

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ASETEK DANMARK A/S,
Petitioner,

v.

COOLIT SYSTEMS, INC.,
Patent Owner.

IPR2020-00747
Patent 9,057,567 B2

Before FRANCES L. IPPOLITO, SCOTT C. MOORE, and
BRENT M. DOUGAL, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Asetek Danmark A/S (“Petitioner”) filed a Petition requesting an *inter partes* review of claims 1, 2, 3, 5, 7, 25, and 28 of U.S. Patent No. 9,057,567 B2 (“the ’567 Patent”). Paper 2 (“Pet.”). CoolIT Systems, Inc. (“Patent Owner”) filed a Preliminary Response. Paper 5 (“Prelim. Resp.”). Pursuant to our authorization, Petitioner filed a Reply to Patent Owner’s Preliminary Response (Paper 6 (“Pet. Reply”)), and Patent Owner filed a Sur-Reply in Support of Patent Owner’s Preliminary Response (Paper 8 (“PO Sur-Reply”)).

We have authority under 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a) to determine whether to institute review. We may institute an *inter partes* review when “the information presented in the petition . . . 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).

Institution is discretionary. *See* 35 U.S.C. § 314(a); 37 C.F.R. § 42.108(a). But if we institute an *inter partes* review, the trial must encompass all claims and grounds identified in the Petition. *See SAS v. Iancu*, 138 S. Ct. 1348, 1359–60 (2018); *AC Techs. S.A. v. Amazon.com, Inc.*, 912 F.3d 1358, 1364 (Fed. Cir. 2019) (“[I]f the Board institutes an IPR, it must . . . address all grounds of unpatentability raised by the petitioner.”)

For the reasons expressed below, we determine that the Petition shows a reasonable likelihood that Petitioner will prevail with respect to at least one of the challenged claims, and we are not persuaded that we should exercise our discretion to deny institution. We, therefore, institute an *inter partes* review of all challenged claims of the ’567 Patent on all grounds alleged in the Petition.

We base our findings and conclusions on the preliminary evidentiary record before us at this stage of the proceeding. This is not a final written decision, and the Board has not made a final determination as to the patentability of any challenged claim or any underlying factual or legal issue. We will base our final written decision on the record as fully developed during trial.

A. Real Parties in Interest

Petitioner identifies the real parties in interest as Asetek Danmark A/S, Asetek USA, Inc., Asetek A/S, and Asetek Holdings, Inc. Pet. 95.

B. Related Matters

Patent Owner sued Petitioner for infringement of the '567 Patent in *Asetek Danmark A/S v. CoolIT Systems, Inc.*, No. 3:19-cv-00410-EMC (N.D. Cal) (the "district court case"). Pet. 95. Petitioner points out that the '567 Patent is related to issued patents U.S. 8,746,330 B2 and U.S. 9,453,691 B2. *Id.*

The '576 Patent, filed February 18, 2014, as U.S. Application 14/183,443, is a continuation of U.S. Application 14/166,657, which is a continuation of U.S. Application 13/401,618, which is a continuation-in part of U.S. Application 12/189,476, now U.S. Patent No. 8,746,330 B2 (Ex. 1004 ("the '330 Patent")). Ex. 1001, codes (21), (22), (63). U.S. Application No. 12/189,476 is published as U.S. Publication No. 2009/0071625 A1. Ex. 1011 ("Lyon"), codes (21), (43). The '567 Patent claims priority to U.S. Provisional Application No. 60/954,987 (Ex. 1005 ("the 2007 Provisional")) and U.S. Provisional Application No. 61/512,379 (Ex. 1006 ("the 2011 Provisional")). Ex. 1001, code (60); *see also* Pet. 20–21.

Patent Owner points out that the '330 Patent has “[has] survived [an] *inter partes* challenge” in IPR2015-01276. Prelim. Resp. 6, n.3.

On April 10, 2020, Petitioner filed a separate petition requesting *inter partes* review of claims 1, 2, 4, 5, 9, and 13–15 of U.S. Patent No. 10,274,266 B2 (“the '266 Patent”). *See* IPR2020-00825 (“the '825 IPR”), Papers 2, 4. The '266 Patent is a continuation of U.S. Patent No. 9,909,820 B2, which is a continuation of U.S. Patent No. 9,453,691 B2, which is a continuation-in-part of the '330 Patent. '825 IPR, Paper 2, 16.

C. *The '567 Patent*

The '567 Patent is directed to a fluid heat exchange system for accepting and dissipating thermal energy to cool electronic and other devices. Ex. 1001, 1:17–25.

Figure 1, reproduced below, describes such a system for cooling devices.

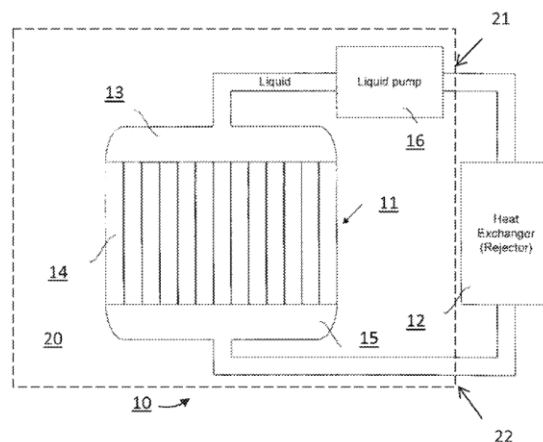


FIG. 1

Figure 1 is a diagram of a fluid circuit configured to transfer heat using a circulating liquid. Ex. 1001, 5:22–23. In Figure 1, liquid circulates through fluid circuit 10 by entering inlet 21, moving through heat exchanger 11, and

exiting outlet 22. *Id.* at 6:46–57, 7:31–54. Heat exchanger 11 has manifolds 13, 15 and passages 14. *Id.* at 7:42–47.

Figure 2, reproduced below, depicts an exemplary embodiment of a heat exchanger.

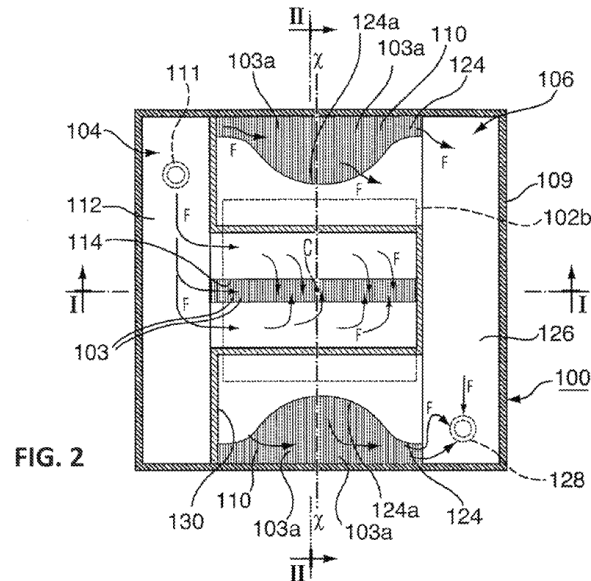


Figure 2 shows a top plan view of internal components of heat exchanger 100. Ex. 1001, 5:24–26. Heat exchanger 100 includes housing 109, inlet port 111, fluid inlet passage 104, inlet opening 114, microchannels 103, seal 130, fluid outlet opening 124, fluid outlet passage 106, and outlet port 128. *Id.* at 7:56–62, 9:17–10:56, 12:1–4. Each microchannel 103 is defined by a recessed groove extending transversely between adjacent fins. *Id.* at 2:40–43. Heat exchanging fluid F flows in the directions indicated by the arrows. *Id.* at 11:30–33. Heat exchanging fluid F enters microchannels 103 and splits into two sub flows in opposite directions to pass outwardly from inlet opening 114 towards outlet fluid openings 124. *Id.* at 11:14–11:50.

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