

The opinion in support of the decision being entered today was **not** written for publication and is **not** precedent of the Board.

Paper No. 28

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**Ex parte** ERVIN VANDENBERG

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Appeal No. 2004-0516  
Application No. 09/578,072

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ON BRIEF

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Before GARRIS, TIMM and PAWLIKOWSKI, **Administrative Patent Judges**.

PAWLIKOWSKI, **Administrative Patent Judge**.

**DECISION ON APPEAL**

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-16.

Claims 1, 7, and 10 are representative of the subject matter on appeal and set forth below:

1. A suspension system adapted to be mounted to a vehicle frame comprising:
  - a pair of hanger brackets adapted for extending from the vehicle frame with one defining a right side and the other a left side;
  - an axle of a first length;
  - at least one beam attached to the hanger brackets, extending between the hanger brackets and the axle and attached to the axle;

at least one pivot for pivotally attaching the beam to each of said hanger brackets;  
said at least one beam including a support plate;  
and  
an air bladder supported on the support plate and adapted to be positioned intermediate the support plate and the vehicle frame and extending substantially the distance between the right said and the left side.

7. The suspension system as defined in Claim 3 further comprising a fastener for securing the air bladder and the support plate, and in which the fastener is an adhesive.

10. The suspension system as defined in Claim 3 in which a supplemental plate is positioned within the air bladder and is adapted to secure the air bladder between the supplemental plate and the support plate.

Appellant groups the claims as set forth on page 4 of brief. Insofar as the claims have been separately argued, we consider the claims separately in this appeal. See 37 CFR § 1.192(c) (7 and 8) (2002).

Claims 1 and 16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Gouirand '651.

Claims 1-6, 9, and 12-16 stand rejected under 35 U.S.C. § 103 as being unpatentable over VanDenberg in view of Smith.

Claims 7 and 8 stand rejected under 35 U.S.C. § 103 as being unpatentable over VanDenberg in view of Smith and further in view of Gouirand '325.

Claims 10 and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over VanDenberg in view of Smith and further in view of Higby.

The examiner relies upon the following references as evidence of unpatentability:

Higby	2,317,057	Apr. 20, 1943
Smith et al. (Smith)	2,606,019	Aug. 05, 1952
Gouirand ('651)	3,000,651	Sep. 19, 1961
Gouirand ('325)	3,692,325	Sep. 19, 1972
VanDenberg	5,746,441	May 05, 1998

### OPINION

For the reasons discussed below, we reverse the 35 U.S.C. § 102(b) rejection. We affirm the 35 U.S.C. § 103 rejection of claims 1-6, 9, and 12-16. We affirm the 35 U.S.C. § 103 of claims 7 and 8. We reverse the 35 U.S.C. § 103 rejection of claims 10 and 11.

#### I. The 35 U.S.C. § 102(b) rejection of claims 1 and 16

On pages 4-5 of the brief, appellant argues, inter alia, that Gouirand '651 does not disclose a bladder as required by the claims. In response, on page 5 of the answer, the examiner states that the dictionary definition of "bladder" is quite broad and that casing 2 having diaphragm 3, of Gouirand '651, meets the definition of "bladder."

We note that the meaning and scope of claim 1 is ascertained in light of the specification. That is, in determining the patentability of claims, the PTO gives claim language its "broadest reasonable interpretation" consistent with the specification and claims. In re Morris, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997) (citations omitted).

We observe on page 8 of appellant's specification, beginning at line 3, that air bladder 39, as depicted in appellant's Figure 3, is constructed of a material highly resistant to deformation, having a cylindrical sidewall 40, and a pair of opposing end walls 41, defined by gathering of the sidewall 40, together at each end of the bladder, in the form of gathered portion 42. This is a different structure from what is disclosed in Gouirand '651. In column 1, beginning at line 39, Gouirand '651 discloses a compressed air casing 2, having an open bottom of which is closed by a flexible diaphragm 3, forming a compressed air chamber within the casing 2. The examiner does not explain how the casing 2/diaphragm 3 combination can be the air bladder 39 as recited in claim 1, as defined in light of the specification as discussed herein.

Furthermore, the examiner states that the word "bladder" is defined as "(1) something resembling a bladder; and (2) an inflated, hollow structure". Answer, page 5. Yet, as pointed out by appellant on pages 1-2 of the reply brief, the combination of a rigid housing 2 and diaphragm 3 of Gouirand '651 does not resemble a bladder because this combination does not have flexible side walls. We agree.

In view of the above, we therefore reverse the 35 U.S.C. § 102(b) rejection of claims 1 and 16.

II. The 35 U.S.C. § 103 rejection of claims 1-6, 9, and 12-16

On page 5 of brief, appellant argues that the function of element 3 of Smith would have no benefit in VanDenberg. We disagree for the reasons provided by the examiner on pages 5-6 of the answer, which we incorporate herein as our

own. Indeed, benefits (1) and (2) discussed by the examiner would provide benefits to the structure of VanDenberg for the reasons given by the examiner.

We therefore **affirm** this rejection.

III. The 35 U.S.C. § 103 of claims 7 and 8

On page 6 of brief, appellant argues that there is no suggestion that any particular mounting feature shown in Gouirand '325 would have any benefit in VanDenberg.

On page 6 of the answer, the examiner argues that the teaching of Gouirand '325, namely, securing a bladder to a support plate by bolting or bonding, would provide benefit because securing the bladder using bolts or bonding would insure that the bladder will be fixed in the proper position relative to the suspension beam in the vehicle frame. We agree with the examiner.

We therefore **affirm** this rejection.

IV. 35 U.S.C. § 103 rejection of claims 10 and 11

On page 6 of brief, appellant argues that the examiner proposes no suggestions as to why the structure set forth in Higby would be beneficial in the structure of VanDenberg. On page 3 of the reply brief, appellant states that the examiner's rejection is based entirely on hindsight.

We find that the bladders of VanDenberg are not structurally similar to the casing 14 of Higby. In fact, we find that cups 17 and 18 are not entirely within the casing 14 as required by claim 10 and claim 11. Therefore incorporation of the structure of Higby into the structure of VanDenberg would not suggest the claimed invention.

For these reasons, we **reverse** this rejection.

V. Conclusion

We **reverse** the 35 U.S.C. § 102(b) rejection of claims 1 and 16. We also **reverse** the 35 U.S.C. § 103 rejection of claims 10 and 11. We **affirm** the 35 U.S.C. § 103 rejection of claims 1-6, 9, and 12-16. We **affirm** the 35 U.S.C. § 103 rejection of claims 7 and 8.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

**AFFIRMED-IN-PART**

BRADLEY R. GARRIS	)
Administrative Patent Judge	)
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	) BOARD OF PATENT
	) APPEALS AND
CATHERINE TIMM	) INTERFERENCES
Administrative Patent Judge	)
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BEVERLY A. PAWLIKOWSKI	)
Administrative Patent Judge	)

BAP/sld

Appeal No. 2004-0516  
Application No. 09/578,072

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