D in Support of the Patent Owner's Response (Ex. 2009); (3) Declaration of Geoffrey Gosling in Support of the Patent Owner's Response (Ex. 2004); (4) Deposition Transcript of Rollin C. Dix, Ph.D (Ex. 1030); and (5) Deposition Transcript of Geoffrey Gosling (Ex. 1031).

2. In this report, I address the Board's earlier decision denying institution as to Claims 8, 11, 13, and 21-23 and the reasons given by the Board underpinning its decision. As discussed below, it is my opinion that the Board's decision not to institute review on these claims resulted from a misconception of aspects of my previously stated opinions on the obviousness of these claims.

3. In this report, I attempt to further clarify my prior opinions on the newly instituted claims directly in response to the Board's previous decision

denying institution. My specific opinions on how the relevant prior art combinations teach each element of the newly instituted claims remain unchanged and I do not intend, through this report, to add to or change my previously disclosed opinions. Rather, it is the goal of this report to further explain my opinions in response to the Board’s initial denial of institution.

Claim 8

4. The Board 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.” (Inst. Dec. at 18). The Board also indicated that “[i]f, as we understand Petitioner’s argument, the longer portion of the L is in space, not defined by any boundary, then that is not sufficient to show how the *channel* portion has a generally L shaped slot as claimed. It would be the borders of the channel that define the L shaped slot, not some imaginary portion.” (Inst. Dec. at 18).

5. The Board has misconstrued the ground from the Petition and my opinion stated in my initial declaration. The longer portion, or leg of the “L” slot in the Yu bracket 189-5 is not simply set out in space – it is defined between the bracket 189-5 and the cross rail 200 of Yu. Below I have provided two of the original excerpts from Yu set out in the Petition and my accompanying declaration, along with an additional side, cross-sectional view that is consistent with the

Petition, my original understanding of Yu, and what the Yu bracket 189-5 and crossrail 200 define in terms of an L-shaped slot.

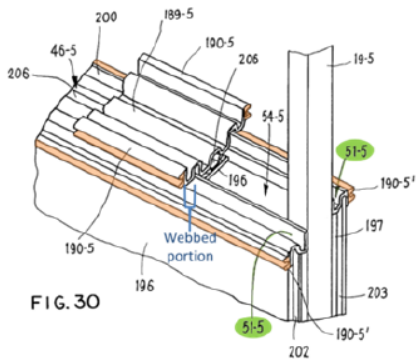
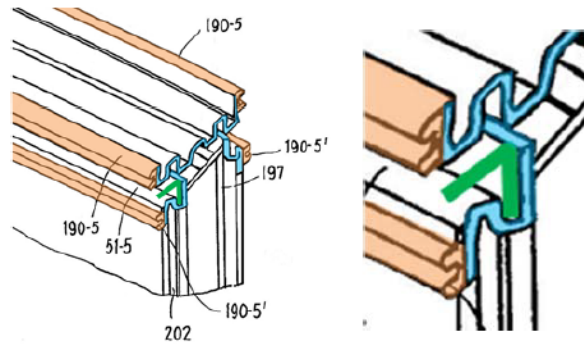
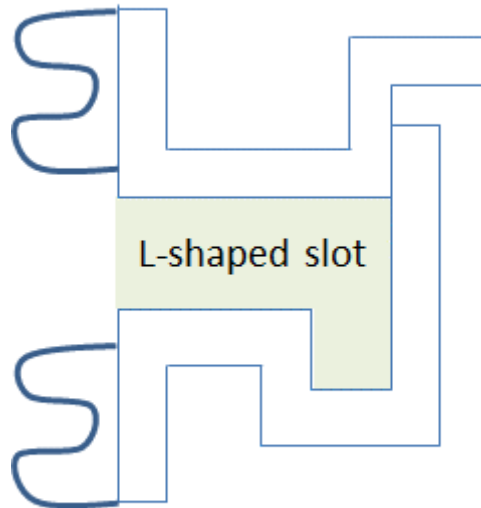


Fig. 30 of Yu



Modified Excerpts of Fig. 30 of Yu

End view cross-section of
mounting bracket 189-5



End view cross-section of
cross rail 200

Illustration showing the cross-section where the mounting bracket 189-5 is
mounted above the cross-rail 200 of Yu

6. As can be seen in my illustration above, the green area corresponds to an L-shaped slot formed by the boundaries of the brackets 189-5 and cross-rail 200. As originally discussed in the Petition, the cross rails 200 and the mounting brackets 189-5 mounted to the crossrails 200 combine to define “channel stringers.” (Petition at 35). As shown above in the original drawings from the Petition and my Declaration, as well as my consistent drawing of the cross-sections between the mounting brackets 189-5 and crossrails 200, the mounting brackets 189-5 and the crossrails 200 combine to define the L-shaped slot. The upper portion of the “leg” is defined by the mounting brackets 189-5, the lower portion of the “leg” by the cross-rail 200, and the “arm” of the L-shape by the cross-rail 200.

7. Although claim 8 does not actually require the presence of an L-shaped hook (“said L-shaped slot adapted to receive and engage a substantially L-shaped hook”), as I pointed out in my declaration Yu actually describes a connector bracket 26-2, and in particular a “hook-like projection,” that is hooked into channels 51-1, such as those of the cross-rail 200, which forms part of the L-shaped slot Yu defines as I previously described. (Ex. 1018 at ¶¶ 244-248). From this, and as both I and the Petition set forth, it would be clear to a person in the field that the L-shaped slot defined by Yu is capable of receiving and engaging a substantially L-shaped hook.

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