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Paper 8
Entered: June 20, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NORMAN INTERNATIONAL, INC.
Petitioner

v.

HUNTER DOUGLAS INC.
Patent Owner

Case IPR2014-00282
Patent 8,230,896 B2

Before TONI R. SCHEINER, LINDA M. GAUDETTE, and JACQUELINE WRIGHT BONILLA, *Administrative Patent Judges.*

GAUDETTE, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

On December 20, 2013, Norman International, Inc. ("Petitioner") filed a Petition (Paper 2, "Pet.") to institute an *inter partes* review of claims 1-5 (the "challenged claims") of U.S. Patent No. 8,230,896 B2 (Ex. 1001, "the '896 patent"). 35 U.S.C. § 311. Hunter Douglas Inc. ("Patent Owner") timely filed a Preliminary Response (Paper 7, "Prelim. Resp."). We have jurisdiction under 35 U.S.C. § 314(a).

The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a):

> THRESHOLD.—The Director may not authorize an inter partes review to be instituted unless the Director determines that 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.

Upon consideration of Petitioner's Petition and Patent Owner's Preliminary Response, we determine Petitioner has not established a reasonable likelihood that it would prevail in showing the unpatentability of at least one of the challenged claims. Accordingly, the Petition is denied under 35 U.S.C. § 314(a) for the reasons that follow.

II. BACKGROUND

A. Related Matters

Contemporaneous with the instant Petition, Petitioner also filed Petitions for *inter partes* review of U.S. Patent Nos. 6,968,884 B2, 6,283,192 B1, and 6,648,050 B1. These Petitions have been assigned the following case numbers: IPR2014-00276, IPR2014-00283, and IPR2014-00286, respectively. Of the patents at issue in the four proceedings, only U.S. Patent No. 6,968,884 B2 is in the same patent

family as the ’896 patent. Petitioner indicates that Patent Owner filed suit against Petitioner alleging infringement of claims 1-4 of the ’896 patent, *Hunter Douglas v. Nien Made Enterprise*, 1:13-cv-01412-MSK-MJW (D. Colo. May 31, 2013). Pet. 1-2.

B. The ’896 patent (Ex. 1001)

The ’896 patent relates to a modular transport system for coverings for architectural openings, such as venetian blinds, pleated shades, and other horizontal or vertical blinds and shades. Ex. 1001, Title, 1:18-22. Typically, a transport system for such horizontal coverings includes a top head rail which both supports the covering and hides the mechanisms used to raise and lower, and/or open and close the covering. *Id.* at 1:25-27. A goal of the invention is to provide a system wherein these mechanisms are housed in independent, self-contained modules. *Id.* at 3:21-23. “Each module is easily and readily installed, mounted, replaced, removed, and interconnected within the blind transport system with an absolute minimum of time and expense.” *Id.* at 3:23-26. One embodiment of the invention is shown in Figure 214, which is reproduced below:

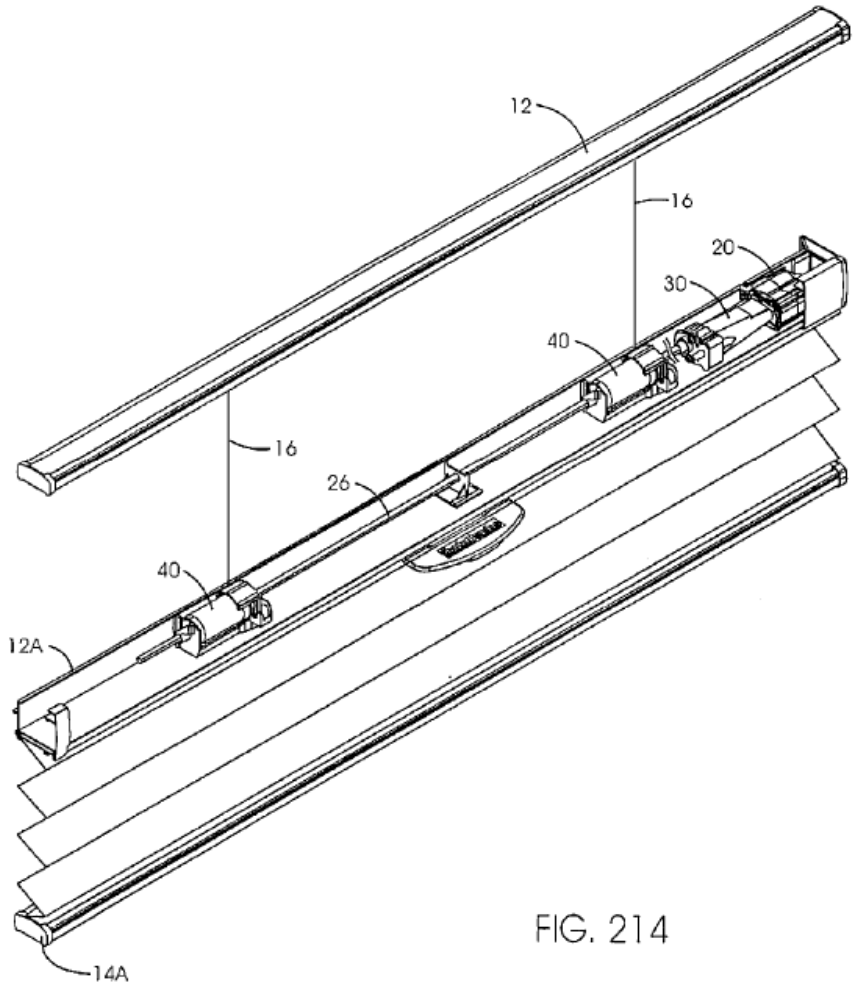


FIG. 214

Figure 214, above, is a schematic view of a covering for an architectural opening wherein the covering is supported by head rail 12 and the transport system is mounted in movable intermediate rail 12A, which moves with the covering during extension and retraction thereof. Ex. 1001, 65:42, 46-51. The transport system includes power module 20, transmission module 30, lift rod 26 and lift module 40. *Id.* at 65:46-50.

The components of lift module 40 are "essentially identical" to those of lift only module 500, illustrated in Figure 120 below, except that lift module 40 also includes tilt gears which are unnecessary in pleated shades. *Id.* at 37:29-37.

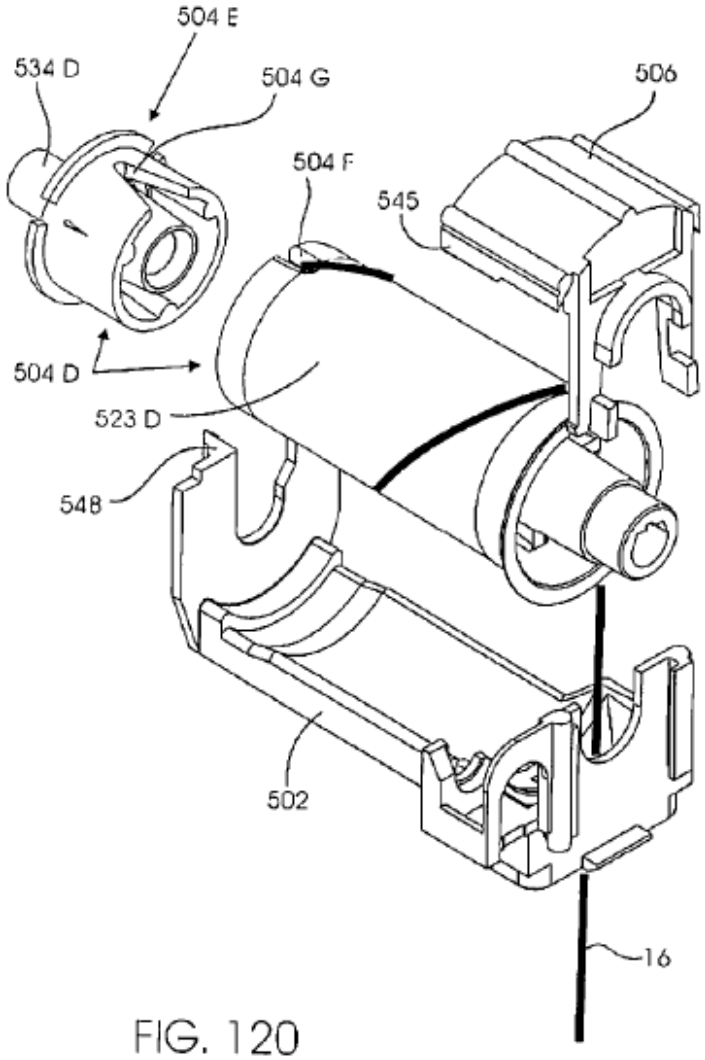


FIG. 120

Figure 120, above, is an exploded view of lift only module 500, which includes lift spool 504D, cradle 502, and securing clip 506. Ex. 1001, 11:20-21, 33:20-22. Opening 519 acts as a guide to direct lift cord 16 through cradle 502 and onto spool 504. *Id.* at 33:51-53. Lift rod 26 extends through a longitudinal hollow shaft (unnumbered) in lift spool 504D of lift only module 500. *Id.* at 35:51-52. As the covering is raised, power module 20 causes lift rod 26 to rotate about its

longitudinal axis, causing lift spool 504D to rotate and lift cord 16 to wind up and coil onto spool 504D. *See id.* at 35:53-57.

The transport system has a certain amount of system inertia caused by the mass of the covering as well as the frictional resistance of the components. *Id.* at 56:21-24. "[W]hen the [covering] is in the fully raised position, the available force to keep the [covering] in that raised position must be equal to or greater than weight (gravitational force) pulling down on the [covering] minus the system inertia which acts so as to keep the [covering] in the raised position." *Id.* at 56:27-31. "[T]he force required to keep the blind in the fully lowered position must be less than the weight of the [covering] . . . plus the system inertia which acts to keep the [covering] in the lowered position." *Id.* at 56:34-38.

The '896 patent also describes the use of a one-way brake to provide artificial system inertia. *Id.* at 56:51-55. In the described embodiments, *see id.* at 56:61–58:30, the brake is only engaged when the covering is lowered, and provides no braking force when the covering is being raised, *id.* at 56:65–57:1.

C. Illustrative Claims

Of the challenged claims, claims 1 and 3 are independent. Claim 2 depends from claim 1. Claim 4 depends from claim 3, and claim 5 depends from claim 4. Claim 3, reproduced below, is illustrative of the claimed subject matter:

> 3. A transport mechanism for a covering for an architectural opening, comprising:
>
> a first rail;
>
> a second rail, which is movable relative to said first rail;
>
> a window covering extending between, and functionally secured to, said first and second rails, wherein movement of said second rail relative to said first rail extends and retracts said window covering; and

> a lifting mechanism mounted on said second rail, said lifting mechanism including a lift spool; a spring motor functionally connected to the lift spool; and a lift cord which wraps onto and off of said lift spool as said second rail moves; and
>
> a one-way brake mechanism mounted on said second rail which provides greater force to prevent the second rail from falling than to prevent the second rail from being raised.

Claim 1 is identical to claim 3, with the exception of the last paragraph, which, in claim 1, reads:

> wherein the lifting mechanism provides sufficient lifting force and sufficient friction that the second rail may be raised and lowered just by the user urging it up and down and wherein, when the user releases the second rail at any elevation, the second rail remains stationary, neither rising nor falling, without the user activating or deactivating any additional mechanism wherein the sufficient friction includes braking friction provided by a one-way brake mechanism mounted on said second rail, wherein said one-way brake mechanism does not require activation or deactivation by the user.

D. The Evidence of Record

Petitioner relies upon the following references, as well as the Declaration of Lawrence E. Carlson, executed December 20, 2013 (Ex. 1006, "Carlson Declaration"):

References	**Patents/Printed Publications**	**Exhibit**
Todd	US 6,056,036	1002
Strahm	US 3,327,765	1003
Kuhar	US 5,531,257	1004
Lohr	US 3,216,528	1005

E. The Asserted Grounds of Unpatentability

Petitioner challenges the patentability claims 1-5 of the '896 patent based on the following grounds:

References	**Basis**	**Claims challenged**
Todd	§103	3
Todd and Strahm	§103	1-5
Kuhar and Lohr	§103	1-4
Kuhar and Strahm	§103	5

III. CLAIM CONSTRUCTION

A. Legal Standard

Consistent with the statute and the legislative history of the Leahy-Smith America Invents Act ("AIA"), Public Law No. 112-29, 125 Stat. 284 (Sept. 16, 2011), the Board will interpret claims of an unexpired patent using the broadest reasonable construction in light of the specification of the patent. *See* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,766 (Aug. 14, 2012); 37 C.F.R. § 42.100(b). Under the broadest reasonable construction standard, claims are to be given their broadest reasonable interpretation consistent with the specification, and the claim language should be read in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr*., 367 F.3d 1359, 1364 (Fed. Cir. 2004).

We determine no express construction of the claim language is needed for this Decision.

IV. ANALYSIS

The Board may exclude or give no weight to evidence relied upon to support the challenge where Petitioner has failed to state its relevance or to identify specific portions of the evidence that support the challenge. 37 C.F.R. § 42.104(b)(5). We give no weight to the Carlson Declaration (Ex. 1006) because Petitioner fails to state its relevance or identify specific portions of the Declaration that support the challenge. *See* Pet. 3 (providing the only citation to Ex. 1006, other than Exhibit List).

A. Obviousness of Claim 3 over Todd

1. Todd (Exhibit 1002)

Todd describes a roller shade for a window that includes shade 14 extending between and secured to upper rail assembly 16 and lower rail assembly 12. Ex. 1002, 3:64-65, 4:3-4. Upper rail assembly 16 includes decorative top rail 18, mounted within window frame 22, and drive mechanism 20 housed in top rail 18. *Id.* at 3:65-67–4:2, 4:8-10; Figure 1. Drive mechanism 20 is illustrated in Figure 3 below. *Id.* at 3:52.

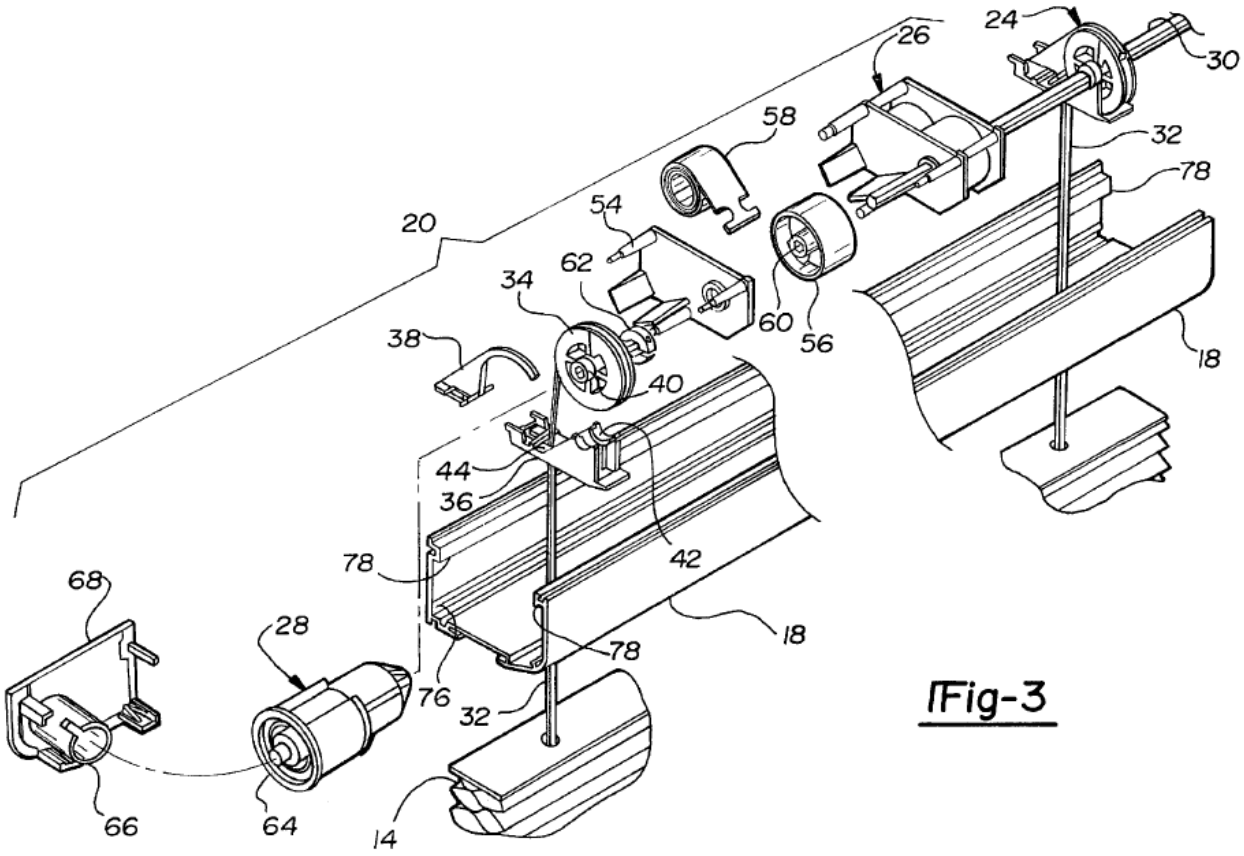


Fig-3

As shown in Figure 3 above, drive mechanism 20 includes spool assemblies 24, spring assembly 26, and brake/clutch mechanism 28. Ex. 1002, 4:10-13. "Spool assemblies 24 are connected and driven by spring assemblies 26 via shaft 30, which is also interconnected with brake/clutch mechanism 28." *Id.* at 4:14-16. Each spool assembly 24 includes tape 32 having one end attached to tape spool 34 and the other end attached to lower rail assembly 12. *Id.* at 4:36-39. "Tape spool 34 is driven by shaft 30 and serves as a reel for tape 32 to wind upon." *Id.* at 4:36-37.

Spring assembly 26 includes housings 54, spring take-up spool 56 and constant torque spring 58. *Id.* at 5:9-11. A cross-sectional view of an embodiment of spring assembly 26 is shown in Figure 6 below. *Id.* at 3:58-59.

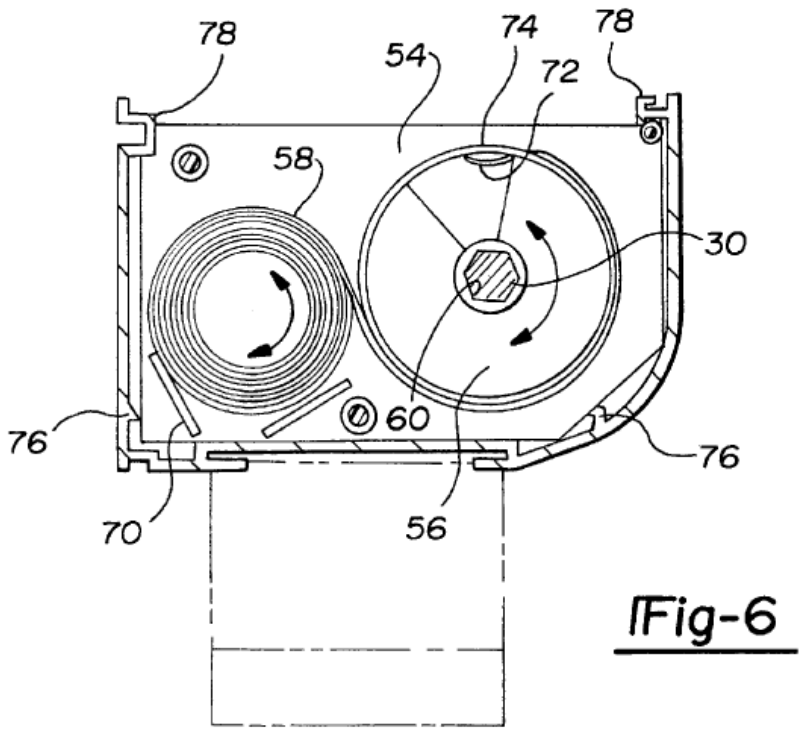


Fig-6

Constant torque spring 58, shown in Figure 6 above, is pre-loaded to apply enough tension to shaft 30 to support shade 14 when it is in a fully retracted position. Ex. 1002, 5:50-52. As shade 14 is extended, shaft 30 turns in a counter-clockwise direction, and constant torque spring 58 is drawn upon take-up spool 56, exerting a clockwise force on shaft 30. *Id.* at 5:41-46, 6:13-15.

To prevent shade 14 from retracting from an extended position due to the force exerted by constant torque spring 58, a "[b]rake/clutch mechanism 28 [which] features one-way operation" is used to lock shade 14 at a desired location. *Id.* at 5:53-55. A conventional spring-loaded cam pin locks into a steel guide within the clutch when shade 14 is pulled to the desired length, and is released from the steel guide by pulling shade 14 downward a predetermined amount, allowing retraction of shade 14. *Id.* at 6:17-20, 23-26. When the spring-loaded

cam pin is released, spring 58 winds back upon itself, exerting a clockwise force upon shaft 30. *Id.* at 5:46-50, 6:29-32. Rotation of shaft 30 causes tape spool 34 to begin reeling in tape 32, which in turn causes shade 14 to rise. *Id.* at 6:29-34. Retraction speed of shade 14 is regulated by a centrifugal braking system contained within brake/clutch mechanism 28, which applies increasing braking force to counteract the increasing rotational velocity of shaft 30 as shade 14 rises, resulting in a constant retraction speed of shade 14. *Id.* at 5:57-62. The centrifugal braking system "prevents violent retraction of the shade due to the combined forces of the internal spring mechanism and the inherent spring characteristics of the shade material." *Id.* at 3:35-38.

2. Analysis

Petitioner contends Todd discloses the limitations of challenged claim 3 with the exceptions that: (1) Todd's lifting mechanism (drive mechanism 20) and one-way brake mechanism (brake/clutch mechanism 28) are mounted in a first, stationary rail (upper rail assembly 16), rather than in a second rail which is movable relative to the first rail; and (2) the force provided by Todd's brake/clutch mechanism 28 to prevent the movable second rail (lower rail assembly 12) from falling is not greater than the force provided by brake/clutch mechanism 28 to prevent lower rail assembly 12 from being raised. Pet. 41-45. Petitioner argues "it would have been obvious to one of ordinary skill in the art to configure [Todd's] drive mechanism [20] to operate in the [moveable] lower rail assembly 12 to provide the same functionalities for the cordless window shade 10." *Id.* at 42-43. Petitioner further contends it would have been obvious to a person having ordinary skill in the art to disengage the centrifugal braking system in Todd's brake/clutch mechanism 28, which would have resulted in brake/clutch mechanism 28 "provid[ing] greater force to prevent the lower rail assembly 12 from falling than

to prevent the lower rail assembly 12 from being raised." *Id.* at 45.

In response, Patent Owner argues Todd does not "disclose any reason for modifying [its] teachings in light of any of the other cited references." Prelim. Resp. 29.

"The inventor's own path itself never leads to a conclusion of obviousness; that is hindsight. What matters is the path that the person of ordinary skill in the art would have followed, as evidenced by the pertinent prior art." *Otsuka Pharm. Co., Ltd. v. Sandoz, Inc.*, 678 F.3d 1280, 1296 (Fed. Cir. 2012). A factual foundation is important to support a party's claim about what a person having ordinary skill in the relevant art would have known. *Randall Mfg v. Rea*, 733 F.3d 1355, 1362 (Fed. Cir. 2013). There can be no motivation to modify if to do so would render the prior art invention being modified unsatisfactory for its intended purpose. *In re Gordon*, 733 F.2d 900, 902 (Fed. Cir. 1984).

Petitioner has not explained adequately why a person having ordinary skill in the art would have had a reason to modify Todd's device to disengage or modify the centrifugal braking system in brake/clutch mechanism 28 to allow shaft 30 to rotate freely in one direction. Petitioner has not explained why the ordinary artisan would have made this modification, thereby eliminating the feature of a constant retraction speed of shade 14, which Todd uses to prevent uncontrolled retraction of shade 14. *See* Ex. 1002, 5:57-62, 3:35-38 *supra* p. 12.

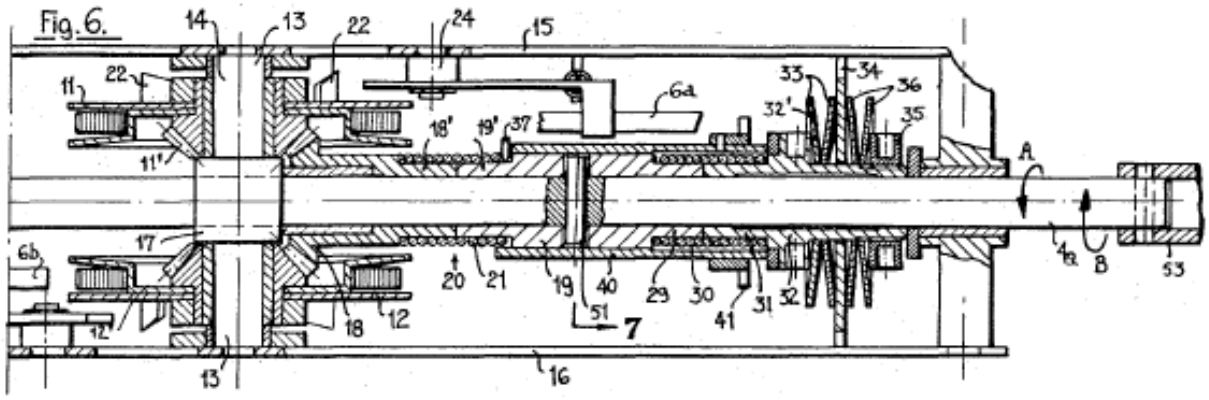
Petitioner has not demonstrated a reasonable likelihood it would prevail on the ground that claim 3 is unpatentable over Todd.

B. Obviousness of Claims 1-5 over Todd in view of Strahm

1. Strahm (Exhibit 1003)

Strahm describes "a raising and lowering mechanism for a blind" that includes a brake for controlling the rate of descent of the blind, the brake being

"automatically released during raising of the blind so that raising can be performed with the minimum of effort." Ex. 1003, 1:29-34. The blind comprises a number of parallel slats 1 suspended from operating shaft 4 by flexible ladders 2. *Id.* at 2:2-9. Operating shaft 4 can be driven by a crank or a motor. *Id.* at 4:10-11. Pull-tapes 6, attached to bottom cross-member 5 of the blind, are wound around drums 11, 12, which are disposed in the raising and lowering mechanism. *Id.* at 2:14-16, 33-34. A cross-sectional view of the raising and lowering mechanism is shown in Figure 6 below. *Id.* at 1:68-71.



As shown in Figure 6 above, drums 11, 12 are rigidly connected to bevel gears 11', 12', which mesh with bevel gear 18. Ex. 1003, 2:36-40. Bevel gear 18 is freely rotatable on shaft 4 and connected to drive sleeve 19 via helical spring 21. *Id.* at 2:39-42. Sleeve 32 is also freely rotatable on operating shaft 4. *Id.* at 3:14. Ring 35 is screwed on sleeve 32 in a manner that compresses conical washers 33, 36, forming a friction brake between stationary wall 34 and rotatable sleeve 32. *Id.* at 3:19-25. Helical spring 30 forms a one-way coupling between drive sleeve 19 and sleeve 32 when sleeve 19 rotates in the direction indicated by arrow B,

corresponding to lowering the blind. *Id.* at 3:25-30. The coupling slips when sleeve 19 rotates in the direction indicated by arrow A, corresponding to raising the blind. *Id.* at 3:30-32. "The brake therefore operates only during the descent of the blind and is automatically cut out of operation during the raising of the blind." *Id.* at 3:32-35; *see also, id.* at 4:32-33 ("The brake 32 is 'off' for ascent, so that relatively little torque is required.").

2. Analysis

Petitioner contends Todd discloses the limitations of challenged claims 1-5 with the exceptions that Todd does not disclose: (1) a one-way brake mechanism that provides braking friction (independent claim 1), Pet. 23-24, or braking force (independent claim 3), *id.* 26-27, in the manner recited in the challenged claims; and (2) mounting the lifting mechanism (drive mechanism 20) and a one-way brake in a moveable rail. *See generally*, Pet. 18-28.

Petitioner contends the one-way brake of Strahm corresponds to the one-way brake recited in each of challenged claims 1-5. Pet. 23, 24, 27, and 28. Petitioner maintains "[b]ecause of the close linkages amongst Todd and Strahm with respect to the subject matter in the 896 Patent, there is a motivation or suggestion in Todd and Strahm to enable a person having ordinary skill in the art to combine the teachings of these references." Pet. 19; *see also, id.* at 23 ("Therefore, the combination of Todd and Strahm teaches each feature recited in Claim 1 and renders the subject matter of Claim 1 as a whole obvious and unpatentable."), and at 27 ("Therefore, the combination of Todd and Strahm teaches each feature recited in Claim 2 [sic, 3] and renders the subject matter of Claim 2 [sic, 3] as a whole obvious and unpatentable.").

In addition to the above-noted arguments made on pages 24-29 of the Preliminary Response, *see supra* p. 13, Patent Owner argues Petitioner failed to

provide a reason why one of ordinary skill in the art would have incorporated the brake disclosed in Strahm in Todd's device, because Todd already discloses a brake. Prelim. Resp. 31.

As explained by the Federal Circuit:

> Obviousness requires more than a mere showing that the prior art includes separate references covering each separate limitation in a claim under examination. . . . Rather, obviousness requires the additional showing that a person of ordinary skill at the time of the invention would have selected and combined those prior art elements in the normal course of research and development to yield the claimed invention.

Unigene Labs., Inc. v. Apotex, Inc., 655 F.3d 1352, 1360 (Fed. Cir. 2011)(citations omitted). "To render a claim obvious, prior art cannot be 'vague' and must collectively, although not explicitly, guide an artisan of ordinary skill towards a particular solution. . . . [A] combination is only obvious to try if a person of ordinary skill has 'a good reason to pursue the known options.'" *Id.* at 1361 (quoting *KSR Int'l Co. v. Teleflex Inc*., 550 U.S. 398, 421 (2007)). An analysis regarding an apparent reason to combine known elements "should be made explicit." *KSR*, 550 U.S. at 418.

We agree with Patent Owner that Petitioner has not explained adequately why a person having ordinary skill in the art would have had a reason to modify Todd's device to include Strahm's one-way brake mechanism in the manner required by challenged claims 1-5, because Todd's device already includes brake/clutch mechanism 28, which features one-way operation to prevent uncontrolled retraction of shade 14. *See* Ex. 1002, 5:41-46, 6:13-15 *supra* p. 11. Petitioner has not identified a reason why a person having ordinary skill in the art would have utilized Strahm's one-way brake mechanism, which operates during

extension, not retraction of the covering, in Todd's device. *See* Ex. 1003, 3:32-35 *supra* p. 15.

Petitioner has not demonstrated a reasonable likelihood it would prevail on the ground that claims 1-5 are unpatentable over Todd in view of Strahm.

C. Obviousness of Claims 1-4 over Kuhar in view of Lohr

1. Kuhar (Exhibit 1004)

Kuhar describes "a cordless blind or shade in which a spring motor is used to eliminate conventional pull cord and cord-lock mechanisms." Ex. 1004, 2:29-31. Figure 9, below, is a schematic representation of a motor system for raising a blind. *Id.* at 4:1-3.

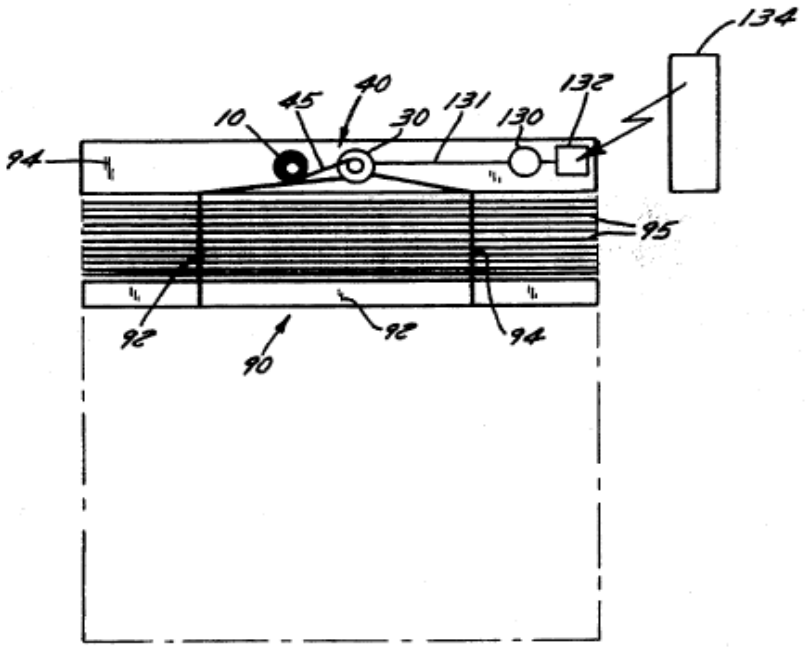


FIG. 9

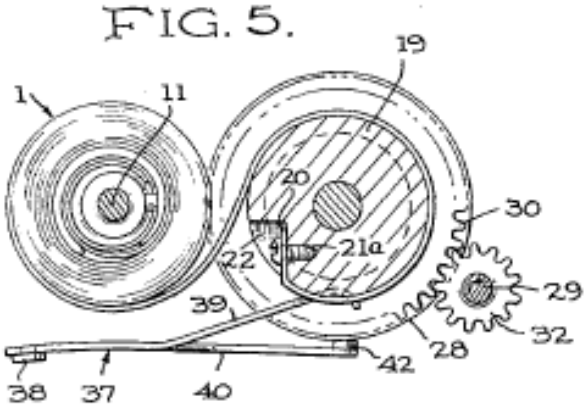
Blind system 90, as shown in Figure 9 above, includes a plurality of slats 95 extending between bottom bar 92 and headrail 94. Ex. 1004, 6:7-10. Bottom bar 92 is movable relative to headrail 94 via attachment to lifting cords 96, 97. *Id.* at

6:12-14, 34-36. Lifting cords 96, 97 are wound onto cord spools 30 to open blind system 90 or unwound from cord spools 30 to close blind system 90. *Id.* at 6:21-24, 34-36. Output drum 20 of spring motor unit 40 drives cord spool 30 via axle 44. *Id.* at 4:59, 4:67–5:4. Spring motor unit 40 also includes storage drum 10 and spring 45 coupled between output drum 20 and storage drum 10. *Id.* at 4:65-67, 5:5-6. When the blind is in the lowered position, most of spring 45 is wound on output drum 20, thereby decreasing the amount of force exerted on bottom bar 92. *Id.* at 6:22-30. As the blind is raised, spring 45 is wound onto storage drum 10. *Id.* at 6:15-17. According to Kuhar, "while the weight exerted on the lifting cords 96 and 97 will vary as the blind is raised and lowered, frictional forces are present which can be sufficient to maintain the shade in any desired position without free fall." *Id.* at 7:24-28. Kuhar describes enhancing frictional forces by a device which increases tension on lifting cords 96, 97. *Id.* at 5:13-18, 7:28-30.

2. Lohr (Exhibit 1005)

Lohr describes a spring motor drive, which is said to be useful "in several fields including the toy industry." Ex. 1005, 1:16-17. The spring motor drive utilizes a prestressed spring and includes "positive mechanical braking means to halt the rotation of the power drum just short of the completed retraction of the prestressed spring, together with clutch means permitting continued rotation of a drive shaft." *Id.* at 1:33-37. Figure 5, below, is a side elevational view showing an embodiment of the spring drive motor and braking means at the end of the retraction of the prestressed spring. *Id.* at 2:23-26.

FIG. 5.



As illustrated in Figure 5 above, the spring motor drive includes prestressed spring 3 (unnumbered), wound on storage spool 1 and reversely bent around and fastened at end 20 to the periphery of power drum 19. *Id.* at 2:40-47, 3:42-48. In use, prestressed spring 3 is wound onto power drum 19 under tension. *Id.* at 4:20-26. When power drum 19 is released, prestressed spring 3 returns to storage spool 1 causing rotation of power drum 19, transmitting driving force to drive shaft 29 by meshing of drum gear 30 with drive pinion 32. *Id.* at 4:23-34. Drive shaft 29 is used to power a device. *Id.* at 3:69-74.

In order to prevent an abrupt halt to power drum 19 and possible damage to the end of spring 3 attached thereto, brake mechanism 37 is utilized to slow down the rotation of power drum 19. *Id.* at 4:35-38. Brake mechanism 37 comprises a brake arm 40 which is urged against the periphery of power drum 19 when spring 3 has almost fully unwound from power drum 19. *Id.* at 4:69–5:3.

3. Analysis

Petitioner contends Kuhar discloses the limitations of challenged claims 1-4 with the exceptions of (1) a one-way brake mechanism that provides braking friction; and (2) mounting the lifting mechanism (cord spool 30, spring motor 40,

and lifting cords 96, 97) and a one-way brake mechanism in a moveable rail. *See generally*, Pet. 29-40, *e.g. id.* at 31 (acknowledging the aforementioned components of the lifting mechanism are mounted in headrail 94 which is stationary).

Petitioner contends the one-way brake of Lohr (brake mechanism 37) corresponds to the one-way brake recited in each of challenged claims 1-4. Pet. 34, 35, 39, and 40. Petitioner maintains

> [b]ecause of the close linkages amongst Kuhar and Lohr in the spring motor drives and associated braking mechanisms with respect to the subject matter in the [']884 [sic, '896] Patent, there is a motivation or suggestion in Kuhar and Lohr to enable a person having ordinary skill in the art to combine the teachings of these references.

Pet. 30; *see also*, *id.* at 34 ("Therefore, the combination of Kuhar and Lohr teaches each feature recited in Claim 1 and renders the subject matter of Claim 1 as a whole obvious and unpatentable."), and at 39 ("Therefore, the combination of Kuhar and Lohr teaches each feature recited in Claim 3 and renders the subject matter of Claim 3 as a whole obvious and unpatentable.").

In response, Patent Owner argues Kuhar does not "disclose any reason for modifying [its] teachings in light of the other cited references," Prelim. Resp. 29, and that "Petitioner's cursory analysis does not indicate any reason why one of ordinary skill in the art would possibly attempt to combine [Kuhar and Lohr]," *id.* at 33.

We agree with Patent Owner that Petitioner has not explained adequately why one of ordinary skill in the art would have had a reason to modify Kuhar's device to include Lohr's brake mechanism in the manner required by challenged claims 1-4. Petitioner has not explained why one of ordinary skill in the art would have had a reason to use a brake mechanism of the type disclosed in Lohr (i.e., one

that acts on the power drum of a spring motor) in Kuhar's device given Kuhar's disclosure of friction imparting devices used with lifting cords 96, 97, which are said to be sufficient to maintain the blind in any desired position without free fall. *See* Kuhar 5:13-18, 7:24-30 *supra* p. 18.

Petitioner has not demonstrated a reasonable likelihood it would prevail on the ground that claims 1-4 are unpatentable over Kuhar in view of Lohr.

D. Obviousness of Claim 5 over Kuhar in view of Strahm

Petitioner contends Strahm discloses a one-way brake mechanism ("conical washers 33 and 36 that contact wall 34, sleeves 19 and 32 and helical spring 30") "which is clearly 'engaged at all times'" as recited in challenged claim 5. Pet. 40. Petitioner contends "the combination of Kuhar and the engagement of components within the one-way brake mechanism of Strahm as shown in FIG. 6 discloses each element in Claim[] 5." *Id.* Petitioner also contends "the combination of Kuhar and Lohr renders the subject matter of Claim 5 as a whole obvious and unpatentable." *Id.* at 41. In response, Patent Owner argues Petitioner has not provided a reason why the references should be combined. Prelim. Resp. 35.

It is unclear whether Petitioner contends claim 5 is obvious in view of Kuhar and Strahm, or Kuhar, Lohr, and Strahm. Petitioner has not demonstrated a reasonable likelihood it would prevail on the ground that claim 5 is unpatentable over Kuhar in view of Strahm, because Petitioner has not explained how claims 3 and 4, from which claim 5 depends, are obvious in view of the combination of Kuhar and Strahm. Petitioner has not demonstrated a reasonable likelihood it would prevail on the ground that claim 5 is unpatentable over Kuhar in view of Lohr and Strahm because, as explained above, Petitioner has not provide sufficient articulated reasoning with rational underpinning as to why an ordinary artisan at the time of the invention recited in the challenged claims would have been

motivated to modify Kuhar in view of Lohr to achieve the invention claimed in challenged claims 3 and 4, from which claim 5 depends. Further, we agree with Patent Owner that Petitioner has not explained adequately why one of ordinary skill in the art would have had a reason to modify Kuhar's device to include a brake as taught by Strahm.

Petitioner has not demonstrated a reasonable likelihood it would prevail on the ground that claim 5 is unpatentable over Kuhar in view of Strahm, or over Kuhar in view of Lohr and Strahm.

V. CONCLUSION

Petitioner has not demonstrated a reasonable likelihood that it would prevail on the grounds that: (1) claim 3 would have been obvious over Todd; (2) claims 1-5 would have been obvious over Todd in combination with Strahm; (3) claims 1-4 would have been obvious over Kuhar in combination with Lohr; and (4) claim 5 would have been obvious over Kuhar in view of Strahm.

VI. ORDER

For the reasons given, it is

ORDERED that the Petition is *denied*, and no trial is instituted.

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