

**OPINION UNDER SECTION 74A**

Patent	GB2578530
Proprietor(s)	RED PADDLE CO LIMITED
Exclusive Licensee	
Requester	Beuro IP Limited
Observer(s)	
Date Opinion issued	09 August 2022

**The request**

1. The comptroller has been requested to issue an opinion as to whether GB2578530 (the Patent) is novel and/or involves an inventive step over several pieces of prior art. The request was filed on 11<sup>th</sup> May 2022.
2. The Patent has been the subject of a previous request, published as Opinion 01/22, wherein the validity of all of the claims (1-21) in light of the C4 Waterman Supsquatch and the validity of claim 1 in light of the Tiki Factory Mega 17 and the Tiki Factory Super Tanker was considered.
3. The current request relates to validity of claims 3 and 11-14 in light of the C4 Waterman Supsquatch (these claims were thought to be valid in light of the Supsquatch in Opinion 01/22) and the validity of claims 2-21 in light of the Tiki Factory Mega 17 and the Tiki Factory Super Tanker.

**Should the Request be Accepted?**

4. Section 74A(3) of the Patents Act 1977 states:
 

*The comptroller shall issue an opinion if requested to do so under subsection (1) above, but shall not do so –*

*(a) in such circumstances as may be prescribed, or*

*(b) if for any reason he considers it inappropriate in all the circumstances to do so.*
5. With respect to R3 the Tiki Factory Mega 17 and R4 the Tiki Factory Super Tanker dependent claims 2-21 were not considered in 01/22, therefore this is prima facie new ground suitable for a further opinion. Whilst it is not ideal to split consideration of validity between two Opinion Requests in this manner it was arguably reasonable for

the previous Opinion Request to focus on what it considered its best piece of prior art (the C4 Waterman Supsquatch). Hence, I do not think that the requester's behaviour in this regard could reasonably be considered vexatious and does not make issuing an Opinion inappropriate.

6. With respect to R1 the C4 Waterman Supsquatch, all of the claims were considered in 01/22 and I must consider whether this new request simply repeats the arguments presented in that request.
7. The argument with respect to claim 3 is quite similar in its general approach but goes into somewhat more detail. Since I must deal with the substantive question with respect to the Tiki Factory Mega 17 and Super Tanker it seems prudent, and thus appropriate, to simply do the same for the C4 Waterman Supsquatch rather than try to pick at whether the differences amount to a new argument or not.
8. With respect to claims 11-14 the argument in Opinion 01/22 relied upon a combination of the C4 Waterman Supsquatch with patent document US 2009/049757 A1. The new request considers the C4 Waterman Supsquatch in light of common general knowledge in the art and provides some evidence in support of the asserted common general knowledge. This amounts to a new line of argument that it is appropriate to consider.

## **Observations**

9. No Observations were filed in response to the Request.

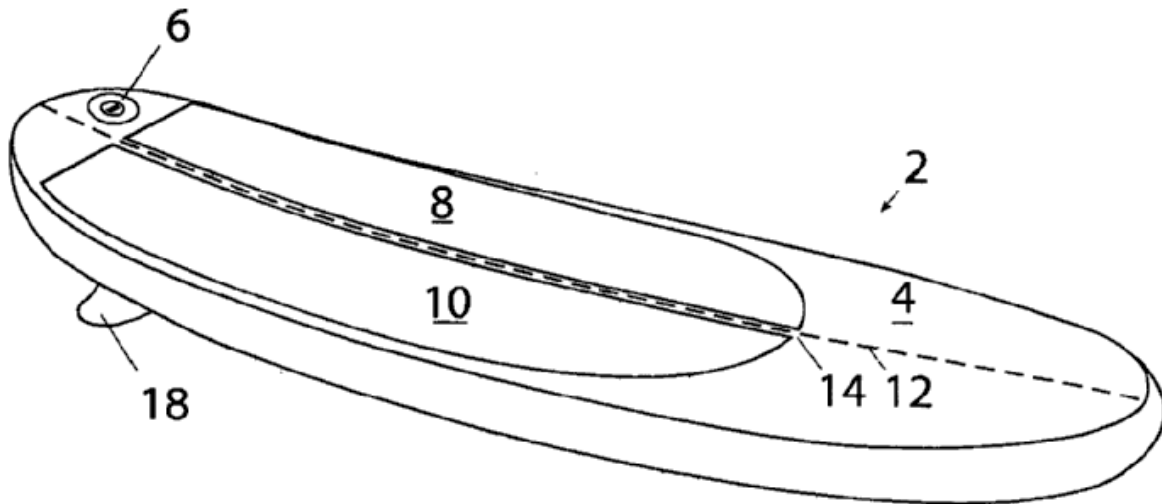
## **Amendment**

10. At point 6 the request discusses a potential amendment which had been suggested by the Patentee in their Observations on Opinion 01/22. This potential amendment would limit the scope of claim 1 to stand-up inflatable paddle boards (ISUP) 'for a single user'.
11. Subsequent to the filing of this Opinion Request the Patentee formally proposed an amendment of this form on 23<sup>rd</sup> May 2022. The proposal was assessed and the Office responded on 18<sup>th</sup> July 2022. In light of this it would not be appropriate for me to comment on that matter in this Opinion.

## **The Patent**

12. The Patent was filed under the Patent Cooperation Treaty as application PCT/GB2019/000009 on 28<sup>th</sup> January 2019, claiming priority from GB application GB 1801794.7 dated 02<sup>nd</sup> February 2018.
13. A request for National processing was lodged with the UKIPO on 13<sup>th</sup> December 2019 and notification of grant was issued on 13<sup>th</sup> October 2020.
14. The patent is currently in force.

15. The patent concerns stand-up inflatable paddle boards (ISUP), as shown in Fig. 1, and in particular their efficient stowage in the deflated condition. The main body of the board is inflatable via valve (6) and has deck pads (8,10) suitable for a user to stand on.



**FIG 1**

16. The opening of the description indicates that ISUP are typically folded/rolled transverse to the long axis of the board. The invention involves making at least one fold along the long axis of the board (such as 12 in Fig. 1) and providing a 'gap' (14) in the deck pads to permit this longitudinal folding. This longitudinal fold should reduce the bulk of the board when deflated.
17. The patent has a sole independent claim, 1.

*A stand-up inflatable paddle board comprising:*

*(i) a deck;*

*(ii) a valve for enabling the stand-up inflatable paddle board to be inflated and deflated:*

*(iii) indicator means for indicating that the stand-up inflatable paddle board requires at least one fold which is longitudinal when the stand-up inflatable paddle board is to be placed in a deflated condition; and*

*(iv) at least one deck pad which extends longitudinally of the deck and which is for receiving a user of the stand-up inflatable paddle board,*

*and the stand-up inflatable paddle board being such that:*

*(v) the deck has a top side and an underside;*

*(vi) the top side and the underside are such that water cannot pass through the deck from the underside to the top side;*

*(vii) the deck has a front portion which curves upwardly in use of the stand-up inflatable paddle board; and*

*(viii) the deck pad causes the stand-up inflatable paddle board to have a gap which permits the fold to be effected about the gap.*

## **Claim Construction**

18. Before considering the issues in the request I need to construe the claims of the Patent, that is to say I must interpret it in light of the description and drawings as instructed by Section 125(1). In doing so I must interpret the claims in context through the eyes of the person skilled in the art. Ultimately the question is what the person skilled in the art would have understood the patentee to be using the language of the claims to mean. This approach has been confirmed in the recent decisions of the High Court in *Mylan v Yeda*<sup>1</sup> and the Court of Appeal in *Actavis v ICOS*<sup>2</sup>.

### **The Person Skilled in the Art**

19. The Current Request has not commented upon the person skilled in the art (hereafter skilled person), I will therefore adopt the same skilled person as used in Opinion 01/22 which was suggested in the Observations in reply there.

*1a. The notional "person skilled in the art" is a person who manufactures and/or designs inflatable paddle boards such as that described in the specification*

*1b. The common general knowledge of such person extends to various types of paddle boards for single and multiple users, the materials the paddle boards are made of, the usage of the decks, the materials the deck are made of, the making and using of fins and paddles. It would not be reasonable to suggest the common general knowledge is limited to, for example, single user paddle boards as this would be unduly limiting.*

### **The Claims**

20. The current request only relates to the dependent claims of the Patent. These claims specify single features and in general can be straightforwardly understood. Therefore, I shall only explicitly discuss construction with respect to claims which are problematic.

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<sup>1</sup> *Generics UK Ltd (t/a Mylan) v Yeda Research and Development Co. Ltd & Anor* [2017] EWHC 2629 (Pat)

<sup>2</sup> *Actavis Group & Ors v ICOS Corp & Eli Lilly & Co.* [2017] EWCA Civ 1671

## Evidence

21. The Request refers to multiple pieces of evidence which I shall list for information. The appendix references relate to the appendices to the Request, not this Opinion.
- R1 – C4 Waterman Supsquatch**
- R1-1: <https://www.facebook.com/C4Waterman/videos/1030534050318854/>
  - R1-2: [https://supboardermag.com/equipment\\_guide/supsquatch-2/](https://supboardermag.com/equipment_guide/supsquatch-2/)
  - R1-4: <https://www.youtube.com/watch?app=desktop&v=4hJF8KD0yt8>
  - Screen shots of the above, and other images are shown in Appendix 1 attached hereto
- R2 - US 2009/049757 A1**
- R3 - The "Mega 17" inflatable stand-up paddle board by the Tiki Factory**
- <https://www.nauticexpo.com/prod/tiki-factory/product-64608-484150.html>
  - Shown in Appendix 2 attached hereto
- R4 - The "Super Tanker" inflatable stand-up paddle board by the Tiki Factory**
- [https://issuu.com/tikisurfco/docs/tiki\\_2017\\_adv\\_brochure](https://issuu.com/tikisurfco/docs/tiki_2017_adv_brochure) (pages 10 to 11)
  - Shown in Appendix 3 attached hereto
22. The Request considers that the closest prior, and the primary basis for their arguments, are R1 the C4 Waterman Supsquatch (hereafter the Supsquatch), R3 the Tiki Factory Mega 17 (hereafter the Mega 17) and R4 the Tiki Factory Super Tanker (hereafter the Super Tanker). R2 US 2009/049757 A1 was used in Opinion 01/22 but does not feature in the current Request.
23. I will reproduce some pictures from the appendices to aid understanding of the following discussions. Firstly, the Supsquatch:

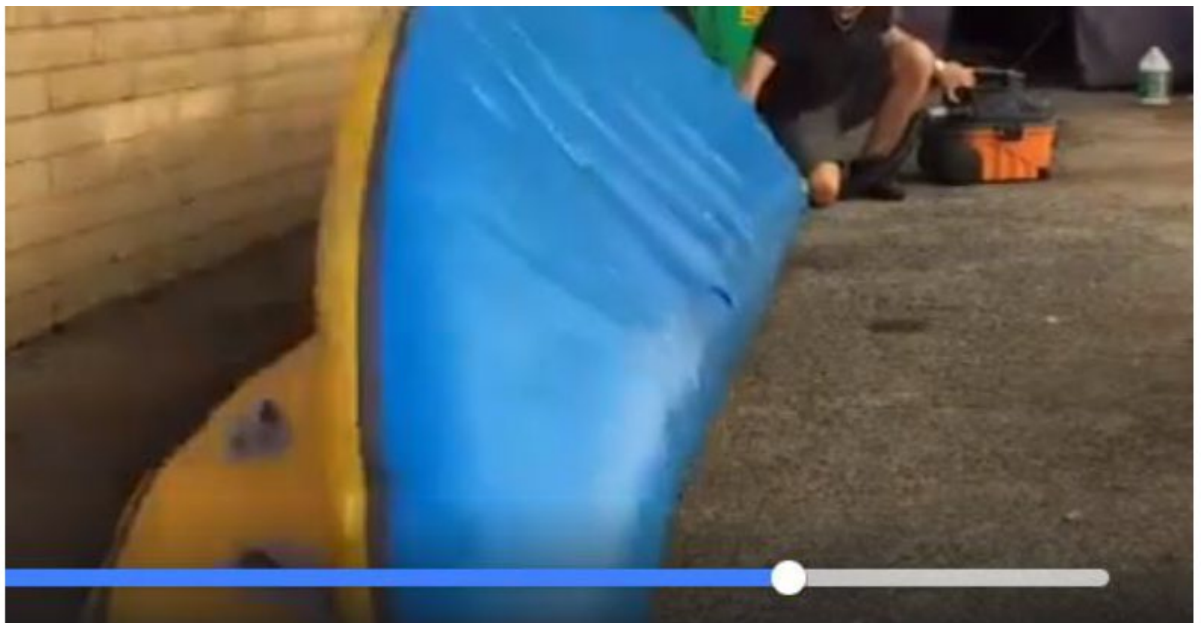




Figure 1.4 - Supsquatch unrolled and being inflated. The red marquee shows the longitudinal gap between the two deck pads

D (deck pad)

G (gap)

D (deck pad)

24. Next the Mega 17:





25. Finally, the Super Tanker:



**SBINFYS70**  
**SUPER TANKER 17'0**  
70" x 20cm

26. The Request uses the next three documents in relation to arguments about living hinges and whether they are common general knowledge.

**R5 – “Living Hinge” – Wikipedia**

- [https://en.wikipedia.org/w/index.php?title=Living\\_hinge&oldid=822958432](https://en.wikipedia.org/w/index.php?title=Living_hinge&oldid=822958432)  
- This is the Wikipedia page for living hinges. Any modifications filed after the priority date of the Patent are removed using the Wikipedia “view history” button. A copy is shown in Appendix 5 attached hereto.



**R6 – Creative Mechanisms Blog – Everything You Need to Know About Living Hinges (Designs, Prototypes, and Manufacturing)**

- <https://www.creativemechanisms.com/blog/everything-you-need-to-know-about-living-hinges>

- This is a blog post dated 13 May 2016. A copy is shown in Appendix 6 attached hereto.

**R7 – By Design: Polypropylene part design, Part 2 – Living hinges**

- <https://www.plasticstoday.com/materials/design-polypropylene-part-design-part-2-living-hinges>

- This is an article from Plastics Today, dated 25 July 2002. A copy is shown in Appendix 7 attached hereto.

27. R8-R10 are catalogues showing ISUP which use stringers as stiffening members. R11 US 9,751,599 was considered during pre-grant processing of the Patent, but is used here in combination with the prior art ISUP (the Supsquatch, the Mega 17 and the Super Tanker) which is an issue not considered pre-grant.

**R8 - RRD sup Product book year 22 (in particular pages 24 to 29 and 36)**

- [https://issuu.com/robertoriccidesigns/docs/rrd\\_sup\\_pb/1](https://issuu.com/robertoriccidesigns/docs/rrd_sup_pb/1)

- This is a catalogue from Roberto Ricci Designs, as published on 29 August 2016. The relevant pages are shown in Appendix 8 attached hereto.

**R9 – Fanatic SUP 2017 brochure (in particular page 79)**

- [https://issuu.com/fanaticboardriding/docs/f17\\_sup\\_katalog\\_21x28\\_englisch\\_web\\_](https://issuu.com/fanaticboardriding/docs/f17_sup_katalog_21x28_englisch_web_)

- This is a catalogue from Fanatic Boarding, published on 1 September 2016. The relevant pages are shown in Appendix 9 attached hereto.

**R10 – Naish 2018 Dealer Book (in particular pages 92-93)**

- [https://issuu.com/naishinternational/docs/2018sup\\_dealerbook\\_public\\_09122017](https://issuu.com/naishinternational/docs/2018sup_dealerbook_public_09122017)

- This is a catalogue from Naish Stand UP Paddling, published on 19 September 2017. The relevant pages are shown in Appendix 10 attached hereto.

**R11 – US 9,751,599**

- Cited on the corresponding US patent application. Granted 5 September 2017 and thus available at the priority date of the Patent.

## Validity

28. Section 1(1) of the Act reads:

*A patent may be granted only for an invention in respect of the following conditions are satisfied, that is to say –*

*(a) the invention is new;*

*(b) it involves an inventive step...*

29. Section 2(2) of the Patents Act 1977 states:

*The state of the art in the case of an invention shall be taken to comprise all matter (whether a product, a process, information about either, or anything else) which has at any time before the priority date of that invention been made available to the public (whether in the United Kingdom or elsewhere) by written or oral description, by use or in any other way.*

30. The Request asserts that the evidence was all made available to the public before the asserted priority date of the Patent and these assertions appear sound. Therefore, the evidence provided can be legitimately considered part of the state of the art according to Section 2(2).

### **Novelty**

31. Section 2(1) of the Patent Act 1977 states:

*An invention shall be taken to be new if it does not form part of the state of the art.*

32. In light of Opinion 01/22 I am assessing the dependent claims based on the assumption that independent claim 1 is anticipated by each of the Supsquatch, the Mega 17 and the Super Tanker.

33. Considering the relevant claims in numerical order.

*2. A stand-up inflatable paddle board according to claim 1 in which there is at least one pair of deck pads, and in which the pair of deck pads are spaced apart by the gap.*

34. From the pictures provided both the Mega 17 and Super Tanker appear to have gaps between at least one pair of deck pads along which a fold could be effected. Hence, both the Mega 17 and the Super Tanker anticipate claim 2.

*3. A stand-up inflatable paddle board according to claim 1 or claim 2 in which the gap is a channel.*

35. This element of the invention is not really discussed in the description. The passage identified in the request (page 3 lines 16-18) seems to be the only direct reference. This passage reads as follows

*“The stand-up inflatable paddle board may be one in which the gap is a channel. The gap may form a hinge, and preferably a living hinge. This is especially so when the gap is a channel.”*

36. The request asserts that claim 3 should be construed as requiring a narrower/thinner piece of material joining two deck pad parts together, this narrower region forming a living hinge. The request then argues that the skilled person's common general knowledge includes living hinges and refers to evidence to support this assertion.

37. However, there is another passage (page 3 lines 1-4) which I think is also useful when construing claim 3. This reads:

*“The cross-sectional construction may be formed by removing, for example by planing, material from a single large deck pad in order to form the two separate deck pads, or in order to form a single large deck pad with a longitudinally extending groove which forms the gap.”*

38. The most straightforward way to construe ‘the gap is a channel’ in claim 3 would be

to say that the surface in the gap is lower than the surface of the deck pads either side, and thus a channel like profile is formed. Either of two separate pads or a single grooved pad of the description would be compatible with this construction.

39. The construction proposed in the request seems to limit itself specifically to the single grooved pad option and exclude the two separate pads by implying a need for a thin connecting region of material. However, claim 3 is dependent upon claim 2 which specifies a pair of deck pads separated by a gap. This suggests that claim 3 is not supposed to be limited to the single grooved pad option.
40. With respect to the description saying that the channel should 'especially' be a (living) hinge, I do not think that this passage is clear enough to imply that a channel gap 'must' be a living hinge. Thus, the skilled person would not feel constrained to construe claim 3 such that a living hinge was present.
41. Therefore, on balance, I think that claim 3 should be construed to require that the gap have a channel like profile and be 'lower' than the adjacent deck pad areas.
42. The deck pads of the Mega 17 have noticeable thickness, the gaps between them are lower and would be channels, anticipating claim 3.
43. The deck pads of the Supsquatch also have noticeable thickness, such that the deck between them would be lower. The distance between the deck pads is quite large but I do not think the skilled person would construe claim 3 to imply a constraint on the width of the gap/channel. Therefore, the Supsquatch anticipates claim 3.

*6. A stand-up inflatable paddle board according to any one of the preceding claims in which the indicator means is on the deck.*

*7. A stand-up inflatable paddle board according to any one of the preceding claims in which the gap is configured to form the indicator means.*

44. Page 9 of the description states that the indicator means could simply be the gap between the deck pads. It follows that the gaps present in the Mega 17 and Super Tanker amount to indications and these indications are on the deck of the ISUP. Hence, both the Mega 17 and the Super Tanker anticipate claims 6 and 7.

*17. A stand-up inflatable paddle board according to any one of the preceding claims and including anchor means on the deck for enabling goods to be secured on the deck.*

*18. A stand-up inflatable paddle board according to claim 17 in which the anchor means comprises a plurality of eyelets.*

45. The Mega 17 is equipped with a pair of eyelets located near the edges toward the nose of the ISUP and another pair located at the tail, it is also equipped with multiple handle loops. The Super Tanker appears to be equipped with a pair of eyelets at the tail and also has multiple handle loops.
46. In the Patent Fig. 6 shows an arrangement of four eyelets arranged symmetrically about the ISUP's centre line in a nearly rectangular trapezoid, though page 6 of the

description indicates that a single eyelet may suffice. Page 6 also indicates that tying with string as a means of attachment is envisaged.

47. If goods were tied sufficiently tightly to any of the eyelets/handles of the Mega 17 or Super Tanker they would be secured on the deck, therefore any of those attachment points are suitable for anchoring and claim 17 is anticipated by both the Mega 17 and the Super Tanker.
48. Goods could be tied to the pair of front eyelets of the Mega 17, which therefore also anticipates claim 18.
49. Considering the Super Tanker, whilst there is arguably a bit of deck between the two tail eyelets I do not think it would be reasonable to say that goods could be secured on deck between them, therefore they cannot be said to anticipate claim 18. Whilst the handles arguably function in an equivalent manner to the eyelets when securing goods, the term eyelet implies a small size which excludes the handles from its scope. Thus the handles of the Super Tanker do not anticipate claim 18.

*19. A stand-up inflatable paddle board according to any one of the preceding claims in which the stand-up inflatable paddle board is made of a drop stiff]ch material.*

50. The brochure page for the Super Tanker states that the ISUP have a drop stitch core, thus the Super Tanker anticipates claim 19.

*20. A stand-up inflatable paddle board according to any one of the preceding claims and including a handle, and in which the handle is off-set from the fold.*

51. Both the Mega 17 and the Super Tanker have handles off set from the deck-pad gaps/fold lines, anticipating claim 20.

*21. A stand-up inflatable paddle board according to any one of the preceding claims and including a pair of fins, and in which the fins are off-set from the fold.*

52. The Super Tanker appears to have two, admittedly small, fins near the tail. Whilst obscured in the picture, a matching pair of fins is undoubtedly present on the other side. These fins are offset from the deck-pad gap/fold line. Hence, the Super Tanker anticipates claim 21.

### **Inventive Step**

53. Section 3 of the Patents Act 1977 states:

*An invention shall be taken to involve an inventive step if it is not obvious to a person skilled in the art, having regard to any matter which forms part of the state of the art by virtue only of section 2(2) above (and disregarding section 2(3) above).*

54. To determine whether or not an invention defined in a particular claim is inventive over the prior art, I will rely on the principles established in *Pozzoli SPA v BDMO SA*

[2007] EWCA Civ 588, in which the well known Windsurfing steps were reformulated:

- (1)(a) Identify the notional “person skilled in the art”;*
- (1)(b) Identify the relevant common general knowledge of that person;*
- (2) Identify the inventive concept of the claim in question or if that cannot readily be done, construe it;*
- (3) Identify what, if any, differences exist between the matter cited as forming part of the “state of the art” and the inventive concept of the claim or the claim as construed;*
- (4) Viewed without any knowledge of the alleged invention as claimed, determine whether those differences constitute steps which would have been obvious to the person skilled in the art.*

55. The skilled person and their common general knowledge are discussed above, and as noted above I will only explicitly discuss the inventive concept if understanding it is problematic.

*3. A stand-up inflatable paddle board according to claim 1 or claim 2 in which the gap is a channel.*

56. The construction of this claim is discussed under Novelty above.

57. It is not possible to determine the thickness of the deck pads of the Super Tanker or the relative height of the gaps between the deck pads from the evidence provided with the request. Relatively thick deck pads with gaps simply being the main body of the ISUP and hence lower is a commonly known arrangement that the skilled person would consider within the range of normal workshop design. Therefore, claim 3 is obvious in light of the Super Tanker.

*4. A stand-up inflatable paddle board according to any one of the preceding claims in which there is one pair of the deck pads, and in which the gap extends along a longitudinal central axis of the stand-up inflatable paddle board.*

*5. A stand-up inflatable paddle board according to any one of claims 1-3 in which there are two pairs of the deck pads, and in which the two pairs of the deck pads are symmetrically disposed about the longitudinal central axis of the stand-up inflatable paddle board.*

58. The Mega 17 and Super Tanker essentially have three deck pads and two longitudinal gaps offset from the central axis. The skilled person looking at them would consider that different deck pad and gap/fold locations would be possible. The claimed deck pad locations fall within the range of obvious options and do not exhibit any significant or unexpected benefits which would distinguish them. Thus, I think that claims 4 and 5 are obvious in light of the Mega 17 and the Super Tanker.

*8. A stand-up inflatable paddle board according to any one of the preceding claims and including auxiliary indicator means which is on the underside of the stand-up inflatable paddle board.*

*9. A stand-up inflatable paddle board according to claim 8 in which the indicator means is on the top side of the stand-up inflatable paddle board, and in which the auxiliary indicator means is on the underside of the stand-*

*up inflatable paddle board and in line with the indicator means.*

59. As noted in 01/22 there is substantially no evidence about whether indicating marking where a fold 'should' occur has any substantial technical effect on the ISUP or its use. Hence, having an indication on the underside of the ISUP with or without an indication on the top side of the ISUP does not provide an inventive step. Thus, I think that claims 8 and 9 are obvious in light of the Mega 17 and the Super Tanker.

*10. A stand-up inflatable paddle board according to any one of the preceding claims and including at least one stiffening member for stiffening the stand-up inflatable paddle board when it is an inflated condition for use.*

60. The request identifies a passage on page 6 line 2-3 indicating that a stringer is a known type of stiffening member, indicating that stiffening members per se must also be known. This reads:

*"The stiffening members may be those known as stringers."*

61. The next line is perhaps even more suggestive that stiffening members are known.

*"The stiffening members may be made of the flexible material currently being used for known stringers."*

62. The previous opinion 01/22 also noted that prior art patent US 2009/0049757 A1 stated at para. 0007 that adding stiffening batons was common general knowledge.
63. The request also includes new evidence with respect to the use of stringers/stiffening members.
64. R11 is prior art patent document US 9751599 B1 and relates to an inflatable board with a slot down most of the middle of the board and a hull either side of the slot. The feature identified in the request relates to tying the two hulls together to stiffen the overall structure. This arrangement does not have applicability to the 'single hulled' ISUP under consideration and R11 will not be considered further.
65. R8, R9 and R10 are all catalogues from before the priority date of the patent showing various ISUP and similar product.
66. The pages from R8 show ISUP with a 'Dyneema Sandwich Belt' forming a string on the deck and bottom surfaces.
67. The page from R9 shows a 'strong tarpaulin stringer' which appears to be fixed to both the top and bottom of the ISUP.
68. R10 shows an ISUP whose second layer is a stringer. It does not explicitly say that the stringer is attached to both the deck and the underside, but the picture shows very similar strips on both so this is quite likely the case.
69. It was accepted in 01/22 that stiffening members per se were common general knowledge and the additional evidence provided with this Request only reinforces that opinion. Given this, including stiffening members in either of the Mega 17 or the Super Tanker, and hence claim 10, would be obvious.

*11. A stand-up inflatable paddle board according to claim 10 in which there is at least one of the stiffening members on a top side of the stand-up inflatable paddle board, and at least one of the stiffening members on the underside of the stand-up inflatable paddle board.*

70. The request argues that there are few options of where to place a stiffening member on an ISUP and that a stiffening member top and bottom is a simple design choice unless there is a technical effect. I am minded to agree that the options are limited making one on each of the top and bottom surfaces an obvious arrangement to try.
71. I would also agree that there is no evidence that placing a stiffening member on the top and bottom surfaces produces some surprising benefit, beyond what one would normally expect from having more stiffening members, which would make the choice distinct enough to amount to an inventive step.
72. Hence, I think that claim 11 is obvious in light of the Supsquatch, the Mega 17 and the Super Tanker.

*12. A stand-up inflatable paddle board according to claim 10 or claim 11 in which there are at least two of the stiffening members positioned one on either side of the indicator means.*

73. The request again argues that due to the limited range of options any arrangement of stiffening members is an uninventive design choice unless there is some specific linked technical benefit.
74. As with claim 11 I would substantially agree, except that I would characterise it as obvious to try unless there is some unexpected benefit.
75. The difference from claim 11 is that consideration must be given to the indicator means and by implication the fold line. The request argues that the stringers shown in R8-R10 have some width and would provide stiffening against a longitudinal fold, therefore the skilled person would locate them away from any fold line.
76. Whilst the stiffening members might have negligible width, it would appear that these planar stringers are reasonably common (the stiffening members in the Patent take this form as well) and that at least as far as this type of stiffening member is concerned I think it would be obvious to the skilled person to locate them away from planned longitudinal folds.
77. Considering the Supsquatch, the evidence clearly shows this being folded longitudinally so the skilled person looking at it would bear that in mind and avoid a central stiffening member. From there two stiffening members, one down each side would be among the arrangements which would be obvious to try. Hence, I think that claim 12 is obvious in light of the Supsquatch.
78. Considering the Mega 17, the evidence shows it in a packed state with at least one longitudinal fold however it is not clear how many folds there are or whether they coincide with the gaps between the deck pads. When the skilled person considers where they should fit stiffening members they will consider where the ISUP is typically folded, not simply where a fold is 'permitted' as required by claim 1.

79. If I assume that the Mega 17 is typically folded along the gaps between the deck pads and assess the remainder of the question from that starting point. From there it would be obvious to the skilled person to avoid placing stiffening members under the deck pad gaps and thence a single stiffening member under the central deck pad, two under the outer deck pads and three under each of the deck pads would arguably be obvious arrangements to try. Of those the two and three member options would meet the terms of claim 12.
80. Alternatively, if I assume that the Mega 17 is typically folded along its centre line then a pair of stiffening member partially under the deck pad gaps, a pair only under the outer deck pads or a narrow pair either side of the centre line under the central deck pad would arguably be obvious to try. Of those, the latter two options would arguably meet the terms of claim 12.
81. The issue cannot be comfortably resolved from the available evidence, however on balance I think that claim 12 is obvious in light of the Mega 17.
82. Considering the Super Tanker the evidence does not indicate whether or it is folded longitudinally at all, let alone along the gaps between the deck pads. The issues and uncertainties are similar to those surrounding the Mega 17 along with additional 'no fold' possibilities. Even in the no fold case I think that some stiffening arrangements which meet the terms of claim 12 would be obvious to try. Thus, I think on balance that claim 12 is obvious in light of the Super Tanker.

*13. A stand-up inflatable paddle board according to claims 11 and 12 in which there are the same number of stiffening members on the underside of the stand-up inflatable paddle board as there are on the top side of the stand-up inflatable paddle board.*

83. The request makes similar comments here about the limited number of location options and the presence of technical effects. None of the evidence suggests that the comparative numbers of stiffening members on the top and bottom sides of an ISUP is known to result in any particular technical characteristic. Therefore, I think that it would be obvious to the skilled person to try having the same number of stiffening members top and bottom. Hence, I think that claim 13 is obvious in light of the Supsquatch, the Mega 17 and the Super Tanker.

*14. A stand-up inflatable paddle board according to any one of the claims 10-13 in which the or each stiffening member is made of a flexible material.*

84. Whilst the request goes into some detail on this claim, I think that it can be dealt with fairly briefly. From their common general knowledge, the skilled person will know that the requirement for a stiffening member is that a combination of it with the surrounding structure is more stiff than that structure absent the stiffening member. Similarly, the skilled person will know that one of the main characteristics of ISUP versus rigid boards is the ability to deflate and fold them away for transport/storage (The evidence related to the Supsquatch and the Mega 17 also shows this). In light of this a flexible (i.e. not rigid) stiffening member which retains the fold away advantage would be obvious to try.
85. Hence, I think that claim 14 is obvious in light of the Supsquatch, the Mega 17 and



the Super Tanker.

*15. A stand-up inflatable paddle board according to any one of the preceding claims in which the valve is positioned on a left side of the deck.*

*16. A stand-up inflatable paddle board according to any one of the claims 1-14 in which the valve is positioned on a right side of the deck.*

86. Placing the valve on the left/right side of the deck is a technically arbitrary choice and claims 15 and 16 are obvious in light of the Mega 17 and the Super Tanker.

*18. A stand-up inflatable paddle board according to claim 17 in which the anchor means comprises a plurality of eyelets.*

87. Anchor means for goods comprising multiple eyelets appear to be commonplace on the ISUP found in the various pieces of evidence presented, though arguably more common on smaller boards. Notwithstanding the relative prevalence, the skilled person would consider fitting such anchor means on the Super Tanker, rendering claim 18 obvious.

*19. A stand-up inflatable paddle board according to any one of the preceding claims in which the stand-up inflatable paddle board is made of a drop stitch material.*

88. Whilst the evidence provided does not detail the main body of the Mega 17, drop stitch material appears to be the de facto standard construction for ISUP. Therefore, constructing the Mega 17 from drop stitch fabric, and hence claim 19, would be obvious.

*21. A stand-up inflatable paddle board according to any one of the preceding claims and including a pair of fins, and in which the fins are off-set from the fold.*

89. I would agree with the request and 01/22 that fins appear to be common general knowledge in the art and that adding them to the Mega 17 would be obvious. As seen in Fig. 2.4 in the appendices at least one longitudinal folds in the Mega 17 is to be expected but how many and where those folds are is uncertain. I think that there similar problems resolving fin location relative to the fold/deck pad gap and with the stiffening member but that there will probably be some fin placement options meeting the terms of claim 21 irrespective of quite where any folds are actually located. Hence, I think that claim 21 is obvious in light of the Mega 17 but with the same caveats that this opinion does not have the soundest foundation.

## **Opinion**

90. It is my opinion that claim 3 is anticipated by the Supsquatch.

91. It is my opinion that claims 11-14 are obvious in light of the Supsquatch.

92. It is my opinion that claims 2, 3, 6, 7, 17, 18 and 20 are anticipated by the Mega 17.

93. It is my opinion that claims 4, 5, 8-16, 19 and 21 are obvious in light of the Mega 17.

94. It is my opinion that claims 2, 6, 7, 17 and 19-21 are anticipated by the Super Tanker.
95. It is my opinion that claims 3-5, 8-16 and 18 are obvious in light of the Super Tanker.

### **Application for review**

96. Under section 74B and rule 98, the proprietor may, within three months of the date of issue of this opinion, apply to the comptroller for a review of the opinion.

Owen Wheeler  
Examiner

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### **NOTE**

*This opinion is not based on the outcome of fully litigated proceedings. Rather, it is based on whatever material the persons requesting the opinion and filing observations have chosen to put before the Office.*