

Invalidity of U.S. Patent No. 8,764,575 in view of U.S. Patent No. 8,128,534 (“Crawford”)

U.S. Patent No. 8,128,534, with a priority date of February 18, 2009, a filing date of February 18, 2010, a publication date of August 19, 2010, and a issuance date of March 6, 2012 qualifies as prior art under at least 35 U.S.C. §§ 102(a) and/or 102(b) as of its filing date and/or priority date to the asserted claims of US Patent No. 8,764,575 to Gurley (“the ’575 Patent”), as discussed in greater detail in the chart that follows.¹

To the extent Plaintiffs allege that Crawford does not disclose any particular limitation of claims 1, 7, and 9 of the ’575 Patent (the “Asserted Claims”), either expressly or inherently, it would have been obvious to a person of ordinary skill in the art as of the priority date of the ’575 Patent to modify Crawford and/or to combine the teachings of Crawford with other prior art references, including but not limited to the prior art publications, commercial uses, and other prior art discussed in section II of the contentions, and including the present prior art references found in Exhibit A and the relevant section of charts for other prior art for the ’575 Patent in a manner that would have rendered the Asserted Claims invalid as obvious. The inclusion of the particular frame structure and attachment mechanisms described in the ’575 Patent would have been obvious for at least the following reasons: It would have been obvious to modify the methods and/or structures disclosed in Crawford to meet these limitations based on: (a) the teachings in Crawford itself; (b) a person of ordinary skill in the art implementing a predictable variation of the methods and/or systems disclosed in Crawford; (c) the logic, judgment, intelligence, creativity, innovation and common sense a person of ordinary skill in the art would employ; (d) the inferences and creative and routine steps that a person of ordinary skill in the art (“POSITA”) would employ; (e) market demand for methods and/or systems to include this limitation; and/or (f) design needs or market pressures to solve a problem with a finite number of solutions that could have produced the desired outcome.

Defendants reserve the right to amend or supplement this claim chart at a later date as more fully set forth in the cover document.

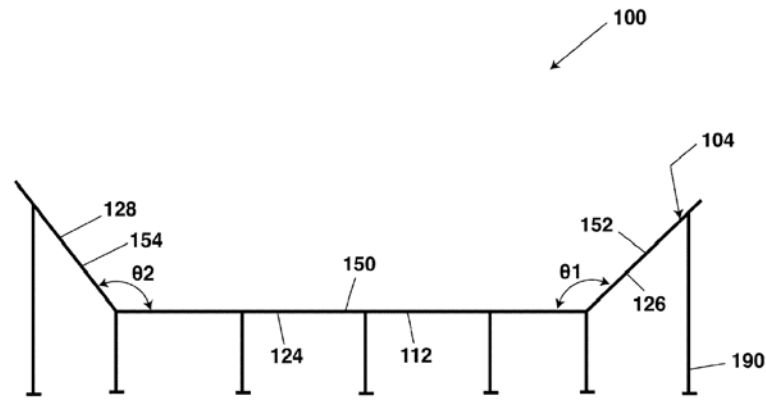
¹ Nothing in these claim charts should be construed as an admission regarding infringement, either literally or under the doctrine of equivalents, or as an admission regarding Defendants’ understanding of the proper scope of the Asserted Claims. Given the ambiguities in Plaintiffs’ infringement contentions, the exemplary citations herein necessarily account for a variety of possible infringement arguments and claim constructions. Defendants reserve the right to rely on additional citations or sources of evidence that also may be applicable, or that may become applicable in light of claim construction, changes in Plaintiffs’ infringement contentions, and/or information obtained during discovery as the case progresses. Various positions put forth in this document are predicated on Plaintiffs’ broad interpretation of its claims as evidenced by its infringement contentions served on Defendants. Those positions are not intended to and do not necessarily reflect Defendants’ interpretation of the true and proper scope of Plaintiffs’ claims, and Defendants reserve the right to adopt claim construction positions that differ from or even conflict with various positions put forth in this document.

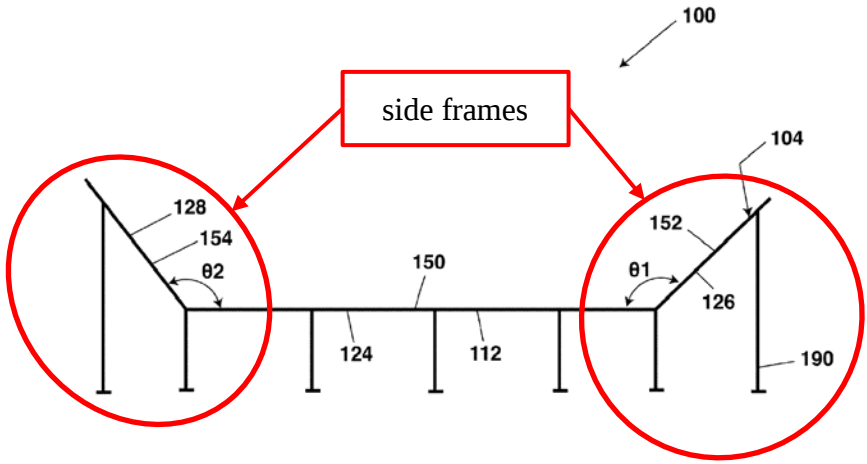
Defendants' Invalidity Contentions regarding U.S. Patent No. 8,128,534 ("Crawford")

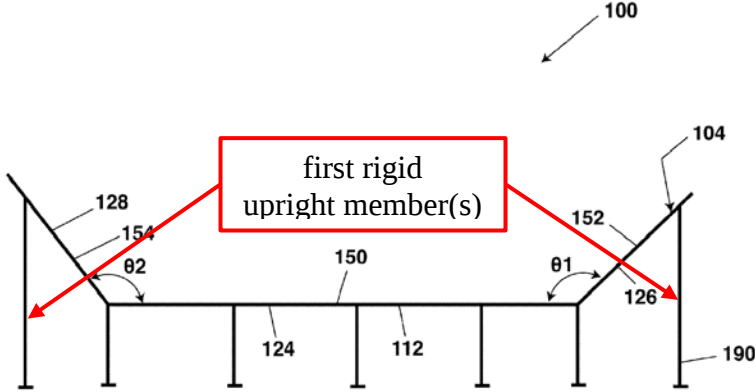
Claim 1

1.1 A trampoline arena comprising:

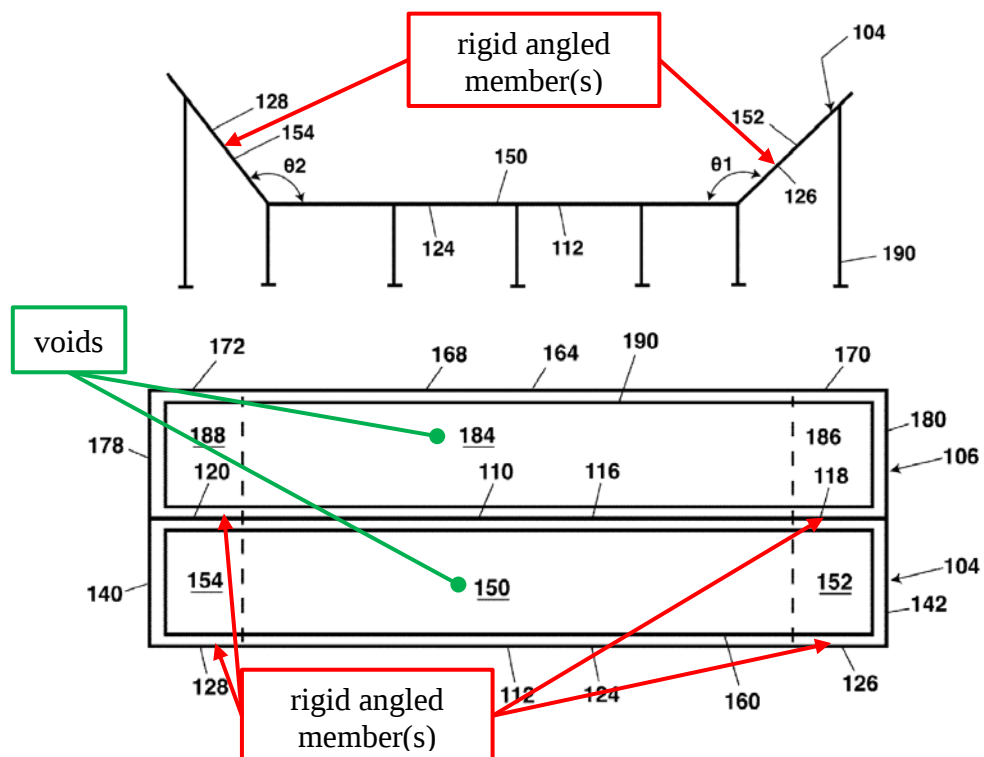
To the extent the preamble of Claim 1 is found to be limiting, Crawford discloses "a trampoline court" that is formed by placing "a plurality of trampolines [] adjacent to one another." *See, e.g.*, Crawford, col. 1:10-11; *see also, e.g.*, Crawford fig. 1:



1.2a plurality of side frames defining an outwardly sloping outer wall, each of the plurality of side frames including:	Crawford discloses “a plurality of side frames defining an outwardly sloping outer wall.” <i>See, e.g.,</i> Crawford, figs. 1-2, col. 2:15-23 (“As shown in FIG. 1, the third area 152 intersects the first area 150 at an angle $\Theta 1$, and the third area 154 intersects the first area at an angle $\Theta 2$. The angles $\Theta 1$ and $\Theta 2$ are less than 180 degrees. In some embodiments, the angles $\Theta 1$ and $\Theta 2$ are 135 to 140 degrees. The angle $\Theta 1$ is established by the angle of intersection of the second portions 118, 126 with the first portions 116, 124. Likewise, the angle $\Theta 2$ is established by the intersection of the third portions 120, 128 with the first portions 116, 124.”) 
--	---

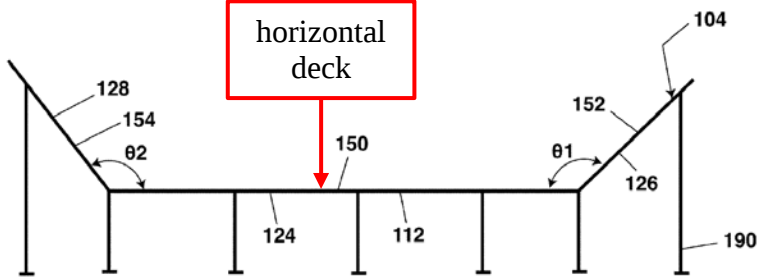
1.3a rigid first upright member having a top first upright member portion and a bottom first upright member portion mountable to a floor; and	Crawford discloses “a rigid first upright member [190] having a top first upright member portion and a bottom first upright member portion mountable to a floor.” <i>See, e.g.</i>, Crawford fig. 1; col. 3:25-27 (“The trampolines 104, 106 may have a plurality of legs or supports 190 that maintain the trampolines 104,106 above a floor or the like.”) 
--	--

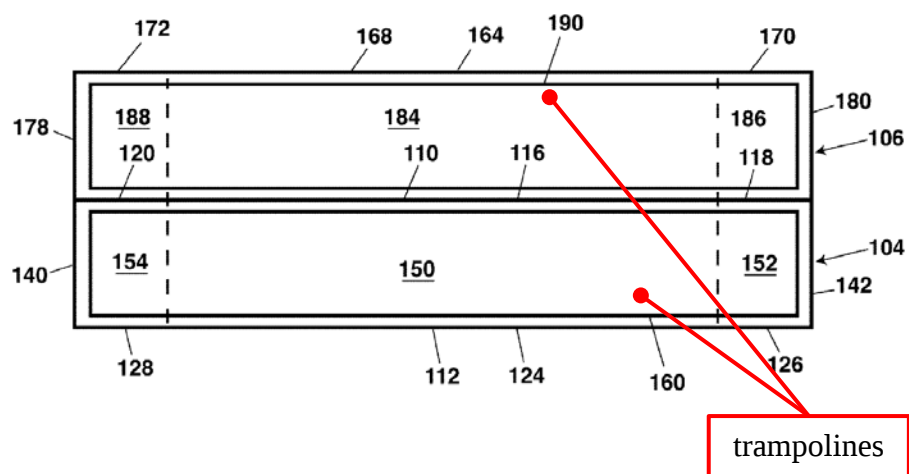
- 1.4 a rigid angled member connected at an upper angled member portion to the top first upright member portion and extending at a downward angle therefrom to a lower angled member portion, a plurality of voids being defined between the plurality of angled members.” See, e.g., Crawford figs. 1-2, col. 2:10-23.

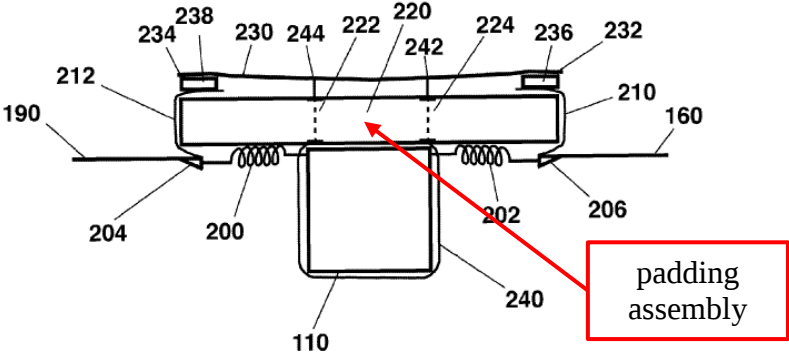


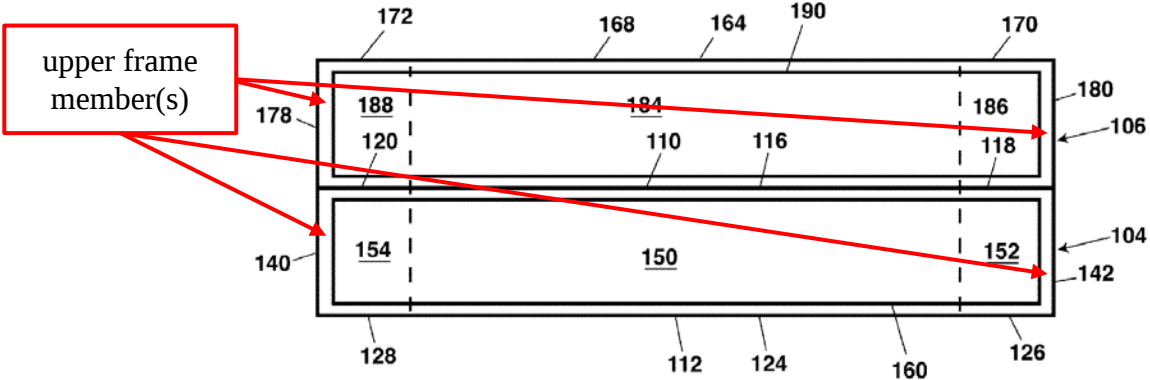
To the extent this reference does not explicitly or inherently disclose, teach, or suggest this limitation, it would have been obvious to a POSITA to form the frame structures from a plurality of individual components that are joined together at various locations or to use a continuous component for any of the elements.

Using individual components or a continuous component would have been an obvious way of creating any framed, multi-dimensional structure, and this would have been a known use of familiar

1.4		(cont.) elements in their expected way to achieve their known result of stably framing a multi-dimensional structure. Using individual components or a continuous component would have been an obvious design choices for framing a structure with known trade-offs (<i>e.g.</i> , costs, ease of construction/deconstruction, stability, durably, etc.). <i>See, e.g.</i> , U.S. Patent Pub. No. 2007/0010374A1 (“Widich”) fig. 1 and ¶¶ [0008], [0039], [0041], [0054]; U.S. Patent No. 4,341,379 (“Milligan”) col. 7:29-58; U.S. Patent No. 6,607,468 (“Nichols”) col. 6:19-38.
1.5a	a horizontally-extending deck connected to the lower angled member portions of the plurality of side frames;	Crawford discloses “a horizontally-extending deck [150, 184] connected to the lower angled member portions of the plurality of side frames.” <i>See, e.g.</i>, Crawford, Figs. 1-2, col.2:10-23.  The diagram illustrates a horizontally-extending deck structure. A central horizontal member is labeled 150. Above this member, a red box contains the text "horizontal deck" with a red arrow pointing down to member 150. The structure is supported by vertical members 124 and 112. On the left side, an angled member 128 is connected to the horizontal member at an angle $\theta 2$. Another angled member 154 is also shown on the left. On the right side, an angled member 152 is connected to the horizontal member at an angle $\theta 1$. A vertical member 126 is also shown on the right. The entire structure is supported by a base member 190. A label 104 points to the rightmost vertical member.

1.6a plurality of trampolines connected to the angled members along peripheries thereof and extending across the plurality of voids; and	Crawford discloses “a plurality of trampolines [160, 190] connected to the angled members along peripheries thereof and extending across the plurality of voids.” <i>See, e.g.</i>, Crawford Fig. 2, col.2:31-40, col.3:1-5.  To the extent this reference does not explicitly or inherently disclose, teach, or suggest this limitation, it would have been obvious to a POSITA to use a plurality of trampolines to cover the voids in a frame in order to secure and maintain a taut trampoline surface. Using multiple trampolines to cover the voids would have been an obvious way of securing and maintaining a taut trampoline surface, and this would have been a known use of familiar elements in their expected way to achieve their known result of adding durability and reliability to the bouncing surfaces of a multi-surface trampoline, and in particular, to allow the trampoline material of each smaller, surface to be replaced individually as opposed to a single sheet that covers the entire surface. Using a plurality of trampolines to cover the voids in a frame would have been an obvious design choice from among well-known ways of securing and maintaining a taut bouncing surface (<i>e.g.</i>, adding additional tensioning elements, using tighter springs, increasing the rigidity of the frames, etc.) with known trade-offs (<i>e.g.</i>, cost, ease of construction/deconstruction, stability, durability, etc.) as multi-surface trampolines are routinely formed from a plurality of trampolines. <i>See, e.g.</i>, U.S. Patent No. 3,233,895 (“Grelle”) col. 2:51-54; U.S. Patent No. 5,624,122 (“Winkelhorn”) figs. 1, 2, col. 3:54-4:23; U.S. Patent Pub. No. 2007/0010374A1 (“Widich”) ¶ [0038]; U.S. Patent No. 8,672,813 (“West”) col. 3:41-54; Chinese Patent App. Pub. No. CN 101259316A (“Guo”), ¶ [0025].
---	---

1.7 a padding assembly including a plurality of pads at least partially overlying the angled members and the peripheries of the trampolines.	Crawford discloses “a padding assembly [220] including a plurality of pads at least partially overlying the angled members and the peripheries of the trampolines.” Crawford, fig. 3, col. 3:32-35 (“Some embodiments of the trampoline court 100 may include padding that covers the support members 110, 112, 164.”), col. 3:49-53.  To the extent Crawford does not explicitly disclose covering the angled portions of the frame members with padding, this would have been obvious to a POSITA in order to provide safety around the springs and supporting frame elements, especially in view of Crawford’s explicit motivation to using padding on the support members. Crawford, col.3:32-35 (“Some embodiments of the trampoline court 100 may include padding that covers the support members....”). In addition, it would have been obvious to a POSITA to use a plurality of pads to cover joints, frame members, and peripheries for additional safety while jumping on a trampoline in order to reduce injuries around the edges of the trampolines, near frame members, and where the trampolines are joined together or connected to the frame. Using padding would have been an obvious use of known elements in an expected way to achieve the expected results of additional safety for the user of the trampoline, to lower their risk of injury when jumping, and to ensure durability of the joints. Using padding to cover rigid elements, sharp edges, and trampoline peripheries would have been an obvious design choice from among well-known ways of protecting hazardous elements (<i>e.g.</i>, coatings, covers, cages, etc.) with known trade-offs (<i>e.g.</i>, costs, ease of construction/deconstruction, stability, durability, etc.) as paddings is routinely used to cover frames and joints, especially in active sports applications including trampolines. <i>See, e.g.</i>, U.S. Patent No. 3,233,895 (“Grelle”) figs 1, 2, 3, 3a-3c, 4, 10 and col. 1:20-36, 3:1-41, 3:74-4:10, 5:23-32; U.S. Patent No. 3,339,925 (Nissen ’925) figs. 2, 3, 6 and
---	---

1.7		(cont.) col. 3:8-16; U.S. Patent No. 3,501,141 (Nissen '141) figs. 1a-1c and col. 3:29-33; Chinese Patent App. Pub. No. CN 101259316A ("Guo"), ¶ [0025]; U.S. Patent 6,053,845 (Publicover '845) figs. 1, 4, 5 and col. 4:52-65; U.S. Patent No. 5,941,798 ("Coan") figs. 1, 5, col.5:17-23; U.S. Patent No. 5,624,122 ("Winkelhorn") figs. 1, 2, 4, col. 2:20-27, 4:24-32; U.S. Patent No. 5,833,557 ("Cole") col. 5:12-20; U.S. Pub. No. 2007/0010374 ("Widich") ¶ [0037]; U.S. Patent 6,261,207 (Publicover '207) figs. 1, 4, 5 and col. 4:52-65; U.S. Patent No. 4,341,379 ("Milligan") figs 2-4, 6-7 and col. 5:25-34, 6:3-21, 6:63-7:28; U.S. Patent No. 7,494,445 ("Chen") fig. 1-4 and col. 2:20-23; U.S. Patent No. 6,607,468 ("Nichols") figs. 1-3, col. 4:45-53; U.S. Patent No. 7,708,667 ("Alexander") figs. 10-12, col. 6:1-18; U.S. Patent No. 7,883,446 ("Lovley") fig. 1 and col. 2:45-53, 1:39-50; U.S. Patent No. 8,672,813 ("West") fig. 5 and col. 9:1-33.
Claim 7		
7.1	The arena of claim 1, further comprising:	See claim 1.
7.2	at least one upper frame member interconnecting the plurality of side frames	Crawford discloses "at least one upper frame member [140, 178, 142, 180] interconnecting the plurality of side frames." See, e.g., Crawford, Fig. 2, col.2:7-9 ("[T]he first trampoline 104 has a first end 140 and a second end 142 located opposite the first end 140."). 

Claim 9

9.1 The arena of claim 7, wherein the at least one upper frame member includes a plurality of upper frame members.	See claim 7. To the extent this reference does not explicitly or inherently disclose, teach, or suggest this limitation, it would have been obvious to a POSITA to form the frame structures from a plurality of individual components that are joined together at various locations or to use a continuous component for any of the elements. Using individual components or a continuous component would have been an obvious way of creating any framed, multi-dimensional structure, and this would have been a known use of familiar elements in their expected way to achieve their known result of stably framing a multi-dimensional structure. Using individual components or a continuous component would have been obvious design choices for framing a structure with known trade-offs (<i>e.g.</i>, costs, ease of construction/deconstruction, stability, durably, etc.). <i>See, e.g.</i>, U.S. Patent Pub. No. 2007/0010374A1 (“Widich”) fig. 1 and ¶¶ [0008], [0039], [0041], [0054]; U.S. Patent No. 4,341,379 (“Milligan”) col. 7:29-58; U.S. Patent No. 6,607,468 (“Nichols”) col. 6:19-38.
---	---