UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

YITA LLC,
Petitioner,

v.

MACNEIL IP LLC
Patent Owner.

IPR2020-01139
Patent 8,382,186 B2

Before JAMES A. WORTH, MICHAEL L. WOODS, and ARTHUR M. PESLAK, *Administrative Patent Judges*.

PESLAK, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining No Challenged Claims Unpatentable
35 U.S.C. § 318(a)
Denying Patent Owner's Motion to Strike
37 C.F.R. § 42.64

I. INTRODUCTION

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 (2018). Petitioner supports the Petition with the Declaration of Paul E. Koch, Ph.D. Ex. 1003 ("Koch Declaration"). MacNeil IP LLC ("Patent Owner") timely filed a Preliminary Response. Paper 11 ("Prelim. Resp."). Taking into account the arguments presented in Patent Owner's Preliminary Response, we determined there was a reasonable likelihood that Petitioner would prevail in its contention that at least one of the challenged claims of the '186 Patent is unpatentable under 35 U.S.C. § 103(a). On January 13, 2021, we instituted this *inter partes* review as to the challenged claims and all grounds presented in the Petition. Paper 17 ("Dec.").

During the course of trial, Patent Owner filed a Patent Owner Response. Paper 28.[1] ("PO Resp."). Patent Owner also filed Declarations of Tim A. Osswald Ph.D (Ex. 2041) ("Osswald Declaration")[2], Ryan Granger (Ex. 2126) ("Granger Declaration")[3], a Supplemental Declaration of Ryan Granger (Ex. 2127) ("Supplemental Granger Declaration"), and Ray

[1] Patent Owner filed a redacted version of the Patent Owner Response. Paper 29.

[2] Patent Owner filed a Second Supplemental Declaration of Dr. Osswald to add citations to evidence submitted subsequent to the Patent Owner Response. Ex. 2186.

[3] Exhibit 2126 was filed as supplemental information to correct the signature page in Mr. Granger's original declaration (Ex. 2042). Paper 53, 6, 13.

Sherman (Ex. 2043) ("Sherman Declaration")[4] in support of its Patent Owner Response. Petitioner filed a Reply to Patent Owner's Response. Paper 60 ("Pet. Reply"). In support of its Reply, Petitioner filed a Reply Declaration of Paul E. Koch Ph.D. (Ex. 1041) ("Reply Koch Declaration"), a Declaration of Mark Strachan (Ex. 1042) ("Strachan Declaration"), and a Declaration of Dan Perreault (Ex. 1044) ("Perreault Declaration"). Patent Owner filed a Sur-reply. Paper 70 ("Sur-reply"). An oral hearing was held on October 12, 2021, and a transcript of the hearing has been entered into the record. Paper 78 ("Tr.").

We have jurisdiction under 35 U.S.C. § 6. This is a Final Written Decision under 35 U.S.C. § 318(a) as to the patentability of the challenged claims of the '186 patent. For the reasons discussed below, we determine Petitioner has not established by a preponderance of the evidence that any challenged claim is unpatentable.

A. Related Matters

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);
- IPR2020-01138, for which institution was denied;
- IPR2020-01140, for which institution was denied; and
- IPR2020-01142, which is currently pending and seeks review of U.S. Patent No. 8,883,834 B2.

[4] Patent Owner filed a Second Supplemental Declaration of Mr. Sherman to add citations to evidence submitted subsequent to the Patent Owner Response. Ex. 2187.

Pet. 81–82; Paper 6, 2.

B. 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. 81. Patent Owner identifies itself, MacNeil Automotive Products Limited and WeatherTech Direct, LLC as the real parties-in-interest. Paper 6, 2.

C. The '186 Patent (Ex. 1001)

The '186 patent is directed to a "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 it occludes the gas, brake or clutch pedal. *See id.* at 1:29–35; 2:4–8.

Figure 1, reproduced below, illustrates vehicle floor tray (or cover) 100 that is designed to protect a vehicle's floor and lower sides of a foot well. Ex. 1001, 6:24–25.

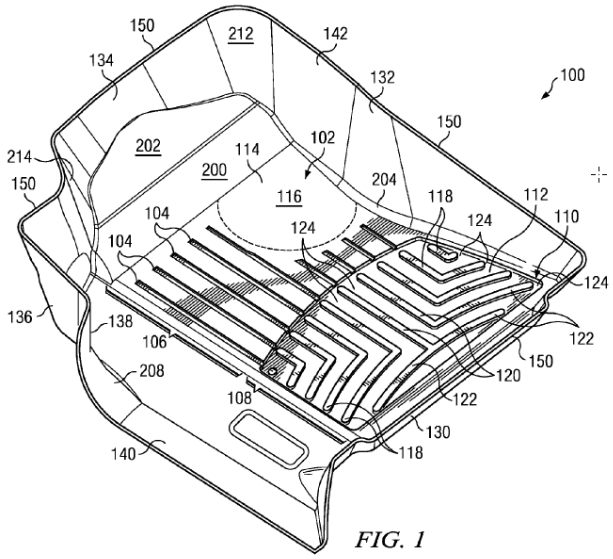

FIG. 1

Figure 1 is an isometric view illustrating floor tray 100 which includes floor (or central panel) 102 with channels 104 disposed in forward regions 106 of the panel, a back region 108, and a series of side panels 130, 132, 134, 136, and 140 projecting upward from floor panel 102. *Id.* at 6:27–31, 6:41, 7:56–58. The side panels "are all so formed so as to [] closely conform to the vehicle side surfaces against which they are positioned." *Id.* at 7:50–60.

D. Prior Art and Asserted Grounds

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
1–7	103[5]	Rabbe,[6] Yung,[7] Gruenwald[8]

[5] The Leahy-Smith America Invents Act ("AIA"), Pub. L. No. 112-29, 125 Stat. 284, 287–88 (2011), amended 35 U.S.C. § 103. Because the '186 patent claims priority to applications filed before the effective date of the relevant amendment, the pre-AIA version of § 103 applies.

[6] Fr. Pat. Publ. 2,547,252 (Pub. Dec. 14, 1982) (Ex. 1005) ("Rabbe").

[7] U.S. Pat. Publ. No. 2002/0045029 A1 (Pub. April 18, 2002) (Ex. 1006) ("Yung").

[8] G. Gruenwald, *Thermoforming: A* Plastics *Processing Guide*, Technomic Publishing Co., Inc. (2d. Ed. 1998). (Ex. 1007) ("Gruenwald").

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