

## Sealy Tech., LLC v. SSB Manufacturing Co., 825 F. Appx. 795 (Fed. Cir. 2020)

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SSB sought *inter partes* reexamination of a Sealy design patent. After reexamination, the decision was appealed to the Patent Trial and Appeal Board. The single claim in the patent recites “[t]he ornamental designs for a Euro-top mattress design, as shown and described.” Figure 1 of the patent (left) and the Aireloom Heritage mattress, which the Board found invalidated the patent, (right) are reproduced below.



In finding the claim invalid, the Board determined that it required, among other things, horizontal piping that has a contrasting appearance along the edges of the top and bottom of the mattress and along the top of the pillow layer. The Board determined that the contrast claimed in the patent encompassed any difference in appearance between the mattress piping and the remainder of the mattress. Despite the patent containing a second nearly identical mattress design with the piping claimed as brown, the Board rejected Sealy’s argument that the claimed contrast was limited to contrasting color or otherwise had to amount to something “strikingly different” from the remainder of the mattress. Applying this construction, the Board found the patent invalid over the Aireloom Heritage mattress.

**Claiming a contrast with shading without textual description covers any difference of appearance regardless how small.**

On appeal to the Federal Circuit, Sealy challenged both the Board’s claim construction regarding the claimed contrast and the Board’s obviousness determination. Regarding the claimed contrast, the court agreed that the shading technique in the figures merely indicated a contrast and did not limit the claimed contrast to the “strikingly different” degree that Sealy proposed. It also noted that the patent did not provide any textual description or limitation regarding the claimed contrast. Thus, the Federal Circuit held that the only contrast required by the claim is one of differing appearance, which may be achieved by, for example, contrasting fabric, contrasting color, contrasting pattern, or contrasting texture. The Federal Circuit then applied this construction to hold that the Aireloom Heritage monochromatic mattress rendered the claim invalid.