

PTAB Trims Pair Of Liquid Air Freshener Patents

By Adam Lidgett

Law360 (April 25, 2022, 6:21 PM EDT) -- The Patent Trial and Appeal Board has invalidated a host of claims in a pair of Prolitec Inc. patents covering removable cartridges for liquid diffusion air fresheners that were challenged by ScentAir Technologies LLC, finding the claims were obvious.

In a pair of decisions from Friday, a three-judge PTAB panel threw out nine claims in U.S. Patent No. 9,162,004 and 16 claims in U.S. Patent No. 9,745,976, although it refused to toss other claims.

The panel said the now-invalidated patent claims were obvious in light of various pieces of prior art.

For example, the panel stated that some claims in the '004 patent — which covers a removable liquid diffusion cartridge and cartridge insert — were obvious over various earlier patents and a patent application.

While Prolitec argued that ScentAir failed to prove that a skilled artisan would've decided to combine lessons from a patent application called Rosener and a patent called Dautrebande, the panel disagreed with that argument.

"Both Rosener and Dautrebande concern aerosolizing liquid particles of sufficiently small size," the panel said. "Both references teach the use of a tortuous passage to separate small particles from undesirable large particles by surface impaction."

And in the decision regarding the '976 patent — which was similar to the '004 patent — the same panel of judges said several claims in that patent were also invalid in light of pieces of prior art, including Rosener.

However, the panel also refused to invalidate 15 claims in the '004 patent and 9 claims in the '976 patent.

The PTAB decisions are just the latest instance in the two companies' fight over patents in various forums.

For example, the Federal Circuit in 2017 vacated and remanded a PTAB decision invalidating a separate Prolitec air freshener patent. That patent was not at issue in the Friday PTAB decisions, according to board records.

Additionally, the '976 patent has been subject to a lawsuit in Delaware federal court, according to PTAB records.

"This result is a victory for Prolitec," Cory C. Bell, an attorney for Prolitec, said in a statement to Law360, adding that "43 original claims have now survived the PTAB process, putting Prolitec in a strong position moving forward, including with all claims related to the anti-leak inventions."

Joshua B. Pond, an attorney for ScentAir, said in a statement on behalf of his client that it was "assessing the full rulings, but it is clearly positive for ScentAir, particularly in the underlying Delaware litigation."

Pond added that ScentAir had also countersued Prolitec for allegedly infringing various ScentAir patents.

The patents-at-issue are U.S. Patent Nos. 9,162,004 and 9,745,976.

Administrative Patent Judges Grace Karaffa Obermann, Kristina M. Kalan and Brian Range sat on the panels.

ScentAir is represented by Joshua B. Pond of Crowell & Moring LLP.

Prolitec is represented by Cory C. Bell and Biju Chandran of Finnegan Henderson Farabow Garrett & Dunner LLP.

The cases are ScentAir Technologies LLC v. Prolitec Inc., case numbers IPR2021-00012 and IPR2021-00014, before the Patent Trial and Appeal Board.

--Editing by Kristen Becker.