

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CHANEL, INC.,
Petitioner,

v.

MOLO DESIGN, LTD.,
Patent Owner.

IPR2022-00545
Patent 9,689,161 B2

Before KEN B. BARRETT, CARL M. DEFRANCO, and
RICHARD H. MARSCHALL, *Administrative Patent Judges*.

DEFRANCO, *Administrative Patent Judge*.

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

Molo Design, Ltd. (“Molo”) is the owner of U.S. Patent No. 9,689,161 B2 (Ex. 1001, “the ’161 patent”). Chanel, Inc. (“Chanel”) filed a Petition requesting *inter partes* review of claims 1–10, 12, 14, 18–25, and 27 of the ’161 patent. Paper 1 (“Pet.”). Molo filed a Preliminary Response. Paper 8 (“Prelim. Resp.”). Because we determine that Chanel demonstrates

a reasonable likelihood that at least independent claims 1 and 2 of the '161 patent are unpatentable, we institute an *inter partes* review of all claims as challenged in the Petition. *See* 35 U.S.C. § 314(a).

I. BACKGROUND

A. Related Matters

In addition to this Petition, Chanel has filed petitions for *inter partes* review of three related patents—U.S. Patent Nos. 7,866,366 B2 (IPR2022-00543), 8,561,666 B2 (IPR2022-00544), and 9,797,134 B2 (IPR2022-00546). Prelim. Resp. 2–3. Those patents, along with the '161 patent at issue here, are also the subject of an infringement action filed February 22, 2021 in *Molo Design Ltd. v. Chanel, Inc.*, No. 1:21-cv-01578 (S.D.N.Y). *Id.* at 3; *see also* Paper 6 at 2. That action was stayed on May 2, 2022, pending the outcome of our review of Chanel's Petition in this proceeding and the related proceedings. Prelim. Resp. 4 n.1; *see also* Ex. 3001 (Stay Order).

B. The '161 Patent

The '161 patent relates to a “freestanding extensible wall for partitioning an area of a room.” Ex. 1001, Abstract. The partition comprises “a core 12 and a pair of supports 14, 16 at opposite ends of the core.” *Id.* at 4:15–17, Fig. 1. Notably, the core is “formed from a flaccid flexible material,” wherein “a cellular structure having voids 30 is formed within the core” upon movement of the oppositely-facing end supports away from each other in a horizontal direction. *Id.* at 4:9–11, 4:43–45, Figs. 3–5. According to the '161 patent, the core's end supports “are made of a self-supporting material . . . , which has a degree of flexibility but also has sufficient rigidity to resist collapse of the core.” *Id.* at 4: 51–55, Figs. 4, 5. As a result, the

supports can be “moved away from one another . . . to expand the core so that the cellular structure is opened within the core.” *Id.* at 5:5–7, Fig. 4c.

Once expanded, the core “has sufficient width to remain stable in a vertical position with the rigidity provided by the end supports.” *Id.* at 5:26–28. The degree of flexibility of the core can “accommodate different configurations and allow an appropriate shaped and sized partition to be installed in an otherwise open space.” *Id.* at 5:35–38, Fig. 9. The provision of the end supports also permits multiple partitions “to be joined end-to-end” via hook and loop fasteners. *Id.* at 5:48–55, Figs. 6–7. “Further support[s] may be provided along the length of the partition,” wherein each support has a base and dowel configured to be positioned within a void or cell of the core. *See id.* at 14:14–26, Fig. 48.

According to the ’161 patent, the structure of this extensible partition is an improvement over prior art partitions that “are rigid, or have rigid frames, or are formed from rigid interconnected panels and . . . are relatively large, heavy, and cumbersome, and therefore difficult to set-up, take down, store, and transport.” *Id.* at 1:35–38. The inherent rigidity of such prior art partitions, the ’161 patent explains, “limits the extent to which they can be dynamically resized (extended or contracted) and reshaped to suit varying spaces and requirements, or readily moved around for relocation, or storage.” *Id.* at 1:42–51.

C. The Asserted Challenges

Claims Challenged	35 U.S.C. §	Basis
2, 6, 7, 8, 10, 12, 14	102	SoftHousing I ¹
1–10, 12, 14, 18	103	SoftHousing I, SoftHousing II ² , SoftHousing III ³ , Arens, ⁴ <i>and/or</i> Okuno ⁵
2, 6, 8, 10, 12, 14	102	SoftWall ⁶
1–10, 12, 14, 18	103	SoftWall, SoftHousing I–III, Arens, <i>and/or</i> Okuno
19–25, 27	103	MacAllen, ⁷ Stratton, ⁸ Fischer, ⁹ Reisenthel, ¹⁰ Tolna, ¹¹ <i>and/or</i> EnduroFence ¹²

In further support of these challenges, Chanel submits the declaration of Lance Rake. *See* Ex. 1003. Molo, in turn, submits declarations from each of the named inventors of the '161 patent. *See* Exs. 2006, 2007.

¹ DBEW International Design Competition 2004, *Golden Prize*, HANSSEM Co., LTD., May 9, 2004 (Ex. 1005, “SoftHousing I”).

² *Design Beyond East & West—Collection of Winning Works of DBEW International Design Contest* (Interior Architecture of China Magazine ed.) TIANJIN UNIVERSITY PRESS, March 2004 (Ex. 1006, “SoftHousing II”).

³ *First Step Soft Housing*, Common Ground, Nov. 6, 2003 (Ex. 1007, “SoftHousing III”).

⁴ US 4,493,174, issued Jan. 15, 1985 (Ex. 1013, “Arens”).

⁵ JP S49-87173 A, published Aug. 21, 1974 (Ex. 1011, “Okuno”).

⁶ *Flexible textile walls expand and compress to create rooms-within-a-room*, ARCHITECTURAL RECORD, VOL. 192, NO. 9, P. 205, Sept. 2004 (Ex. 1028, “SoftWall”).

⁷ US 2008/0023156 A1, published Jan. 31, 2008 (Ex. 1037, “MacAllen”).

⁸ US 7,217,061 B2, issued May 15, 2007 (Ex. 1038, “Stratton”).

⁹ US Des. 353,946, issued Jan. 3, 1995 (Ex. 1039, “Fischer”).

¹⁰ US 2005/0076552 A1, published Apr. 14, 2005 (Ex. 1040, “Tolna”).

¹¹ DM 057 813, published Dec. 28, 2005 (Ex. 1041, “Reisenthel”).

¹² *Enduro Fence Package-150'*, MARKERS, INC., Aug. 27, 2008 (Ex. 1042, “EnduroFence”).

D. The Challenged Claims

Six of the challenged claims are independent—claims 1, 2, 19, 22, 23, and 27. Independent claims 1, 2, 19, and 22 are directed to an “extensible wall,” while independent claims 23 and 27 are directed to “flexible furniture.” Ex. 1001, 16:40–19:32. Claim 2 is illustrative and recites:

2. A method for partitioning an area of a room, the method comprising:

positioning an extensible wall in the area of said room, said wall having a base, a top, oppositely directed surfaces extending between said base and said top, said base, top and surfaces defining a core, said core comprising a cellular structure having multiple voids extending from said base to said top upon movement of said oppositely directed surfaces away from each other, said base having a width of at least 10 centimeters and said core having a height of at least 1 meter,

placing said base on a floor of said room, and

moving opposite ends of said core apart to expand said cellular structure and extend the length of said core and to form at least a substantially straight freestanding wall configuration, whilst maintaining its vertical extent.

Id. at 16:64–17:13.

II. ANALYSIS

A. Level of Ordinary Skill in the Art

Chanel’s declarant, Mr. Rake, testifies that one skilled in the art during the relevant time frame “would have a bachelor’s degree and at least two years of relevant experience working as an industrial designer, interior designer, furniture designer, architect, or other similar professional” and “would be knowledgeable regarding furniture design and/or the design of exhibit and display systems, and would have a general understanding of related manufacturing processes.” Ex. 1003 ¶ 46. At this stage, Molo does

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