

# Playtex Products, LLC, Eveready Battery Company, Inc., and Energizer Holdings, Inc. v. Munchkin, Inc., Denying Institution IPR2014-01130

Article By:

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*Takeaway: When construing a claim term, a petitioner should take into account all the words in the claim term. In failing to do so, the Board may not adopt the proposed construction, which could result in a denial of institution.*

In its [Decision](#), the Board denied institution of *inter partes* review, finding that Petitioner did not establish a reasonable likelihood of prevailing with respect to any challenged claim. The '887 patent relates to “a dishwasher basket designed to hold baby bottle nipples, non-spill cup valves, feeding straws, and the like.”

The Board first addressed the question of claim construction, noting that unexpired patent claims are given their “broadest reasonable construction in light of the specification of the patent.” Petitioner offered a claim construction for the terms “hingedly mounted” and “hinged mounting.” The Board agreed with Petitioner that the terms are not limited to direct connections, but disagreed with Petitioner’s proposal for failing to take into account the “hinged” requirement. Thus, the Board construed the terms to mean “linked, directly or indirectly, such that the first part swings on an axis in common with the second part.”

The Board then turned to the asserted grounds of unpatentability. With respect to the grounds based on the Zambano reference, Petitioner argued that the reference discloses a lid hingedly mounted to the container based on its claim construction. However, the Board was not persuaded because it did not adopt Petitioner’s proposed claim construction. Therefore, the Board found that Zambano does not disclose the claim limitation, and denied institution of the grounds based on Zambano.

With respect to the grounds based on McConnell, the Board held that Petitioner did not identify where the “hingedly mounted” limitation is disclosed in McConnell. In addition, the Board was not persuaded by Petitioner’s obviousness arguments concerning McConnell, finding that even modifying McConnell as argued, the hinged connection as construed by the Board was still not disclosed.

Finally, with respect to the Prince Lionheart reference, Petitioner argued with reliance upon its expert declaration, that the reference inherently disclosed a hingedly mounted lid. However, the Board noted

it could not perceive any hinged lids in the reference and held that Petitioner and its expert declaration did not provide sufficient credible evidence that the reference inherently discloses the limitation. Therefore, the Board also denied institution of the grounds based on Prince Lionheart.

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**Paper 13: Decision Denying Institution of *Inter Partes* Review**

**Dated: December 12, 2014**

**Patent: 8,312,887 B2**

**Before: Scott E. Kamholz, Barry L. Grossman, and Philip J. Hoffmann**

**Written by: Kamholz**

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