

Federal Circuit Revives Food Slicer Patent Challenges

By Adam Lidgett

Law360 (February 8, 2024, 9:16 PM EST) -- The Federal Circuit on Thursday threw out a pair of Patent Trial and Appeal Board decisions that found Weber Inc. failed to show claims in food slicer patents owned by rival Provisur Technologies were invalid, sending the proceedings back to the board.

In its precedential decision, the three-judge panel took issue with the board's finding that certain operating manuals would not be prior art, and remanded the proceedings to the PTAB for reconsideration.

"The record evidence shows that Weber's operating manuals were accessible to interested members of the relevant public by reasonable diligence," the circuit court said. "For instance, Weber employees testified that the operating manuals could be obtained either upon purchase of the Weber food slicer or upon request directed to a Weber employee."

Both patents cover "high-speed mechanical slicers used in food-processing plants to slice and package food articles, such as meats and cheeses," according to the Federal Circuit.

Weber said the patents were invalid in inter partes reviews at the PTAB because they were obvious over things like its own food slicer operating manuals, according to the circuit court. But the PTAB disagreed that the manuals were printed publications that could be considered prior art, according to court records.

Weber has been sued in federal court by Provisur previously, and the two patents that were at issue in the current case had been at issue in the other litigation, court records showed. A Missouri federal jury issued a verdict against Weber last year for infringing food slicer patents owned by Provisur Technologies.

Provisur, which makes industrial cooking equipment, hit Weber with litigation in February 2019 and said the manufacturing giant infringed seven food processing patents issued by the PTAB from November 2001 to December 2012.

Counsel for Weber declined to comment to Law360 on Thursday.

Counsel for Provisur did not immediately respond to requests for comment.

The patents-in-suit are U.S. Patent Nos. 10,625,436 and 10,639,812.

U.S. Circuit Judges Jimmie V. Reyna, Todd M. Hughes and Leonard P. Stark sat on the panel for the Federal Circuit.

Weber is represented by Ralph Wilson Powers III, Richard A. Crudo and Trevor M. O'Neill of Sterne Kessler Goldstein & Fox PLLC.

Provisur is represented by Craig C. Martin, Michael G. Babbitt, Sara Tonnies Horton and Ren-How H. Harn of Willkie Farr & Gallagher LLP.

The cases are Weber Inc. v. Provisur Technologies Inc., case numbers 22-1751 and 22-1813, in the U.S. Court of Appeals for the Federal Circuit.

--Additional reporting by Craig Clough. Editing by Linda Voorhis.

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