

Invalidity of U.S. Patent No. 8,764,575 in view of U.S. Patent Application Publication No. 2007/0010374 (“Widich”)

U.S. Patent Application Publication No. 2007/0010374 (“Widich”), with a priority date of July 11, 2005, a filing date of July 11, 2005, and a publication date of January 11, 2007 qualifies as prior art under at least 35 U.S.C. § 102(b) as 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 Widich 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 Widich and/or to combine the teachings of Widich 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 Widich to meet these limitations based on: (a) the teachings in Widich itself; (b) a person of ordinary skill in the art implementing a predictable variation of the methods and/or systems disclosed in Widich; (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.

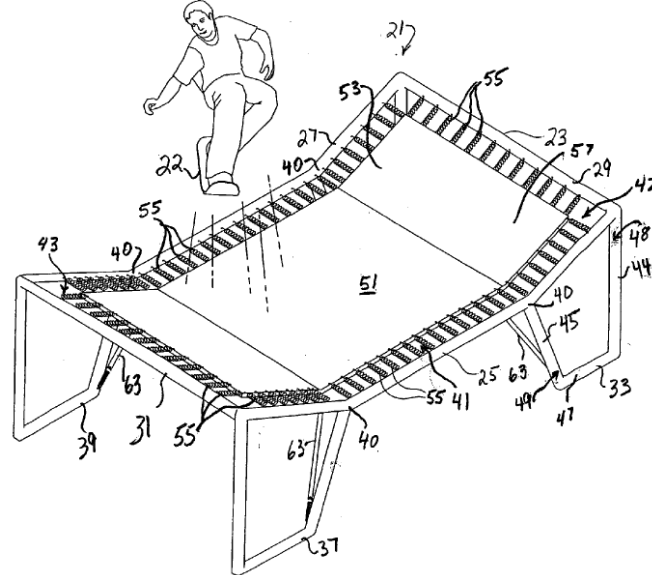
¹ Nothing in these claim charts should be construed as an admission regarding infringement, either literally or under the doctrine of equivalents, or as an admission regarding Defendants’ understanding of the proper scope of the Asserted Claims. Given the ambiguities in Plaintiffs’ infringement contentions, 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.

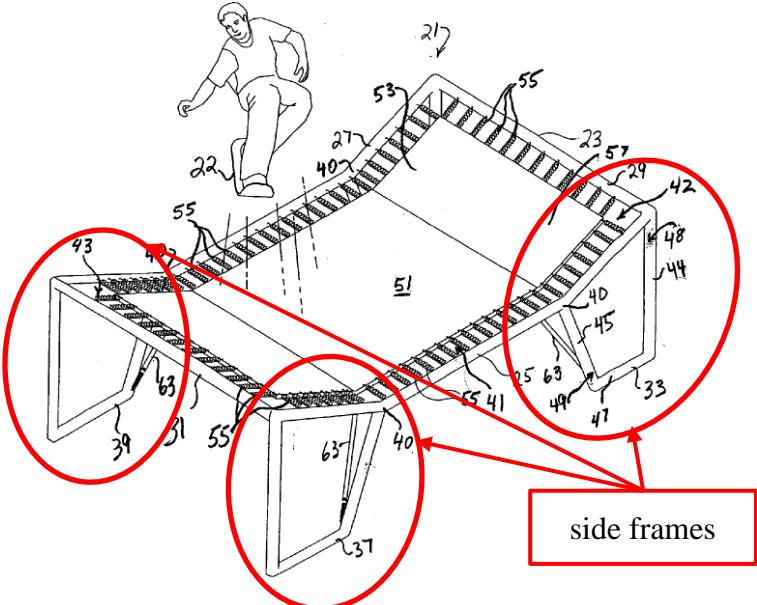
Defendants' Invalidity Contentions regarding U.S. Patent Application Publication No. 2007/0010374 ("Widich")

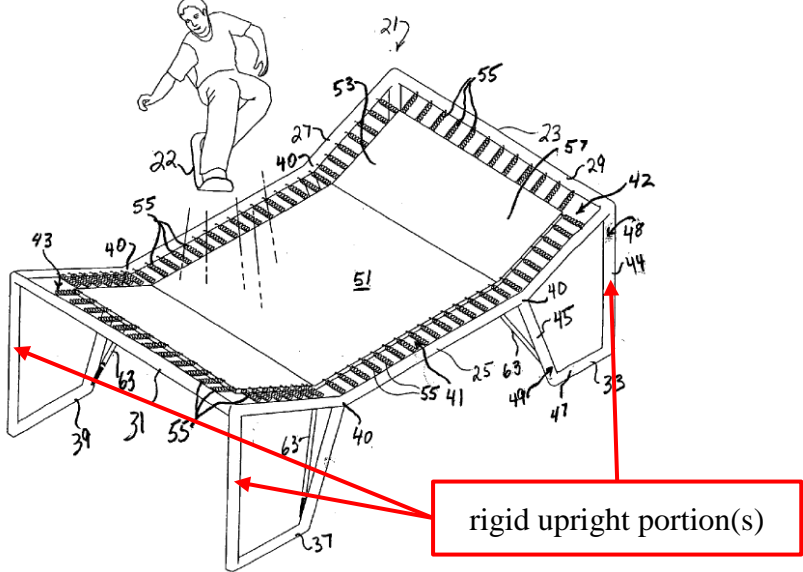
Claim 1

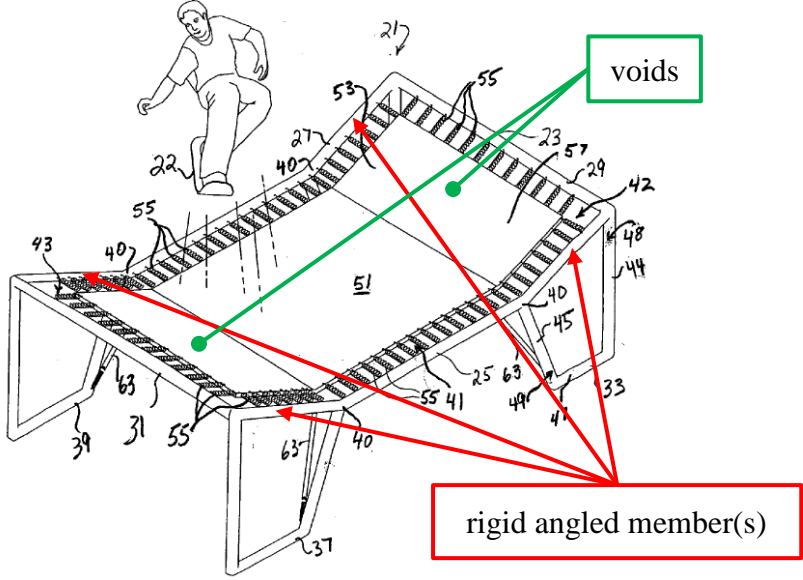
1.1 A trampoline arena comprising:

To the extent the preamble of Claim 1 is found to be limiting, Widich discloses "[a] trampoline arena [21]." *See, e.g.*, Widich Title, Abstract, fig. 1, ¶¶ [0004]-[0005], [0016]-[0018].

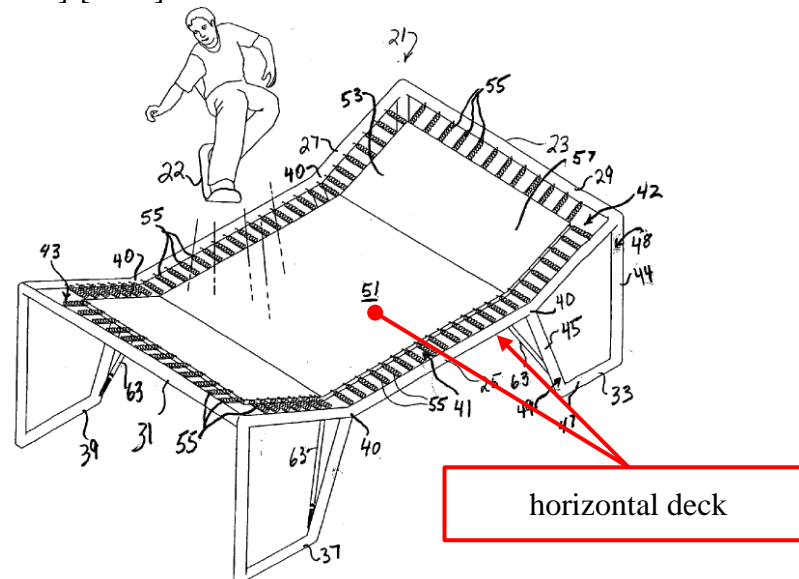


<p>1.2a plurality of side frames defining an outwardly sloping outer wall, each of the plurality of side frames including:</p>	<p>Widich discloses “a plurality of side frames defining an outwardly sloping outer wall.” <i>See, e.g.,</i> Widich figs. 1-3, ¶¶ [0006], [0007], [0016]-[0018], [0022]-[0024], [0034]-[0039].</p> 
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<p>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</p>	<p>Widich discloses “a rigid first upright member [44] having a top first upright member portion and a bottom first upright member portion mountable to a floor.” <i>See, e.g.</i>, Widich figs. 1-3, ¶¶ [0006], [0007], [0016]-[0018], [0022]-[0024], [0034], [0037].</p> 
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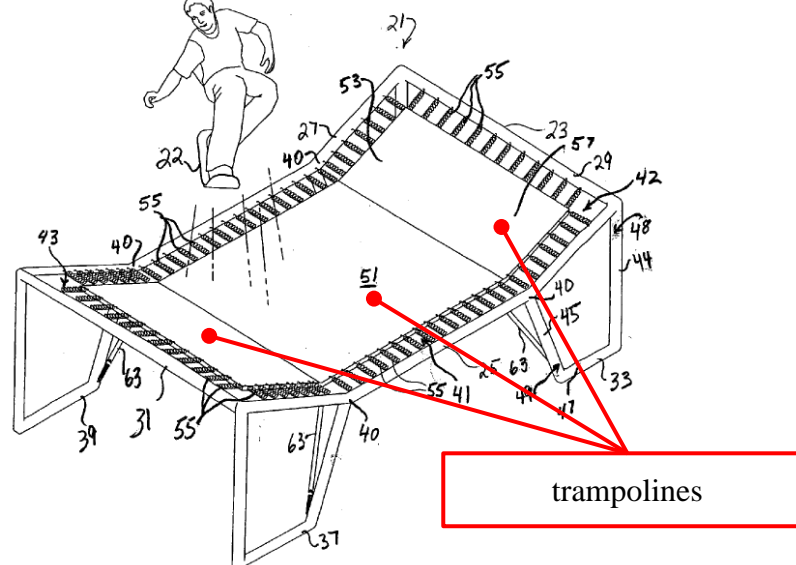
<p>1.4a rigid angled member connected at an upper angled member portion to the top first upright member portion and extending at a downward angle therefrom to a lower angled member portion, a plurality of voids being defined between the plurality of angled members;</p>	<p>Widich discloses “a rigid angled 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 [42, 43] being defined between the plurality of angled members.” <i>See, e.g.</i>, Widich figs. 1-3, ¶¶ [0006], [0007], [0016]-[0018], [0022]-[0024], [0034]-[0037]</p> 
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1.5a horizontally-extending deck connected to the [lower] angled member portions of the plurality of side frames; [0018], [0022]-[0024], [0034]-[0038].



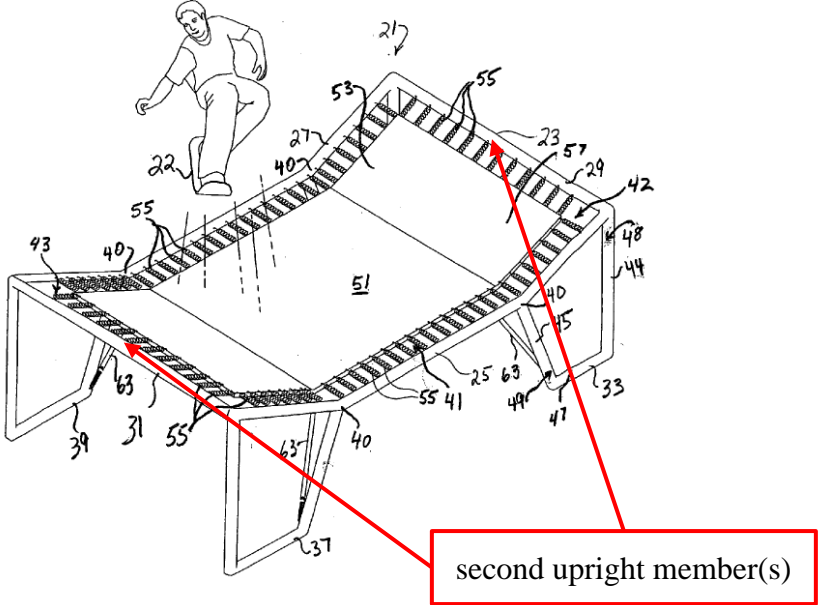
1.6a plurality of trampolines connected to the angled members along peripheries thereof and extending across the plurality of voids; and

Widich discloses “a plurality of trampolines [53] connected to the angled members along peripheries thereof and extending across the plurality of voids.” *See, e.g.*, Widich figs. 1-3, ¶¶ [0006], [0007], [0016]-[0018], [0022]-[0024], [0034]-[0038].



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 (*e.g.*, adding additional tensioning elements, using tighter springs, increasing the rigidity of the frames, etc.) with known trade-offs (*e.g.*, cost, ease of construction/deconstruction, stability, durability,

1.6		(cont.) 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.	Widich discloses “a padding assembly [<i>e.g.,</i> “safety padding”] including a plurality of pads at least partially overlying the angled members and the peripheries of the trampolines.” <i>See, e.g.,</i> Widich ¶¶ [0037] (“safety padding may be deployed over selected exposed frame members as would be deemed prudent.”).
Claim 7		
7.1	The arena of claim 1, further comprising:	<i>See</i> claim 1.
7.2	at least one upper frame member interconnecting the plurality of side frames	<p>Widich discloses “at least one upper frame member [23] interconnecting the plurality of side frames.” <i>See, e.g.,</i> Widich figs. 1-3, ¶¶ [0006], [0007], [0016]-[0018], [0022]-[0024], [0034]-[0036].</p> 

Claim 9

<p>9.1 The arena of claim 7, wherein the at least one upper frame member includes a plurality of upper frame members.</p>	<p>Widich discloses that “the at least one upper frame member includes a plurality of upper frame members.” <i>See, e.g.</i>, Widich, [0036] (“While providing bends 40 at members 25 and 27 is illustrated herein to establish the intersecting fields established by frame 23, other constructions could be conceived of to achieve the same purpose. Moreover, while fixed frame members are illustrated herein, frame 23 could be made so that the obtuse angle or angles established thereby are adjustable (for example, by locating securable pivots at locations 40 of members 25 and 27 together with a securable telescoping feature and related adaptations at elevating members 33, 35, 37 and 39).”); <i>see also</i> Widich, figs. 1-3, [0006], [0007], [0016]-[0018], [0022]-[0024], [0034]-[0037].</p> <p>In addition, 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.</p>
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