

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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YITA LLC,  
Petitioner,

v.

MACNEIL IP LLC,  
Patent Owner.

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IPR2020-01138  
Patent 8,382,186 B2

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Before MITCHELL G. WEATHERLY, MICHAEL L. WOODS, and  
ARTHUR M. PESLAK, *Administrative Patent Judges*.

WEATHERLY, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. BACKGROUND

Yita LLC (“Petitioner”) filed a petition (Paper 3, “Pet.”) to institute an *inter partes* review of claims 1–7 (the “challenged claims”) of U.S. Patent No. 8,382,186 B2 (Ex. 1001, “the ’186 patent”). 35 U.S.C. § 311. MacNeil IP LLC (“Patent Owner”) timely filed a Preliminary Response. Paper 11

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(“Prelim. Resp.”). With our prior authorization, Petitioner filed a Reply to the Preliminary Response, Paper 15 (“Reply”), and Patent Owner filed a Sur-reply in response to the Reply, Paper 16 (“Sur-reply”).

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).

Petitioner challenges the patentability of claims 1–7 as being obvious in view of U.S. Patent No. 7,444,748 B2, which issued November 4, 2008 (Ex. 1004, “MacNeil”). Pet. 37–92. Generally, Patent Owner contends that the Petition should be denied because MacNeil is not prior art to the claims of the ’186 patent. For the reasons expressed below, we agree and decline to institute *inter partes* review.

#### B. RELATED PROCEEDINGS

The parties identify the following matters as related:

- *MacNeil Auto. Prods. Ltd. et al. v. Yita LLC et al.*, No. 2:20-cv-00278 (WDWA);
- *MacNeil Auto. Prods. Ltd. et al. v. Jinrong (SH) Auto. Accessory Dev. Co., Ltd. et al.*, No. 2:20-cv-00856 (WDWA);
- IPR2020-01139, which also seeks review of the ’186 patent; and
- IPR2020-01140, which seeks review of the related U.S. Patent No. 8,833,834 B2 (the “’834 patent”); and
- IPR2020-01142, which also seeks review of the ’834 patent.

Pet. 93; Paper 6, 2.

C. REAL PARTIES-IN-INTEREST

Petitioner identifies itself, Jinrong (SH) Automotive Development Co., Ltd., ShenTian (SH) Industrial Development Co., Ltd, and Hong Kong Yita International Trade Company Limited as the real parties-in-interest.

Pet. 93. Patent Owner identifies itself, MacNeil Automotive Products Limited, and WeatherTech Direct, LLC as the real parties-in-interest.

Paper 6, 2.

D. THE '186 PATENT

The '186 patent is titled "Vehicle Floor Tray." Ex. 1001, code (54). The Specification describes a vehicle floor tray that is thermoformed from a polymer sheet of uniform thickness. *Id.* at code (57). The Specification explains a need for a removable floor tray that fits precisely within a vehicle's foot well so that it's more likely to remain in position during vehicle operation, thereby minimizing the chance that it occludes the gas, brake, or clutch pedal. *See id.* at 1:29–35, 2:4–8.

Figure 1, reproduced at right, illustrates vehicle floor tray (or cover) 100 that is designed to protect a vehicle's floor and lower sides of the foot well. *See id.* at 6:24–25. Floor tray 100 includes floor (or central panel) 102 with channels 104 disposed in forward region 106 of the panel. *Id.* at 6:27–31.

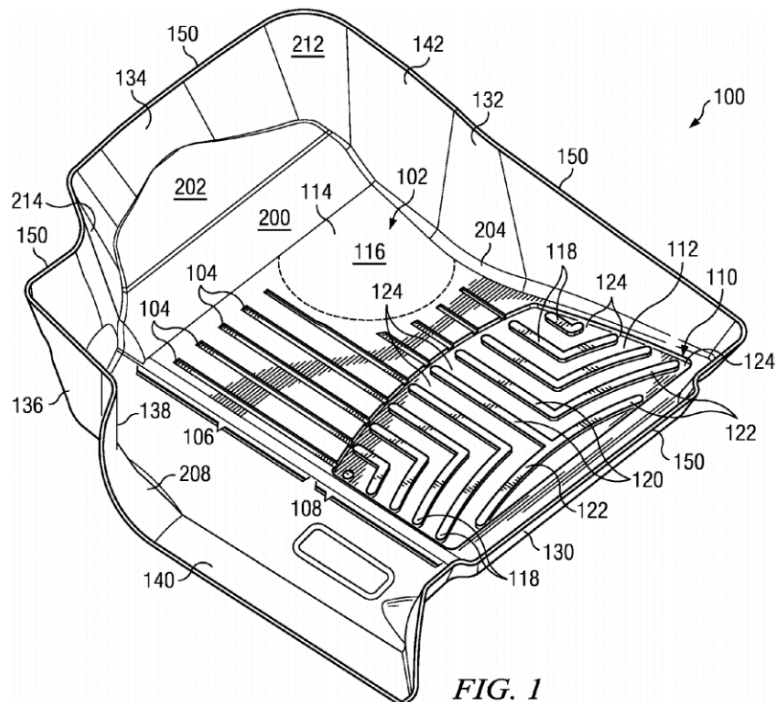


FIG. 1

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

1. A vehicle floor tray thermoformed from a sheet of thermoplastic polymeric material of substantially uniform thickness, comprising:
  - [a] a central panel substantially conforming to a floor of a vehicle foot well,
    - [b] the central panel of the floor tray having at least one longitudinally disposed lateral side and at least one transversely disposed lateral side;
  - [c] a first panel integrally formed with the central panel of the floor tray, upwardly extending from the transversely disposed lateral side of the central panel of the floor tray, and closely conforming to a first foot well wall,
    - [d] the first panel of the floor tray joined to the central panel of the floor tray by a curved transition;
  - [e] a second panel integrally formed with the central panel of the floor tray and the first panel, upwardly extending from the longitudinally disposed lateral side of the central panel of the floor tray, and closely conforming to a second foot well wall,
    - [f] the second panel of the floor tray joined to the central panel of the floor tray and to the first panel of the floor tray by curved transitions;
  - [g] a reservoir disposed in the central panel of the floor tray;
  - [h] a plurality of upstanding, hollow, elongate baffles disposed in the reservoir,
    - [i] each of the baffles having at least two ends remote from each other,
    - [j] *the central panel, the first panel, the second panel, the reservoir and the baffles each having a thickness from a point on the upper surface to a closest point on the bottom surface thereof, said thicknesses, as a result of the tray being thermoformed from the sheet of thermoplastic*

*polymeric material of substantially uniform thickness,  
being substantially uniform throughout the tray;*

[k] the baffles each having a width, in any horizontal direction, of more than two times its thickness,

[l] the baffles adapted to elevate the shoe or foot of the occupant above fluid collected in the reservoir, and further adapted to impede lateral movement, induced by a change in vehicle speed or direction, of fluid collected in the reservoir,

[m] any portion of the reservoir connected to a remote portion of the reservoir by a path formed around ends of the baffles.

*Id.* at 19:35–20:24 (emphasis added with certain line breaks and Petitioner’s labels added to aid discussion). Element 1j, which is italicized above, plays a central role in analyzing the dispositive issue for determining whether to institute review.

## II. DISCUSSION

Under 35 U.S.C. § 311(b), “[a] petitioner in an inter partes review may request to cancel as unpatentable 1 or more claims of a patent only on a ground that could be raised under section 102 or 103 and *only on the basis of prior art* consisting of patents or printed publications” (emphasis added).

The ’186 patent issued from U.S. Application 13/595,703, which was filed August 27, 2012 (the “’703 application”). Ex. 1001, code (22). Petitioner argues that the claims of the ’186 patent are not entitled to priority to any of the identified priority applications because none of those applications provide written description support for element 1j. Pet. 1, 29–36. If true, MacNeil would be prior art under 35 U.S.C. § 102(b) because MacNeil issued more than one year before the filing date of the ’703 application. Therefore, we must determine whether written description

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