

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DYNACRAFT BSC, INC.,
Petitioner,

v.

MATTEL, INC.,
Patent Owner.

Case IPR2018-00042
Patent 7,621,543 B2

Before BARRY L. GROSSMAN, MITCHELL G. WEATHERLY, and
JAMES A. WORTH, *Administrative Patent Judges*.

WEATHERLY, *Administrative Patent Judge*.

DECISION

Denying Institution of *Inter Partes* Review
35 U.S.C. § 314, 37 C.F.R. §§ 42.4, 42.108

I. INTRODUCTION

A. BACKGROUND

Dynacraft BSC, Inc. (“Petitioner”) filed a petition (Paper 1, “Pet.”) to institute an *inter partes* review of claims 1, 5–8, and 10 (the “challenged claims”) of U.S. Patent No. 7,621,543 B2 (Ex. 1001, “the ’543 patent”). 35 U.S.C. § 311. Mattel, Inc. (“Patent Owner”) timely filed a Preliminary

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Response. Paper 6 (“Prelim. Resp.”). Institution of an *inter partes* review is authorized by statute when “the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a); 37 C.F.R. § 42.108. Based on our review of the record, we conclude that Petitioner is not reasonably likely to prevail with respect to at least one of the challenged claims.

Petitioner contends that the challenged claims are unpatentable under 35 U.S.C. § 103 based on the following grounds (Pet. 24–75):

References	Basis	Claims challenged
U.S. Patent Publication No. 2005/0056474 A1 (Ex. 1003, “Damon”), U.S. Patent No. 5,924,506 (Ex. 1004, “Perego”), and PLASTIC BLOW MOLDING HANDBOOK (Norman Lee ed., 1990) (excerpted) (Ex. 1006, “Handbook”)	§ 103	1, 5–8, and 10
Damon and U.S. Patent No. 3,910,332 (Ex. 1007, “Felker”)	§ 103	1, 5–8, and 10

Generally, Patent Owner contends that the Petition should be denied in its entirety. For the reasons described below, we decline to institute an *inter partes* review of any challenged claim.

B. RELATED PROCEEDINGS

The parties identified as a related proceeding the co-pending district court proceeding of *Fisher-Price, Inc. v. Dynacraft BSC, Inc.*, 4:17-cv-3745-PJH (N.D. Cal.). Pet. 1; Paper 4, 1. Patent Owner further identified three

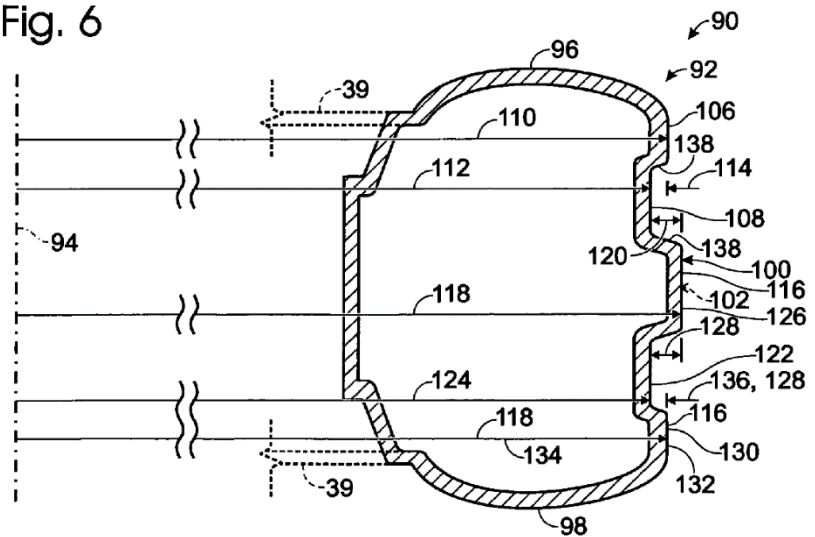
petitions filed in IPR2018-00038, -00039, and -00040 as matters that may affect this proceeding. Paper 4, 1.

C. THE '543 PATENT

The '543 patent is directed to “children’s ride-on vehicles, and more particularly to blow-molded wheels for children’s ride-on vehicles.” Ex. 1001, 1:8–10. The vehicles claimed in the '543 patent utilize the same prior art features described in the Background of the Invention—a body having a seat sized for a child, a plurality of blow-molded wheels, and steering and drive assemblies—but also incorporate “blow-molded wheels having undercut treads.” Ex. 1001 at (54), 21:5–35, 21:56–22:3, 22:6–11; Ex. 1008 ¶ 33. The '543 patent uses the term “undercut treads” to describe a blow-molded wheel having a radial distance to a first portion of the wheel’s tread surface that is greater than the radial distance to a second portion of the wheel’s tread surface, with the difference in the radial distances constituting an “undercut” or “predetermined threshold.” Ex. 1001 at (54), 1:40–2:26, 21:5–35, 21:56–22:3, 22:6–11; *see also* Ex. 1002, 172–73 (“The term ‘undercut’ . . . may be described as a ‘predetermined threshold’ of the difference of the radial distance to a first portion of a blow-molded wheel’s tread surface and the radial distance to a second portion of the wheel’s tread surface”).

Figure 6, which we reproduce at right, is a partial sectional view of an exemplary blow-molded wheel according to claim 1. The claimed vehicle includes wheels having a blow-molded body with a tread surface,

Fig. 6



two sidewalls, and a part line. Ex. 1001 at 21:7–17. Tread surface 100 and part line 102 extend circumferentially around body 92 of wheel 90 and between sidewalls 96, 98, and tread surface 100 has first region 106 and second region 108. *Id.* at 9:39–57. First region 106 is between first sidewall 96 and part line 102, while second region 108 is between first region 106 and part line 102. *Id.* at 9:57–66. Radial distance 110 to first region 106 is greater than radial distance 112 to second region 108 by the larger of 1/8 inch and 0.1% of the wheel body's diameter. *Id.* at 9:67–10:4, 17:61–67.

Claim 1, which is the only independent claim among the challenged claims, recites:

1. A children's ride-on vehicle, comprising:

a body having at least one seat sized for a child;

a plurality of wheels rotatably coupled to the body, wherein the plurality of wheels includes at least one driven wheel and at least one steerable wheel, wherein at least one of the plurality of wheels is a blow-molded wheel that comprises:

a blow-molded body having a diameter, a tread surface, first and second sidewalls, a part line, and an axis, wherein the

body is configured to rotate about the axis, wherein the tread surface and the part line extend circumferentially around the body and between the first and second sidewalls;

a first region of the tread surface, wherein the first region is disposed between the first sidewall and the part line of the blow-molded body; and

a second region of the tread surface, wherein the second region is disposed between the first region and the part line,

wherein a first radial distance from the axis to the first region exceeds a second radial distance from the axis to the second region by at least a first predetermined threshold,

wherein the first predetermined threshold is greater than the larger of 1/8 inch and 0.1% of the diameter;

a steering assembly comprising a steering mechanism adapted to receive steering inputs from a child sitting on the at least one seat, and a steering linkage adapted to convey the steering inputs to the at least one steerable wheel; and

a drive assembly adapted to selectively drive the rotation of the at least one driven wheel.

Id. at 21:5–35 (with line breaks added for clarity).

II. ANALYSIS

A. CLAIM INTERPRETATION

“A claim in an unexpired patent that will not expire before a final written decision is issued shall be given its broadest reasonable construction in light of the specification of the patent in which it appears.” 37 C.F.R. § 42.100(b); *see also* *Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–46 (2016) (affirming that USPTO has statutory authority to construe claims according to Rule 42.100(b)). When applying that standard, we interpret the claim language as it would be understood by one of ordinary

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