

# Laitram Food Conveyor Belt Patent Claim Nixed After Remand

By Annelise Gilbert

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- Formerly upheld claim describing shape is fifth struck

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**By Annelise Gilbert 2023-11-28T16:43:40000-05:00**

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Laitram LLC's conveyor belt patent had a fifth claim canceled upon further review by a US Patent and Trademark Office administrative tribunal after the Federal Circuit said the wrong legal standard had been used to uphold it.

The Patent Trial and Appeal Board found US Patent No. 10,023,388's claim obvious because the shape it describes would be an experienced engineer's design choice, according to the decision issued Monday.

The board also affirmed the invalidation of four of the patent claims already canceled in its August 2021 decision.

Ashworth Bros. Inc. initiated the challenge to the '388 patent after Laitram sued in 2019 in Delaware federal court, alleging the rival manufacturer's system infringed its patents that cover "spiral conveyor systems that include belts that move up and around a central tower like a spiral staircase." Such systems are used in industrial settings for cooling baked goods before packaging, according to the 2019 complaint.

The '388 patent's newly invalidated claim adds a requirement about the shape of a part of the invention, saying "the distance of the ridge from the vertical axis in the lower segment is constant below the portion that is tapered."

Ashworth argued that the claim should be invalidated because a previous invention expressly disclosed “substantially cylindrical drive towers as alternatives to conical or tapered drive towers and drive towers that combine tapered and cylindrical sections.” An experienced engineer would understand that “the drive tower could be cylindrical or tapered as a mere design choice,” the manufacturer said.

In May, the US Court of Appeals for the Federal Circuit ordered the board to consider Ashworth’s evidence that a reference for the conveyor belt’s shape represented “a simple design choice” that it didn’t need to “reconcile” with other references to advance invalidity arguments.

On second look, Administrative Patent Judge Eric C. Jeschke held that a person of ordinary skill in the art would’ve arrived at the shape cited in based on design choice, saying Laitram incorrectly assumed the claim contains more limits than it does.

Administrative Patent Judges Sheridan K. Snedden and Mitchell G. Weatherly joined the decision.

Banner & Witcoff Ltd. represents Ashworth. Erise IP represents Laitram.

The case is Ashworth Bros. Inc. v. Laitram LLC , P.T.A.B., IPR2020-00593, 11/27/23 .

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