

Filed on behalf of Sanastar, Inc. d/b/a Wizkid Products

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FRESH PRODUCTS, LLC
Petitioner

v.

SANASTAR, INC., d/b/a/ WIZKID PRODUCTS
Patent Owner

IPR2025-01339
Patent 10,036,154

PATENT OWNER'S PRELIMINARY RESPONSE

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Sanastar, Inc., d/b/a/ Wizkid Products (“Patent Owner”) hereby submits its Preliminary Response to Fresh Products LLC’s (“Petitioner”) petition for *inter partes* review of U.S. Patent No. 10, 036,154 (“’154 Patent”).

I. INTRODUCTION

Patent Owner respectfully submits this Preliminary Response to the petition filed by Petitioner seeking *inter partes* review of the ’154 Patent. Institution should be denied. As a threshold matter, the Board need not undertake claim construction to resolve this Petition, because the challenged grounds fail regardless. *See* Pet. at 13–14; *Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019) (“The Board is required to construe terms ‘only to the extent necessary to resolve the controversy.’”). Moreover, under 35 U.S.C. § 314(a), the Board should exercise its discretion to deny institution in view of (i) Petitioner’s prior contractual acknowledgments of Patent Owner’s intellectual property and agreement not to interfere with those rights, (ii) the settled expectations arising from Petitioner’s years-long knowledge of the ’154 Patent coupled with its post-relationship infringement, and (iii) the parallel district-court action between the same parties raising overlapping invalidity issues, all of which weighs heavily against institution under *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, 2020 WL 2126495, at *2 (P.T.A.B. Mar. 20, 2020) (precedential).

Even if the Board were to reach the merits, Petitioner has not shown a reasonable likelihood of prevailing on any ground. Indeed, every ground relies on Fushimi (Ex. 1004) as the lynchpin for the claimed “translating” (bending) relationship between the anti-splash body and base, but Petitioner ignores that Fushimi discloses a fixed, L-shaped frame that does not bend and the fact that Fushimi fails to teach, show, or suggest a coupling region that translates the base between parallel and substantially perpendicular orientations, as is required by the claims of the ’154 Patent. Petitioner’s secondary references do not cure this defect: Brown ’098 is a flat, single-piece screen and is silent on translation; Valadez discloses flat mesh pouches, not a translating assembly; and Wise similarly fails to supply the missing coupling-region functionality. Petitioner’s attempt to extract “tapered protrusions” from a silent drawing in Brown ’098 is equally deficient under controlling precedent barring reliance on non-to-scale figures to establish dimensional or shape limitations.

Accordingly, the Petition should be denied under § 314(a) as a matter of discretion and, independently, because Petitioner has not met its burden to demonstrate a reasonable likelihood that any challenged claim of the ’154 Patent is unpatentable on the asserted grounds.

II. BACKGROUND

A. Co-Pending Litigation of the '154 Patent

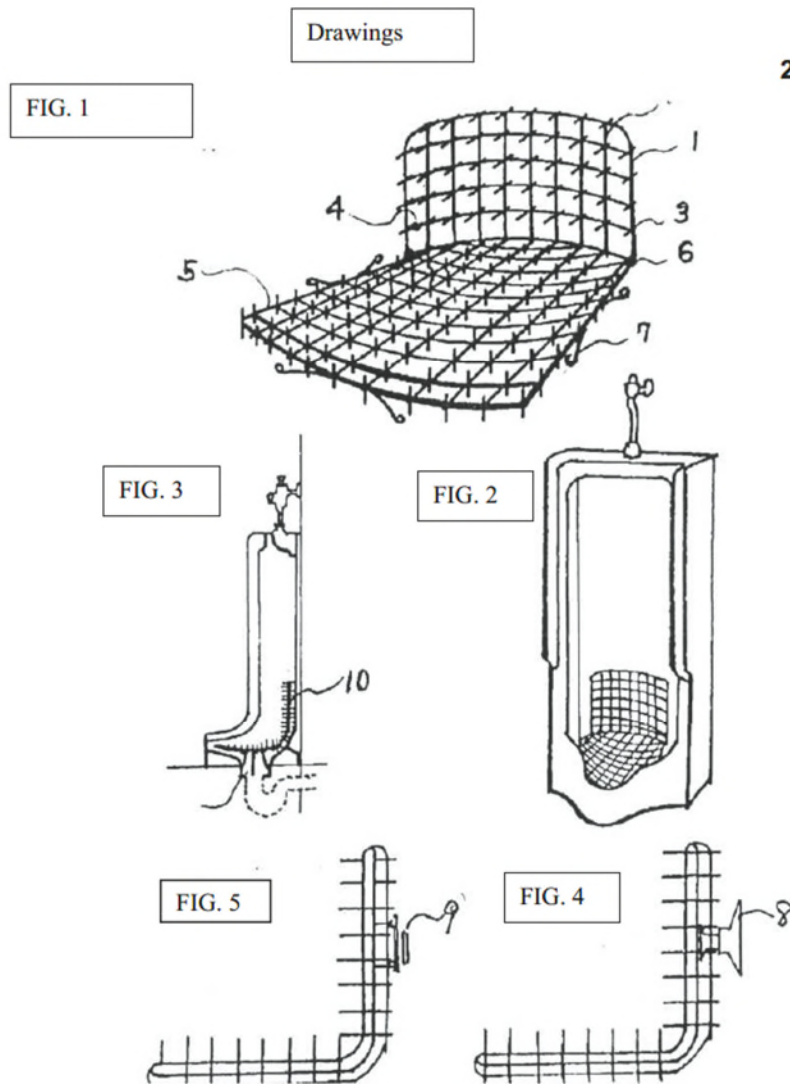
On March 3, 2025, Patent Owner filed suit asserting the '154 Patent and Patent Owner's U.S. Patent No. 10,294,649 against Petitioner. *Sanastar, Inc. d/b/a/WizKidProducts v. Fresh Products, LLC*, No. 3:25-cv-00418 (N.D. Ohio). Ex. 2002.

B. The Invention of the '154 Patent

For the purposes of Patent Owner's Preliminary Response, Patent Owner adopts Petitioner's description of the '154 Patent. Pet. at 6-9.

C. Japanese Utility Model 60-190865 to Fushimi ("Fushimi")

Fushimi (Ex. 1004) discloses a "urine splash prevention device" that, although ignored by Petitioner, unmistakably maintains a permanent L-shaped configuration of the bottom and vertical sides of its fixed frame. Fushimi makes this clear by consistently describing its shape as "L-shaped." Ex. 1004, 2 ("L-shaped frame (1)...L-shaped outer frame"), 3 ("L-shaped frame (1)"). The L-shaped frame is comprised of "a vertical side (4)" and "a bottom side (5)." *Id.* Fushimi does not depart from this description of its fixed L-shaped frame. In fact, each one of the five figures of Fushimi shows the frame being an "L-shape" as depicted below:



Fushimi also discloses an element labeled as “6” and refers to it as “a support,” “supports,” and a “bearing shaft support point.” Ex. 1004. Fushimi discloses that the supports/support point (6) are/is the anchor point for a fastener, labeled “7” that attaches the device to the inside of a urinal. See Ex. 1004 at 1 (“attaching a bent-tip attachment to the body, which is supported by a support shaft at the point where the vertical side . . . and the bottom side meet, attaching a fastener with a bent-tip end, and stretching this around the inside of the urinal.”).

D. U.S. Patent No. 10,145,098 to Brown (“Brown ’098”)

Petitioner is the original applicant and current owner of Brown ’098. Ex. 1005. Brown ’098 describes a single-piece, flat urinal screen, as shown in Figure 1 (reproduced below). *Id.*, Fig. 1.

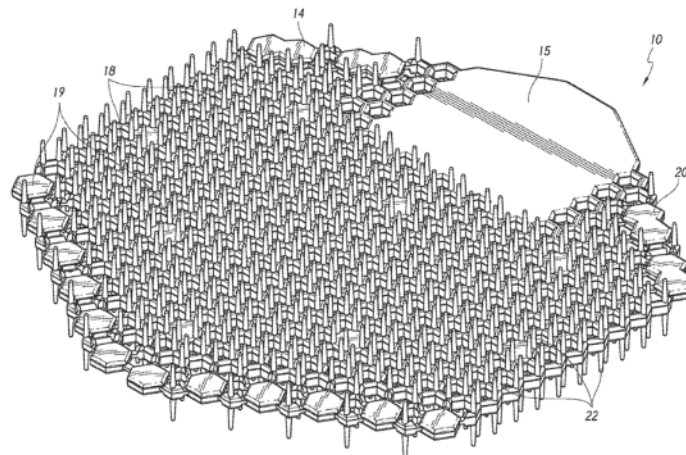


FIG. 1

Brown ’098 explains that “the urinal screen 10 can include a frame 14 . . . sized and shaped to fit over all or a portion of a drain of a toilet or urinal. The frame 14 can define a plurality of openings 18 through a thickness of the frame 14. In some embodiments, the urinal screen 10 includes a plurality of posts or structural supports 22 extending from one or more surfaces of the frame 14.” *Id.*, 4:1-8. Figure 5 is an elevational edge view of Brown ’098’s urinal mat and shows the posts 22 extending from both sides of the frame 14. *Id.*, Fig. 5.

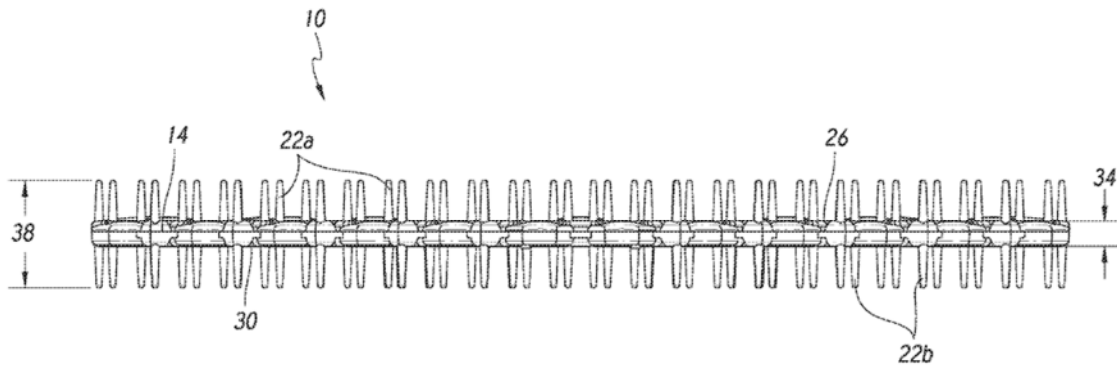


FIG. 5

Brown '098 explains that “posts 22 space the frame 14 from the installation surface of a urinal or other fixture onto which the urinal screen 10 is installed.” *Id.*, 6:58-61. Finally, Brown '098 explains that “[s]pacing the frame 14 from the installation surface can reduce the likelihood that the openings 18 are clogged by debris. In some embodiments, the posts 22 positioned between the frame 14 and the installation surface can reduce splashing in the urinal by deflecting urine or other fluids which pass between the frame 14 and the installation surface (e.g., fluid that passes through the openings 18 or around the perimeter of the frame 14).” *Id.*, 7:12-19.

Brown '098 makes no representations that its figures are drawn to scale.

E. U.S. Patent No. 9,243,394 to Brown (“Brown '394”)

Petitioner is the original applicant and current owner of Brown '394. Ex. 1006. Brown '394 discloses various shapes of urinal screens that are placed over the horizontal drain cover in urinals. See *Id.*, Figs. 1-9. Brown '394 also discloses

embodiments of urinal screens that “can be configured to be installed on the back wall of a urinal, as illustrated in FIGS. 10 and 11.” *Id.*, 11:14-16. The embodiments that attach to the back wall of the urinal are separate, i.e., not connected to, the urinal screens that are placed over the horizontal drain covers. *See Id.*, 12:1-5 (“In some embodiments, a plurality of urinal screens can be used in a urinal 300. For example, a urinal screen 110, 210, 460 can be placed on the back wall 302 of the urinal 300 **and an additional urinal screen** 110, 210, 460 can be placed adjacent to or covering a drain 304 of the urinal 300.”) (emphasis added).

F. U.S. Patent Pub. No. 2005/0144711 to Valadez et al. (“Valadez”)

Valadez discloses an anti-splash guard for urinals that consists of a porous mesh material that attaches to the back wall of the urinal. Ex. 1007, ¶ [0022]. Its mesh material is made of “fibrous strands 124 that are arranged, positioned, or joined together so as to define a porous mesh or lattice configuration.” *Id.* at ¶ [0024].

Unlike the urinal anti-splash device with protrusions shown and described in the ’154 Patent, Valadez has “substantially flat surfaces so as to allow the anti-splash guard 120 to fit flush against the back wall of the urinal 100.” *Id.* at ¶ [0023].

In addition to disclosing a flat, protrusion-free pouch being attached to the back wall of the urinal, Valadez also discloses a completely separate and also protrusion-free pouch being “placed in the bowel section 110 of the urinal 800.” *Id.* at ¶ [0039].

G. U.S. Patent Pub. No. 2007/0044221 to Wise, Sr. (“Wise”)

Wise discloses a urinal insert for conventional upright urinals that “prevents urine splash-back and assists in air freshening.” Ex. 1008, Abstract. It is designed to keep the surrounding restroom area cleaner and drier while also improving sanitation. *Id.*, [0011]-[0012].

The Wise insert comprises a hard rubber or plastic frame supporting fins that intercept and diffuse the urine stream. *Id.*, [0016]. It includes both vertical (Type B) and angled (Type A) fins, which “slice the urine stream” to minimize splash. *Id.*, [0016]–[0017]. The fins and frame are held together with hard-plastic rods. *Id.*, [0016]. Additional threaded shaft housings receive height-adjusting posts (hard-plastic bolts with heads) that space the insert slightly above the urinal’s water line, ensuring proper drainage during flushing. *Id.*, [0016]–[0017].

An upper and lower replaceable deodorizer system is incorporated into the Wise insert. Ex. 1008, [0018]. The upper deodorizer attachment is wedge-shaped, channeling flush water smoothly across the finned surfaces to rinse the unit and prevent water splash during flushing. *Id.*, [0019]. The lower deodorizer attachment provides additional air-freshening and scent dispersion. *Id.*, [0020]–[0021].

III. CLAIM CONSTRUCTION IS NOT NECESSARY TO DENY INSTITUTION HERE

Petitioner provides proposed constructions for “elongated,” “longitudinal,” “rectangular-like,” and “circular-like.” Petition (“Pet.”) at 13-14. The Board need not address these constructions to deny institution and find that Petitioner has not met its burden to show a reasonable likelihood of prevailing. *Realtime Data, LLC v. Iancu*, 912 F.3d 1368, 1375 (Fed. Cir. 2019) (“The Board is required to construe ‘only those terms ... that are in controversy, and only to the extent necessary to resolve the controversy.’” (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999))). Patent Owner reserves the right to assert its own claim construction positions to the terms identified by Petitioner and/or to other terms should the Board institute IPR.

IV. THE BOARD SHOULD EXERCISE ITS DISCRETION TO DENY INSTITUTION DUE TO THE REASONS EXPRESSED IN PATENT OWNER’S MOTION FOR DISCRETIONARY DENIAL

On September 23, 2025, Patent Owner filed its Motion for Discretionary Denial under 35 U.S.C. § 314(a). The contents of that Motion are incorporated herein by reference. *See* Paper No. 6. In summary, the instant Petition presents a textbook case for discretionary denial under 35 U.S.C. § 314(a). Petitioner seeks institution of *inter partes review* proceedings after years of silence—despite having full knowledge of the ’154 Patent for nearly 7 years, having previously manufactured

products covered by the '154 Patent, and having agreed in writing not to interfere with Patent Owner's intellectual property rights. Only when Patent Owner was forced to bring suit to stop infringement did Petitioner respond by filing this IPR Petition in an effort to avoid judicial scrutiny and undermine the settled expectations of Patent Owner.

Patent Owner's '154 Patent issued in 2018. Petitioner has known about this patent since 2018, when it served as a contract manufacturer for Patent Owner's product covered by the '154 Patent (called Splash Hog[®] urinal screens) and, in that capacity, Petitioner marked Patent Owner's products with the '154 Patent's number. Paper 6 at 1; *see also* Ex. 2001. During that relationship, Petitioner received confidential design specifications and acknowledged in its manufacturing agreement that Patent Owner owned the intellectual property. *Id.* Petitioner also agreed not to “interfere” with Patent Owner's intellectual property ownership rights. *See* Ex. 2001, 2018 Manufacturing Agreement, § 14.2 (prohibiting each party from “tak[ing] any action that may interfere with the other Party's Intellectual Property Rights,” “challeng[ing] any right, title or interest of the other Party in such other Party's Intellectual Property Rights [,]” or “mak[ing] any claim or tak[ing] any action adverse to such other Party's ownership of its Intellectual Property Rights[.]”).

When the parties' business relationship ended in 2022, Petitioner went silent. Paper 6 at 2. But, shortly thereafter, and without Patent Owner's knowledge,

Petitioner began selling its own urinal screen—the “Tsunami”—which copied the core design and functionality of Patent Owner’s patented products. *Id.* Patent Owner was thus forced to send cease-and-desist letters to Petitioner, and was eventually forced to file a lawsuit on April 23, 2025. *Id.* at 1. Only then—seven years *after* first learning of the ’154 Patent and nearly three years *after* ending its relationship with Patent Owner and commencing its infringement—did Petitioner suddenly decide to file the instant IPR Petition challenging the validity of the patents. *Id.* at 2. This Petition is an obvious attempt to avoid the consequences of its unlawful conduct.

As explained in detail in Patent Owner’s pending Motion for Discretionary Denial, institution should be discretionarily denied by the Board for multiple reasons, *including*:

- A. Petitioner acknowledged Patent Owner’s intellectual property ownership, and made a contractual commitment not to challenge Patent Owner’s intellectual property rights.**

The Board has previously denied institution where petitioners agreed not to interfere with a patent owner’s rights or where their conduct constitutes gamesmanship. *See, e.g., Microsoft Corp. v. TS-Optics Corp.*, IPR2025-00767, Paper No. 13 (PTAB Aug. 14. 2025) (discretionary denial where Petitioner was “aware of the challenged patent, having taken a license to it from 2011-2018.”). Here, Petitioner’s prior contractual acknowledgments and commitments should bar

its current petitions, and its post-agreement infringement only amplifies the abuse of process should either proceeding be instituted.

B. Petitioner’s conduct violates the settled expectations of the Patent Owner.

The Director’s current policy guidance memoranda and recent Board decisions have emphasized the appropriateness of discretionary denials where long-issued patents are challenged. *See, e.g., Belden, Inc. v. Commscope, Inc.*, IPR2025-00833, Paper No. 13 (PTAB Sept. 12, 2025)(discretionarily denying institution where “the challenged patent has been in force for nine years creating strong settled expectations for Patent Owner” and where the “Petitioner has been aware of the challenged patent” for at least 2-3 years prior to filing the Petition.); *see also Amazon.com, et. al. v. Audio POD*, IPR2025-00757, Paper No. 15 (PTAB Aug. 14. 2025) (finding the petitioner was aware of the patents prior to the IPR attack and the challenged patents had “been in force for approximately seven, eleven, seven, eleven, and nine years, respectively, creating strong settled expectations for Patent Owner.”). This is especially true where, *as here*, the petitioner has known of the patents since issuance and has only chosen to pursue an IPR challenge *after* commencement of litigation. Paper 6 at 5-6. Here, despite a keen awareness of the Patent Owner’s Patents, Petitioner sat idle for years while profiting from Patent

Owner's intellectual property. Its sudden pivot to IPR *only after being sued* should not be permitted.

C. Parallel litigation weighs heavily against institution under *Fintiv*.

The pending district court case involves the same parties, the same patents, and overlapping issues. *See* Paper 6 at 15-16. Indeed, Petitioner has filed an Answer and asserted a counterclaim for invalidity *raising the same grounds* it now presents in the present IPR petitions. *Ex. 2005* at 12-16. In other words, Petitioner's IPR filings appear calculated to avoid the court's jurisdiction and to stall adjudication of its infringement.

D. The Merits of the IPR Petition is Weak.

Petitioner's IPR Petitions lack merit because they rest almost entirely on a misreading of the Japanese Fushimi reference. As discussed below, Petitioner's assertions are unfounded and misdirected, leaving their invalidity theories fatally deficient.

Against the foregoing backdrop, based on the age of the '154 Patent, coupled with Petitioner's longstanding knowledge of the '154 Patent, and the fact that Patent Owner enjoys strong settled expectations in the validity of the '154 Patent, institution of this IPR would undermine the integrity of the PTAB and the public's confidence in the IPR system and the patent system as a whole. Patent Owner

submits the Board should exercise its discretion here to deny institution under 35 U.S.C. § 314(a).

V. PETITIONER FAILS TO MEET ITS BURDEN ON GROUNDS 1-5 BECAUSE THE ALLEGED PRIOR ART FAILS TO TEACH, SHOW, OR SUGGEST THE LIMITATIONS OF ALL CHALLENGED CLAIMS

Considered on the merits, the Board should not institute trial because Petitioner fails to show a reasonable likelihood of prevailing. For purposes of this preliminary response, Patent Owner addresses only a few of the more readily apparent defects with Petitioner’s pursuit.

Each of Grounds 1-5 relies on Fushimi for the limitations of “translating,” i.e., bending, the base and backwall portion of the urinal device relative to one another. But Fushimi is a fixed “L-shaped” structure that is unable to bend.

Grounds 1, 3, and 5 rely on Brown ’098 for the limitations “a first plurality of protrusions extending outwardly . . . and which taper downwardly in a direction toward the upper surface of the anti-splash body” (Cl. 1) and “protrusions taper downwardly in a direction toward an upper surface of the anti-splash body and the base” (Cl. 15). Pet. at 14-95. But Brown ’098 makes no such disclosure and Petitioner’s attempt to glean the required disclosure from a single drawing in Brown ’098, which Brown ’098 does not disclose is to scale, is antithetical to settled case

law on a petitioner's inability to rely on drawing figures for scale or size in an anticipation analysis.

Ground 1 relies on Brown '394 to show "perforated coupling regions." Pet. at 43 ("It would have been obvious to a POSITA, at the time of the '154 Patent's invention, to join the two parts at a perforated coupling region based on the teachings of Brown '394 and Fushimi."). Brown '394 is asserted in connection with dependent claims 2, 4, and 6-10 (Pet. at 34-50). The Petition does not allege that Brown '394 makes up for the translating/folding deficiencies of Fushimi with regard to independent claim 1. The Petition instead mentions Brown '394 only in connection with independent claims 11 and 18, but, even then, it still provides absolutely no analysis whatsoever of what element of either of those claims Brown '394 allegedly discloses. *See* Pet. at 53 and 62. Ground 1 relies on Brown '394 in connection with dependent claims 12, 14, and 15 (Pet. at 54). The Petition does not allege that Brown '394 makes up for the deficiencies of Fushimi with regard to the translating/folding feature claimed in independent claim 11, from which dependent claims 12, 14, and 15 depend.

Grounds 2 and 3 rely on Valadez for teaching a shape and size of a urinal mat. Pet. at 72 ("A POSITA would have understood that a variety of sizes were useful for Fushimi's anti-splash body, including those taught by Valadez"). The Petition does not, however, allege that Valadez teaches the translating/bending functionality

recited in claims 1, 11, and 18, a critical feature missing from Fushimi, Brown '194, and Brown '394. Valadez is also asserted against dependent claims 3, 8, 12, and 14-16. Pet. at 63-79. But, because dependent claims contain all the limitations of the independent claim from which they depend, and because Valadez does not make up for the deficiencies of Fushimi, Brown '194, and Brown '394 as applied to the independent claims, Valadez cannot make up for those same deficiencies as applied to dependent claims 3, 8, 12, and 14-16.

Grounds 4 and 5 depend on Wise for teaching the limitation of “a length that is twice as long as a width.” Pet. at 83 (“This is explicitly taught by Wise”). Once again, however, the Petition does not allege that Wise teaches the translating/bending functionality recited in claims 1, 11, and 18 and which is missing from Fushimi, Brown '194, Brown '394, and Valadez.

Wise is also asserted against dependent claims 3, 10, 12, 14-16, 18, and 20. Pet. at 79-95. Here, too, however, because dependent claims contain all the limitations of the independent claim from which they depend, and because Wise does not make up for the deficiencies of Fushimi, Brown '194, Brown '394, and Valadez as applied to the independent claims, it cannot make up for those same deficiencies as applied to dependent claims 3, 10, 12, 14-16, 18, and/or 20.

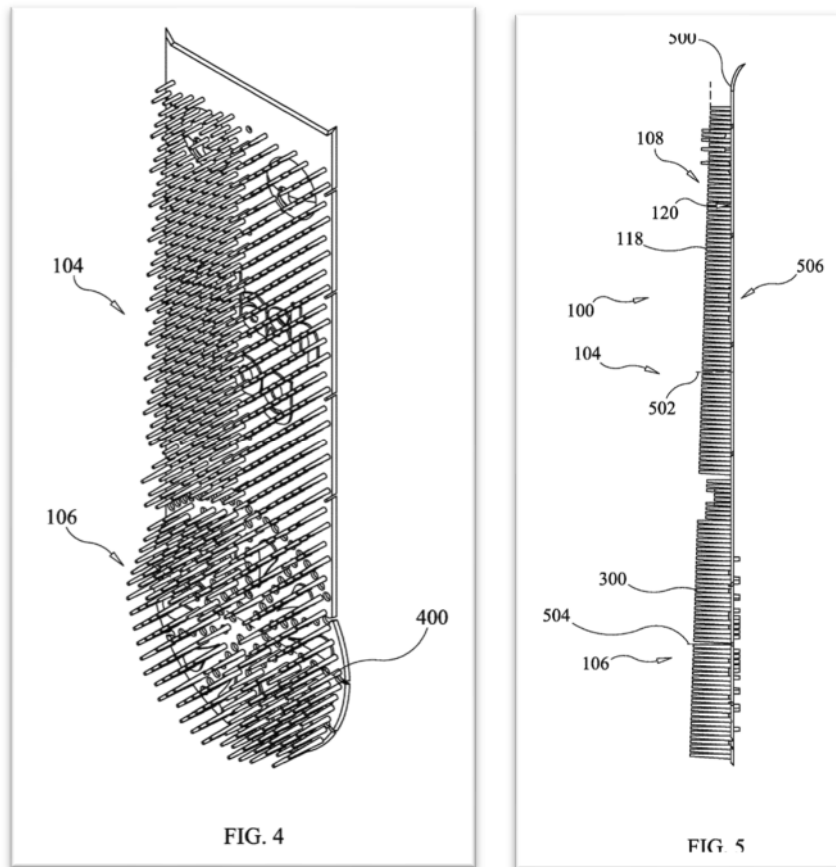
A. Petitioner’s Ground 1 Fails because Brown ’098 Does Not Make Up for the Deficiencies of Fushimi

Independent claims 1, 11, and 18, and the dependent claims therefrom require that the horizontal base and vertical anti-splash body be able to “translate” or “to be moved” from a perpendicular orientation to a linear parallel orientation. *See generally* Ex. 1001, Claims 1, 11, and 18. To this end, Grounds 1-5 of the Petition rely exclusively on Fushimi to teach these limitations; but Fushimi does not “translate,” and Petitioner’s challenge is thus fatally flawed for at least this reason.

1. Fushimi Does Not Show, Teach, or Suggest a body that “translates”

Fushimi does not show, teach, or suggest independent claim 1’s limitation of “the second plurality of protrusions configured to extend in the direction substantially perpendicular from the first portion of the anti-splash body,” independent claim 11’s limitation of “configured to translate the base between a first position including the base oriented in a direction parallel to the anti-splash body and a second position,” nor independent claim 18’s limitation of “configured to allow the base to be moved from being substantially parallel to the anti-splash body in a first position to a second position substantially perpendicular to the anti-splash body.” Ex. 1001, Claims 1, 11, and 18.

The ’154 Patent describes and shows a urinal anti-splash device that is a single elongated piece, which can lay flat. *See e.g.*, Ex. 1001, Figures 4 and 5.



The '154 Patent also describes and shows a urinal anti-splash device that can easily bend to conform to the interior surface of a urinal. Specifically, the specification states:

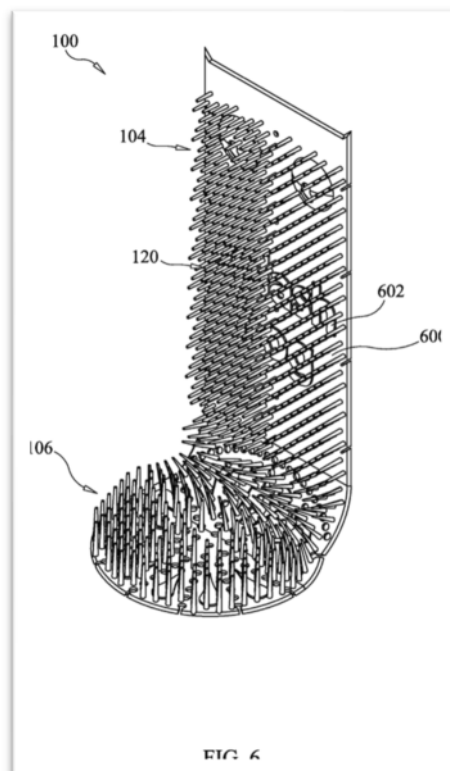
In one embodiment, the perforated coupling region 204 is configured to **translate** the base 106 from a first position in which the base 106 is oriented in a direction parallel to the anti-splash body 104 (FIG. 2) to a second position including the base 106 being oriented in a direction substantially perpendicular from the first portion 108 of the anti-splash body 104 (FIG. 3). The term "substantially perpendicular" is defined herein as being disposed at an approximate 90° orientation (+/-15-20°) with respect to the first portion 108.

...

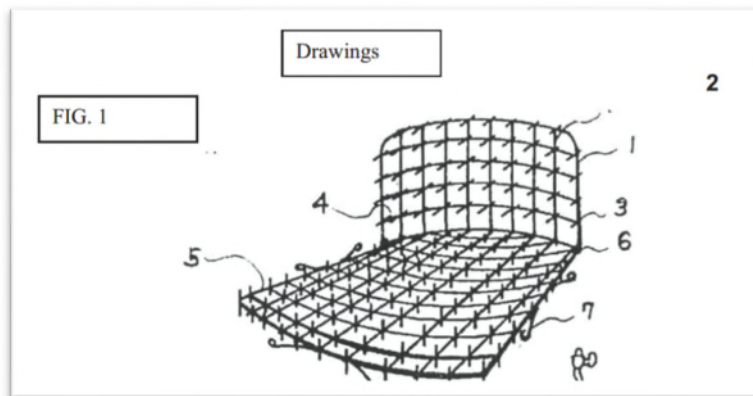
With reference again to FIG. 1, the substantially perpendicular orientation of the base 106 enables the user to bend the urinal anti-splash device 100 in accordance with the dimensions of the urinal. In the same vein, this embodiment provides the urinal anti-splash device 100 that covers the urinal's back wall 114 and lower portion 124, thereby reducing or preventing urine from splashing on the user when either or both the back wall 114 and the lower portion 124 are struck by a stream of urine. As an added advantage, the urinal anti-splash device 100 may be made from a single mold, effectively reducing the costs associated with making the urinal anti-splash device 100 in comparison to other existing urinal accessories that may require the manufacturing of separate components. In other embodiments, the anti-splash device 100, e.g., the anti-splash body 104 and the base 106, may be manufactured as separate components.

Ex. 1001, 7:30-57 (emphasis added). *See also* Ex. 1003, ¶30 (Dr. Hurd's Declaration).

This bent or “translated” configuration is shown best in figure 6, as follows:



Petitioner argues that the vertical side (4) and bottom side (5) of Fushimi can be bent from the L-Shape to a flat shape. Pet. at 40-42. Petitioner is incorrect. Fushimi is incapable of “translating” from its L-shape. *See, e.g.*, Ex. 1004, figure 1:



At no point does Fushimi ever suggest the device can be or should be anything other than the above depicted “L-shaped frame.” Indeed, Fushimi’s detailed description begins by stating “[t]he present invention relates to a urine splash prevention device, which is used by stretching a mesh over the entire surface **of an L-shaped outer frame formed to match the inside shape of a urinal.**” Ex. 1004, 2 (emphasis added). Consistent with this description, on the following page, in describing the drawings, Fushimi describes “a fine mesh (2) is stretched over the vertical edge (5) and bottom edge (6) of an **L-shaped frame** (1) formed to fit the inside perimeter of the urinal.” *Id.*, 3 (emphasis added). To be clear, there is absolutely no disclosure anywhere in Fushimi of its frame being anything other than L-shaped. This, alone, is fatal to Petitioner’s instant pursuit.

Fushimi's figure 1 points to where the vertical side (4) and bottom side (5) meet and labels it "6." Problematic, however, there are no details in any of the figures illustrating or indicating what element "6" is. Fushimi's figures 4 and 5 show side profiles of the device, and nothing is illustrated in that location (the corner). Instead, those figures show a frame unmistakably maintaining an L-shaped position with no other support applied, i.e., it is not sitting in a urinal. And, Fushimi's figures 2 and 3 show the frame in a urinal, again maintaining the distinct L-shape.

More confusing, Fushimi's specification identifies element 6 inconsistently as "a support (6)," a "bottom edge (6)," "supports (6)," and a "bearing shaft support point" *Id.*, 3-5. Each time element 6 is referred to as "a support" or "supports," it is in conjunction with "a fastening device (7)" or "fastening members (7)" that attach to the inside of the urinal to hold the device in place. *Id.*, 3 and 4 ("fastening members (7) provided with tensioning legs . . . that are attached to the inside perimeter of the urinal.").

In the portion of the specification that refers to a "bottom edge (6)," the designation appears to be a typographical error. The surrounding text enumerates seven numbered elements but omits number (4), while referring to element "(6)" twice—once as "bottom edge (6)" and again as "supports (6)." Ex. 1004 at 2. Taken together, this context indicates that "bottom edge" was intended to be identified as element "(4)," rather than "(6)."

The last sentence of Fushimi’s specification states “(6) is the bearing shaft support point (7) is a locking device.” *Id.* at 4. This is not a model of clarity, but it certainly does not indicate element (6) is a hinge or any structure that allows the frame of Fushimi to bend.

Despite all of Fushimi’s disclosures identified above, Petitioner, on page 42 of the Petition, argues “[a] POSITA would understand the coupling region is configured to translate the base from a position parallel to the anti-splash body to a position substantially perpendicular to the anti-splash body.” Pet. at 42. Petitioner provides no mechanical explanation of how this could occur and Petitioner’s only support for this conclusion is a citation to paragraph “1006” [sic] of Dr. Hurd’s Declaration. Pet. at 42. Notably, there is no paragraph 1006 within Dr. Hurd’s Declaration, but there is a paragraph 106, which focuses on dependent claim 6, includes a similar conclusory statement about a POSITA, and says “Fushimi teaches the [sic] it can be ‘bent freely’ at this region ‘to make it easy to handle.’” There is no further explanation in paragraph 106 of where Fushimi discloses that its L-shaped frame could be bent. Paragraph 106 is also a copy of the contents of paragraph 76 of the Declaration, which pertains to independent claim 1 and, in that paragraph, Dr. Hurd actually states “Fushimi discloses several embodiments of its invention, but I note **all** of the disclosed embodiments show Fushimi’s device in its ‘bent’ or perpendicular configuration.” Ex. 1003 at ¶ 76. (emphasis added). He then states that

“Fushimi notes that its support 6 ‘can be detached and **bent freely** to make it easy to handle.’” *Id.* (emphasis added). Tellingly, though, Dr. Hurd provides absolutely no additional mechanical description, citation, or any level of explanation of how Fushimi could accomplish this claimed ability to be both detached and “bent freely” in light of its structured L-Shaped frame. Moreover, the Petition’s citation to Dr. Hurd’s declaration should be accorded no weight because the declaration “merely parrots the words in the Petition.” *One World Techs., Inc. v. Chevron (HK) Ltd.*, PGR2020-00059, 2020 WL 7222691, at *16 (P.T.A.B. Dec. 7, 2020); *compare* Pet. at 42 *with* Ex. 1003 ¶ 106.

Additionally, searching Fushimi for the terms “bent freely,” it is clear that Petitioner’s and Dr. Hurd’s entire Fushimi argument is built on a single sentence in Fushimi, which is the following: “engaging parts for each edge that are supported by supports (6) that can be detached and bent freely to make it easy to handle, and that has a number of fastening members (7) provided with tensioning legs having bent tips that are attached to the inside perimeter of the urinal.” Ex. 1004 at 2. Patent Owner acknowledges that this sentence can be read in two ways by interchanging the subject of the verb, but only one interpretation makes grammatical and logical sense.

Under Patent Owner’s interpretation, “**engaging parts for each edge** that are supported by supports (6) **that can be detached and bent freely** to make it easy to

handle. . .”, the reader would understand the engaging parts can be detached and bent—not the supports (6). This interpretation is corroborated by Fushimi’s specification, which consistently speaks about the structures that hold the device to the urinal as being bendable. *Id.* at 1 (“attaching a fastener with a bent-tip end, and stretching this around the inside of the urinal”); *Id.* at 2 (“fastening members (7) provided with tensioning legs having bent tips that are attached to the inside perimeter of the urinal”). Thus, it is consistent with Fushimi to read the sentence at issue as indicating that parts that engage with the edges of a urinal are bendable and removable, not the “supports” that couple them to the frame.

Under Petitioner’s interpretation, the sentence is read as “engaging parts for each edge that are supported by **supports (6) that can be detached and bent freely** to make it easy to handle. . .”. This interpretation leaves the reader to understand that it is the supports can be detached and bent. After apparently reading the sentence in this manner, Dr. Hurd concludes that “[b]y bending Fushimi at support 6 . . . it would be configured to be generally flat, like the ‘straight’ configuration of the ’154 Patent.” Ex. 1003 at ¶76. In arriving at this conclusion, Dr. Hurd leaves many dots unconnected. First, neither he nor Fushimi disclose in any fashion how the “support (6)” “connected fitted together” [sic] the two sides of Fushimi. *Id.* Assuming, *arguendo*, that is what “support (6)” does, which it does not, neither Dr. Hurd nor Fushimi explain the large mechanical jump in getting a structure that allegedly holds

the sides together to be able to be “detached” from those sides and yet still be able hold them together. Second, how would it be detached, hold the sides together, and also allow them to pivot/translate in relation to each other? Moroso, there is yet another unexplained mechanical leap for “support (6)” to be “bent freely” after it is detached and for it to still hold the sides together and also allow for them to pivot/translate. None of this seems possible, it certainly is not discussed or disclosed in Fushimi, and Dr. Hurd fails to explain it as well.

Simply put, Petitioner’s convenient interpretation that the supports can be detached and bent falls outside the teaching of the Fushimi reference. Although Fushimi is an English translation of a Japanese document, and there will be some inconsistencies with the English language, Petitioner’s view finds no support for its choice of interpretations of the sentence “engaging parts for each edge that are supported by supports (6) that can be detached and bent freely to make it easy to handle.” “To be enabling, the specification of a patent must teach those skilled in the art how to make and use the full scope of the claimed invention without ‘undue experimentation.’” *Ex Parte Sigram Schindler*, 2020 WL 6781435, at *6 (P.T.A.B. Nov. 13, 2020) quoting *Genentech, Inc. v. Novo Nordisk, A/S*, 108 F.3d 1361, 1365 (Fed. Cir. 1997). Fushimi does not teach one skilled in the art how to alter the L-shaped frame or even why one would choose to do so.

Determining the need for “undue experimentation” is not “a single, simple factual determination, but rather is a conclusion reached by weighing many” factors. *Id. quoting In re Wands*, 858 F.2d 731, 737 (Fed. Cir. 1988). Those factors (the *Wands* factors) include:

(1) the quantity of experimentation necessary, (2) the amount of direction or guidance presented, (3) the presence or absence of working examples, (4) the nature of the invention, (5) the state of the prior art, (6) the relative skill of those in the art, (7) the predictability or unpredictability of the art, and (8) the breadth of the claims.

Id. Here, at least six of the eight factors favor Patent Owner, and, at best, the remaining two are neutral:

- (1) Fushimi’s single sentence, which can be read multiple ways and does not explain how the components work or fit together, leaves a significant quantity of experimentation necessary. This first factor thus falls in favor of Patent Owner.
- (2) There is literally no direction or guidance presented by Fushimi on how to cause its components to translate. Factor 2 thus falls in favor of Patent Owner.
- (3) Fushimi provides no working examples of a translating frame. Factor 3 falls in favor of Patent Owner.

- (4) The nature of the invention is simple, so this factor is neutral.
- (5) There is no prior art that teaches translating urinal screens. Therefore, the fifth Factor also falls in favor of Patent Owner.
- (6) The relative skill of those in the art, as proclaimed by Petitioner, would be one with “bachelor’s degree in mechanical engineering and one to two years of experience with the design or testing of splash reduction methods and devices.” Pet. at 12. This factor is neutral.
- (7) It would be difficult to predict Fushimi’s element 6 would allow translating, since Fushimi does not disclose it being designed for or able to be used for that purpose. Factor 7 thus falls in favor of Patent Owner.
- (8) The “Scope of claims” of Fushimi simply says the frame is “fitted together by a support (6).” It says nothing about bending or translating. Factor 8 falls in favor of Patent Owner.

In addition to the foregoing balancing test weighing decisively in favor of Patent Owner, it must also not be overlooked that a petitioner cannot rely on conclusory statements to prove obviousness. Instead, the petition must articulate specific reasoning based on evidence of record to support the conclusion of obviousness. *Corephotonics, Ltd. v. Apple Inc.*, 84 F.4th 990, 1004 (Fed. Cir. 2023) (“To satisfy its burden of proving obviousness, a petitioner cannot employ mere conclusory statements. The petition must instead articulate specific reasoning, based

on evidence of record, to support the legal conclusion of obviousness”), *citing In re Magnum Oil Tools Int'l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016). This reasoning must address the scope and content of the prior art, the differences between the prior art and the claimed invention, and the presence or absence of a motivation to combine. *Rembrandt Diagnostics, LP v. Alere, Inc.*, 76 F.4th 1376, 1382 (Fed. Cir. 2023). Petitioner has fallen woefully short of this strict and fundamental requirement.

Additionally, to prevail in its challenges, Petitioner must prove unpatentability by a preponderance of the evidence. 35 U.S.C. § 316(e) (2012); 37 C.F.R. § 42.1(d) (2018). “In an [inter partes review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (requiring inter partes review petitions to identify “with particularity ... the evidence that supports the grounds for the challenge to each claim”)). This burden of persuasion never shifts to Patent Owner. *See Dynamic Drinkware, LLC v. Nat'l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015) (discussing the burdens of proof in an inter partes review).

The reference may disclose the elements of the claim either “expressly or inherently.” *Trintec Indus., Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 1295 (Fed. Cir. 2002). Inherent anticipation requires that the missing descriptive material is

necessarily present, not merely probably or possibly present, in the reference. *Bettcher Indus., Inc. v. Bunzl USA, Inc.*, 661 F.3d 629, 639 (Fed. Cir. 2011) (“Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient”).

To this end, Fushimi has been asserted against all challenged claims for, among other things, proving disclosure of the translating/bending feature. But Fushimi fails to teach, show, or suggest that its vertical side (4) and bottom side (5) can “translate the base between a first position including the base oriented in a direction parallel to the anti-splash body and a second position,” as required by claim 11, “allow the base to be moved from being substantially parallel to the anti-splash body in a first position to a second position substantially perpendicular to the anti-splash body,” as required by claim 18, or has a “second plurality of protrusions configured to extend in the direction substantially perpendicular from the first portion of the anti-splash body,” as required by claim 1. Petitioner’s invalidation attack based on Fushimi must therefore be rejected.

2. Brown ’098 Does Not Make Up for the Deficiencies of Fushimi

On pages 28-32 of the Petition, Petitioner titles independent claim 1’s limitation of “a second plurality of protrusions extending outwardly from the base, the second plurality of protrusions configured to extend in the direction substantially

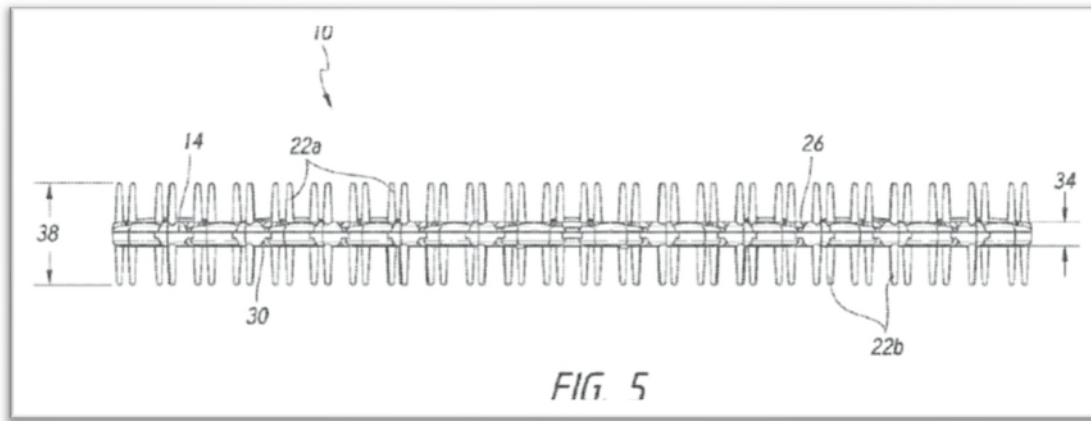
perpendicular from the first portion of the anti-splash body” as “Limitation 1[D]”. Petitioner argues that this feature is rendered obvious by a combination of Fushimi and Brown ’098. *Id.* But Brown ’098 does not disclose a translating/folding ability and Petitioner’s argument to the contrary is wholly deficient.

The deficiencies of Fushimi are detailed above and incorporated herein by reference. Petitioner recognizes that Brown ’098 only shows and describes its urinal screen as a single flat piece. Pet. at 28 (“Brown describes a device molded as a single piece”); *see also* Petitioner’s inclusion of Brown ’098’s figures 1 and 4 at 17. Yet, on page 31 of the Petition, Petitioner states “Limitation 1[D] also would have been obvious over Fushimi in combination with Brown ’098. Using Brown ’098’s urinal screen in the configurations taught by Fushimi would have been obvious for the reasons described above.” But Petitioner’s only previous discussion of Brown ’098 focused on its protrusions and their supposed tapering. Petitioner did not allege that Brown ’098 had any relevance to translating a base to a body. So, the referenced “reasons described above” offer nothing regarding “Limitation 1[D].” And, to be certain, Petitioner does not argue anywhere that Brown ’098 discloses any kind of translation/folding ability and/or that Brown ’098 makes up for the deficiency of Fushimi. To the contrary, Petitioner argues that, if any modification of Fushimi or Brown ’098 should take place, it would be Fushimi’s mesh and brushes that would be placed onto Brown ’098’s fixed frame. *Id.* at 28 (“Brown describes a device

molded as **a single piece** . . . A POSITA also would have had a reasonable expectation of success in modifying Fushimi **to use Brown’s frame and posts**”(emphasis added); *see also id.* at 32 (Relying only on Fushimi for the bending/translating feature, “A POSITA would have recognized the device **would have Fushimi’s adjustable coupling region** between the base and the anti-splash body to configure the device for use in a urinal.”)(emphasis added). As discussed in section V(A)(1), *infra*, Fushimi does not disclose an adjustable coupling region. Thus, Brown ’098, which also does not disclose a translating/folding ability, cannot make up for the deficiencies of Fushimi, nor does Petitioner set forth an argument that it does. Simply put, neither Fushimi nor Brown ’098 teach, show, or suggest “Limitation 1[D]” as defined in the Petition.

3. Brown ’098 Does Not Teach or Suggest a body with “Protrusions” that “Taper Downwardly”

On page 24 of the Petition, Petitioner titled independent claim 1’s limitation of “a first plurality of protrusions extending outwardly from the upper surface of the anti-splash body and which taper downwardly in a direction toward the upper surface of the anti-splash body” as “Limitation 1[C].” Petitioner’s only support for its argument that this feature is taught by Brown ’098 is Brown ’098’s Figure 5, which is reproduced below.



Petitioner cites no support other than pointing to the above figure and states, “the protrusions (posts 22a on the top side and 22b on the bottom side) are tapered because they are wider at their base than their tip.” Pet. at 26. Importantly, however, Brown ’098 is silent as to the shape of its protrusions and it makes no statement that its drawings are to scale. As Petitioner’s Petition exposes, with its blown-up portion of Brown ’098’s figure 5, one can only see what appears to be a difference in size when the viewing size ratio of Brown ’098’s figure 5 is dramatically increased. Pet. at 26.

Petitioner is not the first litigant to scour the world for disclosure of an infringement-related limitation and then claim that a silent drawing “teaches” that limitation. But under Federal Circuit precedent, “it is well established that patent drawings do not define the precise proportions of the elements and may not be relied on to show particular sizes if the specification is completely silent on the issue.” *Hockerson-Halberstadt, Inc. v. Avia Group Intern., Inc.*, 222 F.3d 951, 956 (Fed. Cir.

2000), *citing In re Wright*, 569 F.2d 1124, 1127, 193 USPQ 332, 335 (CCPA 1977) (“Absent any written description in the specification of quantitative values, arguments based on measurement of a drawing are of little value.”); *In re Olson*, 41 C.C.P.A. 871, 212 F.2d 590, 592, 101 USPQ 401, 402 (CCPA 1954); cf. MPEP § 2125. Brown ’098 is indisputably “silent on the issue.” Ironically, Brown ’098 was filed by Petitioner. If it thought the thickness of protrusions was part of its invention, it could have easily stated as much. But it did not.

Section 2125 of The Manual of Patent Examining Procedure (“MPEP”) could not be more on point for this topic, as its title is: “PROPORTIONS OF FEATURES IN A DRAWING ARE NOT EVIDENCE OF ACTUAL PROPORTIONS WHEN DRAWINGS ARE NOT TO SCALE.” (emphasis in original). Brown ’098’s disclosure does not include the word “scale” and no other terminology is used by Brown ’098 to suggest its drawings are to scale. The shape of the protrusions illustrated in Brown ’098 could simply be a draftsman’s personal choice, his/her attempt to show perspective, the use of a previous illustrated element with no connection to the invention at hand, an accident, or any one of many other possibilities. But such does not constitute clear disclosure to the public of subject matter invented prior to the filing date of the ’154 Patent. As a result, under settled patent jurisprudence, Brown ’098 does not teach or suggest a body with “protrusions” that “taper downwardly.”

4. Dependent Claims Contain all the Limitations of the Independent Claims

In sections V(A)1-3 above, the deficiencies of the prior-art systems disclosed in the Fushimi and Brown '098 references were discussed. Specifically, Patent Owner showed that *at least* the following features are not found in Fushimi or Brown '098 and that no argument was made by Petitioner that Brown '394 disclosed such features:

| Claim 1 | |
|---|---|
| a first plurality of protrusions extending outwardly from the upper surface of the anti-splash body and which taper downwardly in a direction toward the upper surface of the anti-splash body | Not disclosed in Fushimi or Brown '098 Not alleged by Petitioner to be disclosed in Brown '394 |
| a second plurality of protrusions extending outwardly from the base, the second plurality of protrusions configured to extend in the direction substantially perpendicular from the first portion of the anti-splash b | Not disclosed in Fushimi or Brown '098 Not alleged by Petitioner to be disclosed in Brown '394 |
| Claim 11 | |
| a coupling region configured to translate the base between a first position including the base oriented in a direction parallel to the anti-splash body and a second position including the base oriented in a direction substantially perpendicular from the base; | Not disclosed in Fushimi or Brown '098 Not alleged by Petitioner to be disclosed in Brown '394 |
| Claim 18 | |
| the coupling region configured to allow the base to be moved from being substantially parallel to the anti-splash body in a first position to a second | Not disclosed in Fushimi or Brown '098 Not alleged by Petitioner to be disclosed in Brown '394 |

| | |
|---|---|
| position substantially perpendicular to the anti-splash body | |
| a second plurality of protrusions extending outwardly from the base, the second plurality of protrusions configured to extend in the direction substantially perpendicular from the first portion of the anti-splash body | Not disclosed in Fushimi or Brown '098 Not alleged by Petitioner to be disclosed in Brown '394 |

Claims 2-4 and 6-10 depend directly from independent claim 1; claims 12 and 14-16 depend directly from independent claim 11; and claim 20 depends directly from independent claim 18. Independent claims 1, 11, and 18 distinguish over Fushimi, Brown '098, and Brown '394. Since dependent claims contain all the limitations of the independent claims, dependent claims 2-4, 6-10, 12, 14-16, and 20 distinguish over Fushimi, Brown '098, and Brown '394, as well. Accordingly, Patent Owner respectfully submits that it is not necessary at this stage to address the Fushimi, Brown '098, and Brown '394 references as applied to dependent claims 2-4, 6-10, 12, 14-16, and 20. Nor is it necessary to address whether the Petitioner properly “identified a number of rationales to support a conclusion of obviousness which are consistent with the proper ‘functional approach’ to the determination of obviousness as laid down in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. (BNA) 459 (1966)],” as required by the Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 415 (U.S. 2007), (2007) and MPEP § 2143. As such,

Patent Owner respectfully requests that the Petitioner's challenges to dependent claims 2-4, 6-10, 12, 14-16, and 20 be rejected by the Board.

B. Petitioner's Ground 2 Fails Because Valadez Does Not Make Up for the Deficiencies of Fushimi

1. Petitioner Does Not Assert that Valadez Discloses a Translating/Folding Ability

Petitioner's Ground 2 asserts the Fushimi and Valadez references under an obviousness analysis. Pet. at 63-76. As an initial matter, Ground 2 does not include independent claim 1 or dependent claims 2-10, which depend from claim 1.

Fushimi is described above in sections II(C) and V(A)(1). Valadez is described above in section II(F). Under Ground 2, Petitioner uses the Valadez reference only in a limited way. Specifically, with regard to independent claim 11, Petitioner does not argue that Valadez teaches "a coupling region configured to translate the base between a first position including the base oriented in a direction parallel to the anti-splash body and a second position including the base oriented in a direction substantially perpendicular from the base," but, instead, relies only on Fushimi for this disclosure. *See* Pet. at 68 ("Claim 11 recites 'a coupling region configured to translate the base between a first position including the base oriented in a direction parallel to the anti-splash body and a second position including the base oriented in a direction substantially perpendicular from the base.' **Fushimi discloses this limitation as explained above.**")(emphasis added).

With regard to independent claim 18, Petitioner does not argue that Valadez teaches “a coupling region disposed between the first portion of the anti-splash body and the base, the coupling region configured to allow the base to be moved from being substantially parallel to the anti-splash body in a first position to a second position substantially perpendicular to the anti-splash body.” *See* Pet. at 74-75. Petitioner identifies this limitation as 18[A][3] (*see* Pet. at 56) and then includes a chart pointing to different sections of the Petition. Pet. at 75.

| | |
|----------|--|
| | VIII(B) (Ground 2, Claim 11) |
| 18[A][3] | See §§VII(H) (Ground 1, Claim 6) VII(M) (Ground 1, Claim 11); VIII(B) (Ground 2, Claim 11) |
| 18[A][4] | See §§VII(D)(4) (Ground 1, Claim 1(C)): |

The first citation is to section VII(H) (Ground 1, Claim 6), which can be found on pages 40-44 of the Petition. Valadez is not mentioned in this section. The second citation is to section VII(M) (Ground 1, Claim 11), which can be found on pages 50-53 of the Petition. Valadez is not mentioned in this section either. The last citation in Petitioner’s chart is to section VIII(B) (Ground 2, Claim 11), which can be found on pages 66-69 of the Petition. This is the only section that mentions Valadez, but not for the supposed disclosure of “a coupling region disposed between the first portion of the anti-splash body and the base, the coupling region configured to allow the base to be moved from being substantially parallel to the anti-splash body in a first

position to a second position substantially perpendicular to the anti-splash body.” Rather, page 68 of the Petition specifically references this limitation and then only asserts Fushimi—*not Valadez*—for disclosure of the feature. *See* Pet. at 68 (“Fushimi discloses this limitation”). Thus, Petitioner’s Ground 2 fails because the Petition fails to even argue that Valadez makes up for the deficiencies of Fushimi with reference to limitation “18[A][3].”

2. Petitioner Does Not Assert that Valadez Discloses Tapered Protrusions

Petitioner admits that Valadez does not show the “tapered protrusion” recited in claims 1, 11, and 18. Pet. at 68 (“Finally, Claim 11 does not require “tapered protrusions” as recited in claim 1. **This was disclosed in Brown ’098, which therefore is not included in this Ground 2.**”)(emphasis added).

As shown above, Fushimi does not disclose the limitation “a coupling region configured to translate the base between a first position including the base oriented in a direction parallel to the anti-splash body and a second position including the base oriented in a direction substantially perpendicular from the base,” as recited in independent claim 11, nor does it disclose the limitation “a second plurality of protrusions extending outwardly from the base, the second plurality of protrusions configured to extend in the direction substantially perpendicular from the first portion of the anti-splash body,” as recited in independent claim 18. In Ground 2,

Petitioner does not argue that any other references should be combined with Fushimi to make up for this deficiency. Thus, independent claims 11 and 18 are not anticipated by Fushimi or rendered obvious by Fushimi in combination with Valadez.

3. Dependent Claims Contain the Limitations of Independent Claims

In sections I(C) and V(A) above, the deficiencies of the prior-art device disclosed in the Fushimi reference was discussed. In section V(B) above, the deficiencies of the prior-art device disclosed in the Valadez reference was discussed. Specifically, Patent Owner showed that *at least* the following features are not found in Fushimi or Valadez and that no argument was made by Petitioner that Valadez disclosed such features:

| Claim 11 | |
|---|--|
| a coupling region configured to translate the base between a first position including the base oriented in a direction parallel to the anti-splash body and a second position including the base oriented in a direction substantially perpendicular from the base; | Not disclosed in Fushimi Not alleged by Petitioner to be disclosed in Valadez |
| Claim 18 | |
| the coupling region configured to allow the base to be moved from being substantially parallel to the anti-splash body in a first position to a second position substantially perpendicular to the anti-splash body | Not disclosed in Fushimi Not alleged by Petitioner to be disclosed in Valadez |

Dependent claims 12, 14, and 16 depend from independent claim 11 and claim 20 depends from independent claim 18. Since dependent claims contain all the limitations of the independent claims, dependent claims 12, 14, 16, and 20 distinguish over Fushimi and Valadez as well. Accordingly, Patent Owner respectfully submits that it is not necessary at this stage to address the Fushimi and Valadez references as applied to dependent claims 12, 14, 16, and 20. Nor is it necessary to address whether the Petitioner properly “identified a number of rationales to support a conclusion of obviousness which are consistent with the proper ‘functional approach’ to the determination of obviousness as laid down in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q. (BNA) 459 (1966),” as required by the Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 415 (U.S. 2007), 82 U.S.P.Q.2d 1385, 1395-97 (2007) and MPEP § 2143.

Patent Owner respectfully requests that the Petitioner’s challenges to claims 11, 12, 14, 16, 18, and 20 under Ground 2 be rejected by the Board.

C. Petitioner’s Ground 3 Fails because Valadez and Brown ’098 Do Not Make Up for the Deficiencies of Fushimi

Petitioner’s Ground 3 pertains to dependent claims 3, 8, and 15 and asserts the Fushimi, Valadez, and Brown ’098 references under an obviousness analysis. Pet. at 76-79. Fushimi is described above in sections II(C) and V(A)(1). Brown ’098 is

described above in sections II(D) and A(2)-(3). Valadez is described above in sections II(F) and V(B).

Dependent claims 3 and 8 depend from independent claim 1 and dependent claim 15 depends from independent claim 11. As disclosed in sections V(A)-(C) above, Fushimi, Brown '098, and Valadez fail to teach, show, or suggest all of the features of independent claims 1 and 11. Since dependent claims contain all the limitations of the independent claims, dependent claims 3, 8, and 15 distinguish over Fushimi, Brown '098, and Valadez, as well.

Petitioner's challenges to claims 3, 8, and 15 under Ground 3 should be rejected by the Board.

D. Petitioner's Ground 4 Fails because Wise Does Not Make Up for the Deficiencies of Fushimi

Petitioner's Ground 4 pertains to independent claims 11 and 18 and dependent claims 12, 14, 16, and 20 and asserts the Fushimi and Wise references under an obviousness analysis. Pet. at 79-91. Fushimi is described above in sections II(C) and V(A)(1). Wise is described above in section II(G).

As disclosed in sections V(A)(1), above, Fushimi fails to teach, show, or suggest the limitation of "a coupling region configured to translate the base between a first position including the base oriented in a direction parallel to the anti-splash body and a second position including the base oriented in a direction substantially

perpendicular from the base,” as recited in independent claim 11, and Fushimi fails to teach show or suggest the limitation of “a coupling region disposed between the first portion of the anti-splash body and the base, the coupling region configured to allow the base to be moved from being substantially parallel to the anti-splash body in a first position to a second position substantially perpendicular to the anti-splash body,” as recited in independent claim 18.

Petitioner does not assert that Wise makes up for the deficiencies in Fushimi. Instead, Petitioner only asserts that Wise shows a “length that is twice as long as a width.” Pet. at 83; Pet. at 86 (“A POSITA would understand that the vertically elongated anti-splash body of Wise would provide additional anti-splash protection by increasing the proportion [sic] the rear wall’s surface that was covered by the anti-splash body, while remaining compatible with a variety of urinals”).

Given the lack of disclosure of claim 11’s “a coupling region configured to translate the base between a first position including the base oriented in a direction parallel to the anti-splash body and a second position including the base oriented in a direction substantially perpendicular from the base” and claim 18’s “a coupling region disposed between the first portion of the anti-splash body and the base, the coupling region configured to allow the base to be moved from being substantially parallel to the anti-splash body in a first position to a second position substantially perpendicular to the anti-splash body,” and, since dependent claims contain all the

limitations of the independent claims, dependent claims 12, 14, 16, and 20 distinguish over Fushimi and Wise as well.

Patent Owner respectfully requests that the Petitioner's challenges to claims 11, 12, 14, 16, 18, and 20 under Ground 4 be rejected by the Board.

E. Petitioner's Ground 5 Fails because Wise and Brown '098 Do Not Make Up for the Deficiencies of Fushimi

Petitioner's Ground 5 pertains to dependent claims 3, 10, and 15 and asserts the Fushimi, Wise, and Brown '098 references under an obviousness analysis. Pet. at 91-94. Fushimi is described above in sections V(A)(1). Wise is described above in section II(G). Brown '098 is described above in sections V(D) and V(A)(2)-(3).

Dependent claims 3 and 10 depend from independent claim 1 and dependent claim 15 depends from independent claim 11. As disclosed in sections V(A) and (E), above, Fushimi, Brown '098, and Wise fail to teach, show, or suggest all of the features of independent claims 1 and 11. Since dependent claims contain all the limitations of the independent claims, dependent claims 3, 10, and 15 distinguish over Fushimi, Brown '098, and Wise, as well.

Patent Owner respectfully requests that the Petitioner's challenges to claims 3, 10, and 15 under Ground 5 be rejected by the Board.

VI. CONCLUSION

For each of the foregoing reasons, Patent Owner respectfully requests that the Board deny institution.

THE CONCEPT LAW GROUP, P.A.

Dated: October 23, 2025

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CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. § 42.24(d), the undersigned certifies that the foregoing PATENT OWNER’S PRELIMINARY RESPONSE, exclusive of the parts exempted as provided in 37 C.F.R. § 42.24, contains 9,461 words and therefore complies with the type-volume limitations of 37 C.F.R. § 42.24.

THE CONCEPT LAW GROUP, P.A.

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CERTIFICATE OF SERVICE

The undersigned certifies that pursuant to 37 C.F.R. § 42.6(e), a true copy of the foregoing PATENT OWNER’S PRELIMINARY RESPONSE, is being served electronically on October 23, 2025, to the following lead and back-up counsel for Petitioner to the following email addresses:

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