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95/001,540	02/08/2011	D622996	SMCY-172-602	8383
23342	7590	03/01/2021	EXAMINER	
Kilpatrick Townsend & Stockton LLP - Winston-Salem Mailstop: 22 - IP Docketing 1100 Peachtree Street Suite 2800 Atlanta, GA 30309			HYDER, PHILIP S	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SIMMONS BEDDING COMPANY
Requester

v.

SEALY TECHNOLOGY LLC
Patent Owner

Appeal 2020-002736
Reexamination Control 95/001,540
Patent US D622,996 S¹
Technology Center 2900

Before JOHN C. KERINS, DANIEL S. SONG, and BRETT C. MARTIN,
Administrative Patent Judges.

MARTIN, *Administrative Patent Judge.*

DECISION ON REQUEST FOR REHEARING

STATEMENT OF THE CASE

The Board issued a Decision in this case on July 1, 2020 (the “Decision”). Patent Owner now requests rehearing of that Decision. The Decision affirmed the Examiner’s rejections of the claims. *See* Decision 10.

¹ Issued on September 7, 2010 to Sealy Technology LLC.

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Upon consideration of Patent Owner's Request, we do not modify our opinion.

REQUEST FOR REHEARING

A request for rehearing "must state with particularity the points believed to have been misapprehended or overlooked [by the Patent Trial and Appeal Board, hereinafter "Board"]." 37 C.F.R. § 41.79(b)(1). In addition, a request for rehearing is not an opportunity to express disagreement with a decision without setting forth points believed to have been misapprehended or overlooked by the Board in rendering its Decision. The proper course for an Appellant dissatisfied with a Board decision is to seek judicial review, not to file a request for rehearing to reargue issues that have already been decided. *See* 35 U.S.C. §§ 141, 145.

ANALYSIS

Although Patent Owner lists six points allegedly misapprehended or overlooked, the arguments made in support amount to nothing more than disagreement with the Board's Decision. Req. 4. The Board sufficiently addressed all of the points raised by Patent Owner and none of the arguments actually point to anything misapprehended or overlooked. We further note that most, if not all, of these arguments are similar to those in the related appeals of the '531 and '088 patents, which were then appealed to the Federal Circuit. The Federal Circuit rejected all of Patent Owner's arguments and affirmed the Board on the same or similar issues. Accordingly, we decline to alter our Decision.

CONCLUSION

The Request for Rehearing is denied.

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Outcome of Decision on Rehearing:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Denied	Granted
1	103	King Koil, Antares, Tenuta, Somma Nouveau	1	
1	103	Somma Nouveau, Antares, Tenuta, King Koil	1	
1	103	Restonic Mattress, King Koil, Antares, Tenuta	1	
1	103	Lemoyne Ultimate Pillowtop, King Koil, Antares, Tenuta	1	
Overall Outcome			1	

Final Outcome of Appeal after Rehearing:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1	103	King Koil, Antares, Tenuta, Somma Nouveau	1	
1	103	Somma Nouveau, Antares, Tenuta, King Koil	1	
1	103	Restonic Mattress, King Koil, Antares, Tenuta	1	
1	103	Lemoyne Ultimate Pillowtop, King Koil, Antares, Tenuta	1	
Overall Outcome			1	

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DENIED

PATENT OWNER:

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For THIRD PARTY REQUESTER:

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