

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BABY GENERATION, INC d/b/a MOCKINGBIRD;  
EVENFLO COMPANY, INC.; and  
MONAHAN PRODUCTS, LLC d/b/a UPPABABY;

Petitioners,

v.

BABY JOGGER, LLC,  
Patent Owner.

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IPR2025-01120  
Patent 11,878,729

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PATENT OWNER'S AUTHORIZED BRIEF ADDRESSING THE  
IMPACT OF THE BOARD'S DECISIONS IN *REVVO* AND *TESLA*

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**PATENT OWNER'S EXHIBIT LIST**

<b>Exhibit No.</b>	<b>Description</b>
2001	Baby Jogger Letter to UPPAbaby dated December 4, 2015
2002	Excerpt of File History of Application No. 12/631,375, Applicant's Response to Office Action, Remarks and Attachments (Nov. 4, 2013)
2003	United States District Courts—National Judicial Caseload Profile for 12-month period ending December 31, 2024; <i>available at</i> <a href="https://www.uscourts.gov/sites/default/files/2025-02/fems_na_distprofile1231.2024.pdf">https://www.uscourts.gov/sites/default/files/2025-02/fems_na_distprofile1231.2024.pdf</a>
2004	U.S. Patent No. 10,449,987, Information Disclosure Statement dated February 28, 2018
2005	Docket Sheet (as of Sept. 1, 2025) for <i>Baby Jogger, LLC v. Monahan Products, LLC d/b/a UPPAbaby</i> , No. 1:24-cv-11582 (D. Mass. filed June 18, 2024)
2006	Docket Sheet (as of Sept. 1, 2025) for <i>Baby Jogger, LLC v. Baby Generation, Inc. d/b/a Mockingbird</i> , No. 1:24-cv-00725 (D. Del. filed June 18, 2024)
2007	Docket Sheet (as of Sept. 1, 2025) for <i>Baby Jogger, LLC v. Evenflo Company, Inc.</i> , No. 1:24-cv-00723 (D. Del. filed June 18, 2024)
2008	UPPAbaby's Invalidation Contentions in <i>Baby Jogger, LLC v. Monahan Products, LLC d/b/a UPPAbaby</i> , No. 1:24-cv-11582 (D. Mass. served Feb. 14, 2025)
2009	Scheduling Order, <i>Baby Jogger, LLC v. Monahan Products, LLC d/b/a UPPAbaby</i> , No. 1:24-cv-11582 (D. Mass. Dec. 2, 2024), ECF No. 37
2010	UPPAbaby's Opening Claim Construction Brief, <i>Baby Jogger, LLC v. Monahan Products, LLC d/b/a UPPAbaby</i> , No. 1:24-cv-11582 (D. Mass. Mar. 28, 2025), ECF No. 58

**I. Introduction.**

Petitioner UPPAbaby continues to advance *three* different claim construction positions in district court that it (and its co-Petitioners) avoid adopting before the Board, and Petitioners propose an additional construction in the Petition that was not presented to the district court. Not only are these inconsistent positions unwarranted, but the Petition failed to acknowledge or attempt to justify these diverging claim constructions. Petitioners were *required* to do so in the Petition, and their failure compels denial of institution under 37 C.F.R. § 42.104(b)(3). *See Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00340, Paper 18 at 3 (Nov. 5, 2025) (citing *Revvo Technologies, Inc. v. Cerebrum Sensor Technologies, Inc.*, IPR2025-00632, Paper 20 at 3-5 (Nov. 3, 2025) (precedential)).

**II. Petitioner UPPAbaby’s inconsistent claim constructions warrant denial under *Revvo* and *Tesla*.**

In district court, UPPAbaby argued that **(i)** “connector portion” in means a “[m]ale mating element that attaches by insertion into a corresponding part” (Ex-2010, 6), **(ii)** “handle portion” means a “[l]ateral frame portion that is grasped when pushing the stroller” (Ex-2010, 13-14), and **(iii)** “adjacent” means “next to and having contact with” (Ex-2010, 16). Petitioners adopted none of these constructions before the Board, failed to disclose that they were adopted before the district court, and failed to explain why any of the inconsistencies were warranted. *See* Pet. 7 (“Except for the terms below, no formal construction currently appears

necessary for IPR”), 7-9 (identifying only “releasably connect” and “releasably attach” as terms requiring construction).

The gamesmanship at play here is self-evident. As one example, UPPAbaby argues in district court that a “connector portion” requires a “male mating element.” Ex-2010, 6.<sup>1</sup> But the Petition never alleges that the prior art discloses a “male mating element” even though UPPAbaby argues that feature is *required* in district court. *See e.g.*, Pet. 33-34, 70. Likewise, UPPAbaby argues in district court that “adjacent” means “next to and having contact with.” Ex-2010, 16. But the Petition’s arguments addressing limitation [1.h] (“the rear wheel support portion is disposed *adjacent* to both the front wheel support portion and the handle portion”) never allege that the prior discloses a rear wheel support portion “having contact with” both a front wheel support portion and handle portion. *See* Pet. 30, 66, 101.

Further complicating the morass of claim constructions, the Petition proposes that “releasably connect” and “releasably attach” should be construed before the Board to mean “the connection is not a permanent connection and that the connection is capable of being connected and disconnected by the user of the

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<sup>1</sup> UPPAbaby identified and construed “connector portion” in the ’729 patent (claim 4) in a Joint Claim Construction Statement before the district court and then construed this same term for the related ’869, ’550, and ’231 patents. Ex-2010, 6.

stroller 10 without requiring special tools or special skills.” Pet. 7. But UPPAbaby has *not* advanced this construction in district court, creating further dissonance between the construction of the claims before the Board and the district court. This is antithetical to the Board’s claim construction rules, which are designed to “to minimize inconsistency in claim construction between forums.” *Revvo*, IPR2025-00632, Paper 20 at 4.

Here, Petitioners plainly “seek[] broader constructions at the Board to support a patentability challenge while seeking narrower constructions in litigation to avoid infringement liability.” *Id.* Under *Revvo* and *Tesla*, no justification exists for Petitioners’ attempt to advance inconsistent positions in different forums.

**III. Petitioners’ obviousness arguments are at odds with UPPAbaby’s attempt to invalidate related patents for indefiniteness in district court.**

Although the term “substantially parallel” does not appear in the ’729 patent, Petitioners obviousness arguments remain at odds with UPPAbaby’s position in district court. There, UPPAbaby argued that the related ’231 and ’568 patents are *invalid* because the term “substantially parallel” is indefinite. Ex-2008, 21-22; Ex-2010, 26-30.<sup>2</sup> UPPAbaby professed that it could not decipher “what ‘substantially parallel’ means or how to measure it.” Ex-2010, 26; *see also* 27 (“it is unclear what

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<sup>2</sup> The district court has not yet ruled on UPPAbaby’s indefiniteness arguments and UPPAbaby has not withdrawn them.

‘substantially parallel’ means”). According to UPPAbaby, “[n]o one knows” when two members become “substantially parallel.” Ex-2010, 28.

Yet before the Board, Petitioners argue here that “Dotsey teaches mounting a seat onto a stroller frame having *substantially parallel* front wheel support and handle portions.” Pet. 17; *see also* Pet., 13. On this basis, Petitioners allege that a POSITA would have been motivated to modify Dotsey “so that the handle portion and front wheel support portion are parallel (and not merely “substantially parallel”) when the frame is unfolded.” Pet. 18. But Petitioners’ assertion that Dotsey discloses a stroller frame having “substantially parallel” portions cannot be reconciled with its district court argument that “no one knows” when two members are substantially parallel. Ex-2010, 28.

Allowing a petitioner to advance inconsistent indefiniteness arguments in district court “fails to further, but instead detracts from, the Office’s goal of ‘providing greater predictability and certainty in the patent system.’” *Tesla*, IPR2025-00340, Paper 18 at 4 (citing *Revvo*, IPR2025-00632, Paper 20 at 4-5 (quoting 83 Fed. Reg. at 51,342-43)). Despite alleging that the prior art discloses a frame with “substantially parallel” portions, the Petition failed to acknowledge that UPPAbaby had argued this feature was impossible to discern in district court and made no attempt to explain why this inconsistent position was warranted.

Furthermore, the Petition expressly “reserves the right to argue different

constructions in other actions” (Pet., 7) and alleges that “there are several §112 issues with the Challenged Claims” (Pet., 6), without identifying what those §112 are. And even after Baby Jogger raised (in its Request for Discretionary Denial) the inconsistency of Petitioners’ positions, Petitioners continued to argue that “indefiniteness cannot be raised in an IPR.” Paper 13, 20. But this fact is “not a sufficient explanation for the different positions.” *Tesla*, IPR2025-00340, Paper 18 at 3 (“Indeed, the statement amounts to an assertion that a petitioner should be permitted to raise inconsistent invalidity challenges in the two forums.”).

**IV. The Petition’s failure to justify its inconsistent claim construction arguments is fatal under *Revvo*.**

“The Board may authorize additional briefing...to determine whether Petitioner has provided a sufficient reason why different claim construction positions are warranted.” *Revvo*, IPR2025-00632, Paper 20 at 5. But such briefing is not an opportunity to provide a *new justification* not articulated in the Petition. *See* 37 C.F.R. 42.104 (“the *petition* must set forth...”). The Petition failed to explain why any of the inconsistent claim constructions it adopts were warranted, and no post hoc rationale can now cure this fatal flaw. Institution should be denied.

Respectfully submitted,

/Christopher B. Kelly/

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**CERTIFICATE OF SERVICE**

Pursuant to 37 C.F.R. §§ 42.6(e) and agreement of the parties, I certify that on November 18, 2025, a copy of this paper and all accompanying exhibits were served on counsel for the Petitioner by email to:

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