

OUTDRY TECHNOLOGIES CORP. v. GEOX S.P.A., Appeal No. 2016-1769 (Fed. Cir. June 16, 2017). Before Dyk, Moore, and Reyna. Appealed from Patent Trial and Appeal Board.

Background:

Outdry Technologies Corp. ("Outdry") held a patent claiming methods of waterproofing leather that claimed "directly pressing on an internal surface of the leather at least one semi-permeable membrane whose surface... is provided with a discontinuous glue pattern... formed of a multiplicity of dots." Geox S.P.A. ("Geox") brought an Inter Partes Review ("IPR") against Outdry's patent arguing that Outdry's patent is rendered obvious by three prior art references (Thornton, Scott, and Hayton).

The Board found that the combination of prior art references rendered obvious the claims of Outdry's patent because Thornton discloses every element of Outdry's independent claims apart from the density and size of the multiplicity of glue dots in the glue pattern, which are taught by Scott and Hayton. The Board interpreted the claimed "directly pressing" to mean "applying pressure without any intervening materials or layers other than the recited adhesive." Outdry appealed.

Issues/Holdings:

Did the Board err in the interpretation of the claimed "directly pressing" in light of the specification? No, affirmed.

Did the Board fail to sufficiently articulate a motivation to combine the prior art references? No, affirmed.

Discussion:

The Federal Circuit held that the Board correctly construed "directly pressing" under the broadest reasonable interpretation ("BRI") standard. Outdry argued that the Board should have adopted its proposed definition of "directly pressing" as meaning applying uniform pressure to create a "uniform, sealed sheet of waterproof leather so that a water cushion cannot develop." However, the Federal Circuit found that Outdry's definition lacked support in the specification because the specification only uses the phrase "directly pressing" once, and does not disclose a required degree of contact between the membrane and the leather to support such a narrow interpretation. Thus, the Federal Circuit held that Outdry's definition would improperly narrow the claims under the BRI standard.

In addition, the Federal Circuit held that the Board adequately articulated a motivation to combine the prior art references by relying on Geox's reasoning set forth in the IPR petition. Outdry argued that the Board failed to adequately articulate a reason why a skilled artisan would have been motivated to combine the prior art references because: (i) the Board relied solely on Geox's IPR petition, and (ii) the Board failed to identify a reason why a skilled artisan would have combined the prior art to solve the same problem as described in Outdry's patent. The Federal Circuit held the Board is permitted to credit another party's argument as part of its reasoned explanation of its factual findings as long as the Board explains why it accepts the prevailing argument. Further, the Federal Circuit held, contrary to Outdry's arguments, that the prior art solving the same problem as the patent is merely one of many possible motivations to combine the prior art, and *KSR* explicitly rejected such a rigid approach to the obviousness inquiry.