

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RUBICON COMMUNICATIONS, LP
Petitioner,

v.

LEGO A/S
Patent Owner.

Case IPR2016-01187
Patent 8,894,066

PATENT OWNER'S PRELIMINARY RESPONSE

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. OVERVIEW OF THE '066 PATENT AND CITED REFERENCES	3
III. REAL PARTY-IN-INTEREST.....	9
IV. CLAIM CONSTRUCTION	16
A. Rubicon's Constructions	18
B. Patent Owner's Constructions	20
a. "Housing" and "Casing"	20
b. "Conformably fit" and "Mating"	23
V. REASONS WHY INTER PARTES REVIEW SHOULD NOT BE INSTITUTED.....	25
A. Rubicon Relied on Inadmissible and/or Improper References.	25
a. Rubicon did not submit references.	26
b. Rubicon did not authenticate references.	27
c. Rubicon did not show references are "printed publications.".....	30
d. Rubicon failed to prove references are "prior art.".....	31
e. Rubicon submitted an improper reference, previously considered by the Office.	34
B. Even If Rubicon's Cited References Were Admissible, They Do Not Establish a Prima Facie Case of Anticipation and/or Obviousness against the Challenged Claims of the '066 Patent.	36
a. Ground 1	38
b. Ground 2	39
c. Ground 3	43
d. Ground 4	44
e. Ground 5	45
f. Ground 6	47
g. Ground 7	49
h. Ground 8	52
VI. CONCLUSION	53

EXHIBITS

Exhibit No.	Exhibit Description
2010	Rubicon's letter to LEGO dated June 27, 2016
2002	Rubicon's e-mail to the Board sent on July 20, 2016
2003	Def.'s First Am. Answer, Defenses, and Countercls., <i>LEGO System A/S v. Rubicon Commc'ns, LP dba Smallworks and Smallworks, LLC</i> , No. 15-823 (D. Conn. Sept. 11, 2015)
2004	Mot. for Leave to Amend Compl. to Add Additional Party Def. and to Extend the Time for Pl. to Further Amend and Join Parties, <i>LEGO System A/S v. Rubicon Commc'ns, LP dba Smallworks and Smallworks, LLC</i> , No. 15-823 (D. Conn. Oct. 14, 2015)
2005	Order Granting [29] Motion to Amend Compl. and to Extend Deadlines, <i>LEGO System A/S v. Rubicon Commc'ns, LP dba Smallworks and Smallworks, LLC</i> , No. 15-823 (D. Conn. Oct. 22, 2015)
2006	Declaration of Elizabeth B. Knight
2007	Curriculum Vitae of Elizabeth B. Knight
2008	Pl. LEGO System A/S's Opening Claim Construction Br., <i>LEGO System A/S v. Rubicon Commc'ns, LP dba Smallworks and Smallworks, LLC</i> , No. 15-823 (D. Conn. Mar. 25, 2016)
2009	Declaration of Andrew M. Riddles

TABLE OF AUTHORITIES

Cases	Page(s)
<i>3D-Matrix, Ltd. v. Menicon Co., Ltd.</i> , IPR2014-00398, Paper 11 (P.T.A.B. Aug. 1, 2014)	49
<i>ABB Inc. v. Roy-G-Biv Corp.</i> , IPR2013-00063, Paper 21 (P.T.A.B. Jan. 16, 2013).....	11
<i>ABB Inc. v. Roy-G-Biv Corp.</i> , IPR2013-00063, Paper 14 (P.T.A.B. Dec. 13, 2012).....	12
<i>In re Am. Acad. of Sci. Tech Ctr.</i> , 367 F.3d 1359 (Fed. Cir. 2004).....	17
<i>Apple Inc. v. DSS Tech. Mgmt., Inc.</i> , IPR2015-00369, Paper 14 (P.T.A.B. Aug. 12, 2015)	33
<i>Ariosa Diagnostics v. Isis Innovation</i> , IPR2012-00022, Paper 5 (P.T.A.B. Sept. 27, 2012)	26
<i>In re Bigio</i> , 381 F.3d 1320 (Fed. Cir. 2004).....	18
<i>Blue Calypso, LLC v. Groupon, Inc.</i> , 815 F.3d 1331 (Fed. Cir. 2016).....	31
<i>CAE Screenplates Inc. v. Heinrich Fiedler GmbH</i> , 224 F.3d 1308 (Fed. Cir. 2000).....	24
<i>Cent. Mfg. Co. v. Casablanca Indus.</i> , 87 Fed. Appx. 156 (Fed. Cir. 2003)	28
<i>Cisco Systems, Inc. v. Constellation Techs.</i> , IPR2014-00871, Paper 12 (P.T.A.B. Dec. 19, 2014).....	31
<i>Cisco Systems v. Constellation Techs.</i> , IPR2014-01085, Paper 11 (P.T.A.B. Jan. 9, 2015).....	30

<i>Coleman Cable, LLC v. Simon Nicholas Richmond</i> , IPR2014-00935, Paper 12 (P.T.A.B. Aug. 28, 2014)	12, 13
<i>Conmed Corp. v. Bonutti Skeletal Innovations</i> , IPR2013-00624, Paper 4 (P.T.A.B. Oct. 7, 2013)	26
<i>Cuozzo Speed Techs., LLC v. Lee</i> , 579 U.S. ___, 136 S. Ct. 2131 (2016)	17
<i>GEA Process Engineering, Inc. v. Steuben Foods, Inc.</i> , IPR2014-00041, Paper 135 (P.T.A.B. Dec. 23, 2014)	12
<i>Google Inc., v. Simpleair Inc.</i> , CBM2014-00054, Paper 19 (P.T.A.B. May 13, 2014)	21
<i>Graham v. John Deere Co.</i> , 383 U.S. 1 (1966).....	37
<i>Hulu, LLC v. Intertainer, Inc.</i> , IPR2014-01456, Paper 8 (P.T.A.B. March 6, 2015).....	35
<i>Innogenetics, N.V. v. Abbott Labs.</i> , 512 F.3d 1363 (Fed. Cir. 2008)	42
<i>InterDigital Communs., Inc. v. United States ITC</i> , 601 Fed. Appx. 972 (Fed. Cir. 2015).....	19
<i>In re Kahn</i> , 441 F.3d 977 (Fed. Cir. 2006).....	38
<i>Kyocera Corp. v. Softview, LLC</i> , IPR2013-00004, Paper 53 (P.T.A.B. March 27, 2014)	21
<i>Macauto USA v. Baumeister & Ostler GmbH & Co.</i> , IPR2012-00004, Paper 3 (P.T.A.B. Sept. 21, 2012)	26
<i>Microsoft Corp. v. Parallel Networks Licensing, LLC</i> , IPR2015-00486, Paper 10 (P.T.A.B. July 15, 2015).....	35
<i>Orion IP, LLC v. Hyundai Motor Am.</i> , 605 F.3d 967 (Fed. Cir. 2010).....	31

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.