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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte FRANK H. RECHBERG and JASON A. RECHBERG

Appeal 2024-000857
Application 17/817,780
Technology Center 3600

Before ROBERT L. KINDER, SCOTT C. MOORE, and ROBERT J. SILVERMAN, *Administrative Patent Judges.*

KINDER, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the Examiner's decision to reject claims 21 and 22.[2] *See* Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

[1] "Appellant" refers to "applicant" as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Actron Manufacturing, Inc. Appeal Br. 4.

[2] Claims 1–20 were cancelled. Appeal Br. 6.

CLAIMED SUBJECT MATTER

The claims are directed to drawer slide. Claim 21, reproduced below, illustrates the claimed subject matter:

> 21. A method of manufacturing a drawer slide, the method comprising:
>
> milling *a first elongate linear member from a single piece of metal*, the first elongate linear member having, as a result of the milling, a first end portion including a first edge, a second end portion including a wall, and an interior surface defining a first channel extending between the first end portion and the second end portion, the wall extending transversely across the first channel at the second end portion;
>
> providing a second elongate linear member slidably located within the first channel, the second linear member having a first end portion including a first edge, a second end portion including a second edge, and an interior surface defining a second channel extending between the first end portion and the second end portion thereof, wherein interior side edges of the first elongate linear member and exterior side edges of the second elongate linear member further define a first pair of raceways; and
>
> disposing a plurality of ball bearings and bearing spacers alternately within each of the first raceways.

Appeal Br. 17 ("Claims App.") (emphasis added).

REFERENCES

The Examiner relies on the following references to reject the claims:

Name	Reference	Date
Meyer	US 3,074,766	Jan. 22, 1963
Chi	US 2004/0130248	July 8, 2004
Netzer	US 2007/0228906	Oct. 4, 2007
Haxton	US 2012/0093445	Apr. 19, 2012

REJECTIONS

The Examiner maintains the following rejections:

Claim(s) Rejected	35 U.S.C. §	Reference(s)/ Basis
21, 22	103	Meyer, Haxton, Chi
21, 22	103	Meyer, Netzer, Chi

Final Act. 2, 4.

OPINION

A. Claims 21, 22 Obviousness Over Meyer, Haxton, and Chi

Appellant directs its arguments to the claim requirement that the first elongate member be "'milled' in order to produce a single piece of metal member." Appeal Br. 11. The specific claim 21 language referred to states "milling a first elongate linear member from a single piece of metal." *Id.* at 17. Appellant recognizes that the prior art references show each individual claimed element, but Appellant first takes issue with the rationales for combining Meyer and Haxton. *Id.* at 11. Specially, Appellant contends that Examiner's reasoning is "incorrect" that a person of ordinary skill in the art would be motivated to manufacture the linear member as from a single piece of metal to "enable the part to be simply and automatically produced (i.e., formed integrally) without an assembly step of coupling the wall to the linear member." *Id.* (quoting Final Act. 3). Without reference to any evidence of record, Appellant contends, "[t]he cost savings in avoiding the manual step of fixing Meyer's stainless steel shock block 40 to the innermost extremity of member 10 would be negligible compared to the *added* cost associated with cutting into a solid piece of metal to form the member 10 and shock block 40 as a single piece." *Id.* For this reason,

Appellant alleges that "a person having ordinary skill in the art would never have modified Meyer's own manufacturing method, in which the stainless steel shock block 40 is simply 'fixed to' the innermost extremity of member 10 as described at col. 2, lines 20-21 of Meyer, for cost savings as alleged." *Id.* at 11–12.

Appellant argues that the Examiner's additional motivation for combining Meyer and Haxton is not supported by the cited references. *Id.* at 12. Specifically, the Examiner contends that combining Haxton's teaching of a solid unitary construction into Meyer would "provid[e] a more robust linear member due to the solid unitary construction." *Id.* (quoting Final Act. 4). Appellant contends that "what motivated the Appellant's own claimed invention was the potential for constructions like Meyer's to fail when the shock block 40 becomes dislodged by an impact, a possibility that was discovered by the inventors and is nowhere even contemplated by Meyer or any of the other references." *Id.* Thus, Appellant contends that the prior art fails to recognize the advantages of milling a first elongate linear member from a single piece of metal to prevent dislodgement and create a more robust linear member. *Id.*

We disagree with Appellant's contentions and agree with the Examiner that a person of ordinary skill in the art would have been motivated to combine Haxton's teaching of a solid unitary construction into Meyer to simplify manufacturing the linear member and achieve a more robust linear member. *See* Ans. 4 ("The aspect of the integral formation also providing a more robust drawer slide, due to the solid unitary construction, was additionally cited in support of the combined references.").

Although typically, "[i]t is elementary that the construction of parts integral, instead of by riveting, welding, or otherwise fastening them together, does not amount to invention," Appellant's claim 1 requires that the elongate linear member be formed from a single piece of metal. *In re Hodgson*, 96 F.2d 285, 286 (CCPA 1938) (citation omitted); *see also Application of Hotte*, 475 F.2d 644, 647 (CCPA 1973) (finding "integral" is sufficiently broad to embrace constructions united by such means as fastening and welding). Indeed, in certain situations forming parts jointly as "a single integral and gaplessly continuous piece" may not be obvious in light of similar bolted prior art structures. *Carl Schenck, A.G. v. Nortron Corp.*, 713 F.2d 782, 785 (Fed. Cir. 1983). The purposes of forming the claimed elongate linear member from a single piece of metal construction, according to Appellant's Specification, is to create a more robust design that does not become dislodged:

> The wall 17 may prevent the second linear member 20 from sliding through the second end portion 13 of the first linear member 10. Because the wall 17 is milled and part of the same piece from which the entirety of the first linear member 10 is milled, the wall 17 may not be dislodged from the impact of the second linear member 20 when the second linear member 20 is moved to the fully retracted position in the way that a separate piece extending across the first channel 11 might be.

Spec. ¶ 32 (quoted in part by Appellant at Appeal Br. 10–11). Thus, taking Appellant's Specification for what it states, "milling a first elongate linear member from a single piece of metal" as claimed may have a specific purpose or function.

Regardless, both Haxton and Meyer achieve this same function. First, Haxton recognizes a similar problem and offers the same unitary

construction for a solution, specifically, "[p]art 10 has stop area 36 at the back end to prevent the drawer slide from coming apart through the back of part 10," as depicted below in Figure 2. Haxton ¶ 16.

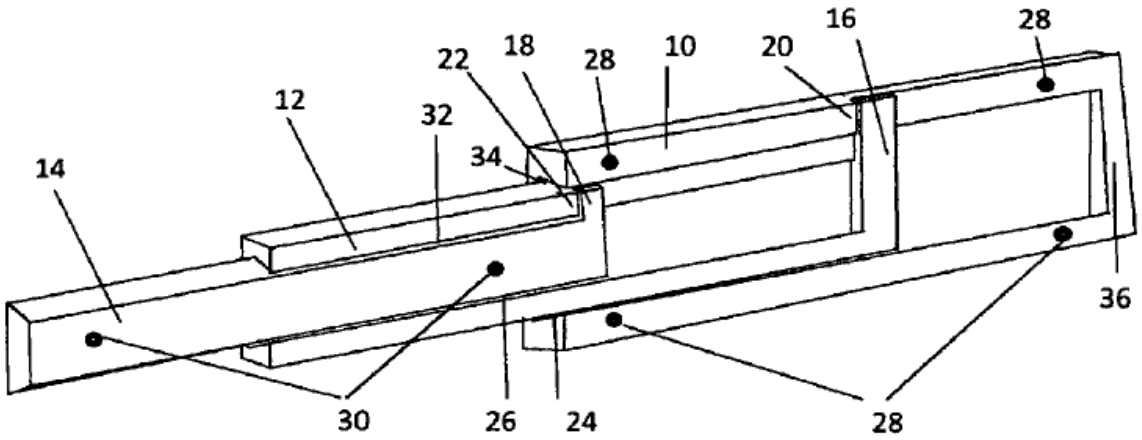

Figure 2 of Haxton depicts "[a] perspective view of the drawer slide" showing frame part 10 that has unitary stop part 36 at the back part. *Id.* ¶¶ 19, 29.

Second, we also agree with the Examiner "that **Meyer** already provides a secure and solid linear member with an end wall between first and second end portions that is able to implicitly withstand dislodgement upon impact." Ans. 7. Accordingly, we do not find Appellant's contentions persuasive. The Examiner presents a persuasive rationale explaining why a person of ordinary skill in the art would have integrated Haxton's teaching of a uniformly milled part 10 into Meyer to simplify manufacturing the linear member and achieve a more robust linear member from this unitary construction. Final Act. 3; Ans. 4.

Appellant next argues "the alleged modification would further not have been obvious considering Haxton's explicit teaching away from ball

bearing based mechanical drawer slides like those taught by Meyer." Appeal Br. 12–13 (quoting Haxton ¶ 29 ("no ball bearings are present")).

The Examiner responds that Appellant's argument is moot because Haxton "is only being relied upon for the cutting / milling operation that can be utilized when manufacturing a solid aluminum linear member of a drawer slide," and Meyer teaches use of ball bearings within the drawer slide assembly. Ans. 5.

We do not find Appellant's argument persuasive. Appellant has not shown how Haxton's lack of ball bearings would impact the Examiner's proposed combination. First, Examiner only relies on Haxton for its teaching of a making a solid aluminum linear member, which is not impacted by ball bearings for the slide mechanism. Next, Appellant has not persuasively established why a person of ordinary skill in the art would have been dissuaded from integrating Haxton's unitary linear member into Meyer as proposed by the Examiner. For example, there is no evidence or persuasive argument that Meyer's ball bearing mechanisms would be impacted by Haxton's unitary linear member.

We sustain the Examiner's rejection of claim 21 as obvious over Meyer, Haxton, and Chi. We likewise sustain the rejection of claim 22, which is not separately argued by Appellant.

B. Claims 21, 22 Obviousness Over Meyer, Netzer, and Chi

The Examiner substitutes Netzer for Haxton in this combination. *See* Final Act. 5. The Examiner finds that "[a]s to the milling aspect, Netzer is cited as an evidence reference for the known technique of milling a solid piece of material." *Id.* The Examiner notes that Netzer "is relied upon

solely for the known technique of milling out a cavity within an elongate member in order to remove material during a cutting / milling operation for the sake of enabling the member to include a recess along a length of the member in a simple and automatic manner." Ans. 5–6. According to the Examiner, Netzer teaches machining an elongate member out of a solid piece. *Id.* Further, the Examiner determines that "it would have been obvious . . . to modify the manufacture of the first elongate linear member so as to include a milling operation in view of **Netzer's** teaching because this arrangement would provide an alternative process for manufacturing the channel / recess within the linear member thereby . . . providing a more robust linear member due to the solid unitary construction." Final Act. 5–6.

Appellant contends "that Netzer's recess 6, which is milled out of the solid wood of a drawer side wall, is for the insertion of a receiving part 9 for the fastening of a front panel to the drawer side wall." Appeal Br. 14. According to Appellant, "[t]his is completely unrelated to the teachings of the Meyer reference, which are directed to a slide structure for supporting a drawer," and "[a] person having ordinary skill in the art reading Meyer and Netzer would, at best, be motivated to use Netzer's recess 6 in the side walls of a drawer that is supported by Meyer's slide structure. There is nothing in Netzer that would suggest the use of the recess 6 elsewhere." *Id.*

The Examiner persuasively relies on Netzer for its teaching of milling a drawer component as a single unitary piece and then incorporating that into Meyer. Netzer discloses, "[a]dvantageously, provision is made that the base of the recess and the drawer side wall are made unitary from a single piece," and "[m]illing the recess enables the drawer side wall to be simply and automatically produced." Netzer ¶ 9. The Examiner demonstrates

persuasively that a person of ordinary skill in the art would have recognized, based on Netzer's teachings, that machining Meyer's elongate member out of one solid piece would have created a simpler machining process. Ans. 6. Specifically, a person of ordinary skill in the art would have had "a reasonable expectation of success, to machine the elongate member out of one solid piece in view of **Netzer** [because] the automated machining of the linear member would be simpler than machining / fabricating an incomplete linear member and then adding component(s) to the member via an assembly step." Ans. 6. The Examiner has thus provided a persuasive rationale as to why a person of ordinary skill in the art would replace Meyer's member 10 and shock block 40 assembly with an elongate linear member from a single piece of metal based on Netzer's teachings of milling as a unitary single piece (Netzer ¶ 9).

Accordingly, we sustain the Examiner's rejection of claims 21 and 22 based on Meyer, Netzer, and Chi.

CONCLUSION

The Examiner's rejection of claims 21 and 22 is Affirmed.

DECISION SUMMARY

The following table summarizes our decision:

Claim(s) Rejected	**35 U.S.C. §**	**Reference(s)/ Basis**	**Affirmed**	**Reversed**
21, 22	103	Meyer, Haxton, Chi	21, 22	
21, 22	103	Meyer, Netzer, Chi	21, 22	
Overall Outcome			21, 22	

TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED