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49224	7590	09/23/2008	EXAMINER	
NIRO, SCAVONE, HALLER & NIRO 181 W. MADISON SUITE 4600 CHICAGO, IL 60602			EPPS, TODD MICHAEL	
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TPK 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte L. JOHN KOUTSKY and COLE T. BRODERSEN

Appeal 2008-0557
Application 10/879,945
Technology Center 3600

Decided: September 23, 2008

Before WILLIAM F. PATE III, DAVID B. WALKER, and
JOSEPH A. FISCHETTI, *Administrative Patent Judges*.

WILLIAM F. PATE III, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

This is an appeal from the final rejection of claims 1-7. These are the only claims in the application.

We have jurisdiction over this appeal under 35 U.S.C. §§ 6 and 134.

The claimed invention is directed to a vehicle seat suspension wherein an elongated guide cooperates with a guide engaging member to stabilize the seat from horizontal movement perpendicular to the direction of travel of the vehicle.

Claim 1, reproduced below, is further illustrative of the claimed subject matter.

1: A vehicle seat suspension apparatus comprising:

a base;

an isolator plate disposed above the base and adapted to support a vehicle seat;

means for allowing reciprocating horizontal movement of the isolator plate relative to the base, including at least one pair of rollers disposed along a horizontal axis and received within cooperating horizontally extending tracks;¹

an elongated guide mounted to one of either the base or the isolator and oriented along the travel path of the isolator;
and

a guide engaging member mounted to the other of the base or the isolator and engaging the guide to stabilize the isolator as it moves along its travel path.

¹ The Response dated 9/26/2005 amended claim 1 to include the language “including at least one pair of rollers disposed along a horizontal axis and received within cooperating horizontally extending tracks”, but Appellants’ CLAIMS APPENDIX does not show claim 1 to include this language. Notwithstanding, we use the version of claim 1 which was made of record in the Response dated 9/26/2005.

REFERENCES

The references of record relied upon by the examiner as evidence of anticipation are:

Koutsky	4,183,493	Jan. 15, 1980
Gauger	6,105,920	Aug. 22, 2000

REJECTIONS

Claims 1-5 and 7 stand rejected under 35 U.S.C. § 102 as anticipated by Koutsky.

Claims 1 and 6 stand rejected under 35 U.S.C. § 102 as anticipated by Gauger.

ISSUES

The issues for our consideration on appeal are whether the Appellant has established that the Examiner erred in rejecting claims 1-5 and 7 as anticipated by Koutsky, and whether the Appellant has established that the Examiner erred in rejecting claims 1 and 6 as anticipated by Gauger.

FINDINGS OF FACT

Koutsky discloses a base 29 affixed to the floor of a vehicle. See column 3, lines 5-10. Koutsky further discloses an isolator plate--lower member 44--connected to the seat bottom. See column 3, lines 26-33. Koutsky also discloses guide rails 31 having upper flange portions 32, wherein a plurality of roller structures 49 equipped with grooves 57 roll on the upper flange 32. See column 3, lines 12-16 and column 3, lines 54-67.

The Examiner states that elongated guide 31 and guide engaging member 56 are structures that stabilize the isolator 44 from horizontal movement perpendicular to the isolator travel path. Answer 4:19-21.

Gauger discloses a seat adjuster for a vehicle seat. The Examiner states that Gauger teaches several base members, pointing to members 152, 164 and 112. Answer 5:11. The Examiner further states that an isolator is provided by members 12 and 14 which are connected to the seat cushion bottom. The inner and outer rails of Gauger provide a means for allowing reciprocating horizontal movement of the isolator relative to the base. This means is comprised of the groove 62, 76, 64 and 78 filled with the polymeric balls 79. The Examiner further states that the guide means is lead screw 160 and the guide engaging member is 170. Answer 5:18-20.

PRINCIPLES OF LAW

The prior art may anticipate a claimed invention, and thereby render it non-novel, either expressly or inherently. *In re Cruciferous Sprout Litig.*, 301 F.3d 1343, 1349 (Fed. Cir. 2002). Express anticipation occurs when the prior art expressly discloses each limitation (i.e., each element) of a claim. *Id.* In addition, “[i]t is well settled that a prior art reference may anticipate when the claim limitations not expressly found in that reference are nonetheless inherent in it.” *Id.*

When a claim requires two separate elements, one element construed as having two separate functions will not suffice to meet the terms of the claim. *See Lantech Inc. v. Keip Machine Co.*, 32 F.3d 542, 547 (Fed. Cir. 1994); all limitations in a claim must be considered meaningful. *See Perkin-*

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