

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DINESH C. SEKSARIA and JOHN W. COBES

Appeal No. 2006-0135
Application 10/271,656

ON BRIEF

Before FRANKFORT, OWENS and CRAWFORD, Administrative Patent Judges.

FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1 through 26, all of the claims pending in the application.

Appellants' invention relates generally to a motor vehicle comprising a vehicle body having a pre-assembled, modular front end wherein the sub-assemblies or modules making up the front end are substantially functionally isolated from one another. The claims on appeal specifically address the drive train assembly module (200) seen in Figures 1, 2 and 8 through 13 of the application drawings, and are more particularly directed to a drive train

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support (claims 1-5), a drive train assembly (claims 6-19) and a method of assembling the drive train assembly. Independent claims 1, 6 and 20 are representative of the subject matter on appeal and a copy of those claims can be found in the Listing of Claims attached to appellants' corrected brief.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Emmons	5,882,064	Mar. 16, 1999
Matsumura et al. (Matsumura)	5,915,494	Jun. 29, 1999
Hohnstadt et al. (Hohnstadt)	6,374,939 (filed June 19, 2000)	Apr. 23, 2002

Claims 1 through 10, 14, 20, 25 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Emmons in view Hohnstadt.

Claims 11 through 13, 15 through 19 and 21 through 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Emmons in view Hohnstadt and Matsumura.

Rather than reiterate the examiner's commentary regarding the above-noted obviousness rejections and the conflicting viewpoints advanced by the examiner and appellants regarding those rejections, we make reference to the examiner's answer (mailed May 5, 2005) for the reasoning in support of the rejections, and to appellants' corrected brief (filed January 31, 2005) and reply brief (filed July 5, 2005) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we have made the determination that the examiner's above-noted rejections under 35 U.S.C. § 103(a) will not be sustained. Our reasons follow.

The examiner's basic position concerning the rejection of claims 1 through 10, 20, 25 and 26 is set forth on pages 3-5 of the answer. Essentially, the examiner is of the view that Emmons discloses a drive train support (24), seen best in Figures 4-6, comprising a pair of vertically oriented, elongated support members (80) configured for attachment to a bulkhead of a motor vehicle (shown schematically as element 23 in Fig. 3, and consisting of cowl beam (68), firewall (48) and upper rails (38) as shown in Figs 4-5). The support members (80) are attached to the vehicle bulkhead at their upper ends via struts (70, 72, 73) and are connected at their rear lower ends to a cross member or cross car beam (82) that is in turn attached to the bulkhead at connection points (90). The front lower ends of the elongated support members (80) are also interconnected by a lateral strut (82).

The examiner concedes that Emmons does not show any details as to how the power train assembly is to be attached to the suspension and drive train support (24) and does not mention if the power train assembly is attached in a cantilevered fashion, as required in the claims on appeal. To address these deficiencies the examiner looks to

Hohnstadt, urging that it teaches a method of mounting a power train (engine 12) to a suspension tower, as shown in Figure 1. From the combined teachings of the applied patents, the examiner concludes that it would have been obvious to one of ordinary skill in the art at the time of appellants' invention to use Hohnstadt's method of mounting a power train to a suspension tower to mount the power train of Emmons to the upper connection points (74, 87) of the suspension members (80). According to the examiner,

Mounting the power train at the upper connection point will position the power train in a cantilever fashion, forward of the passenger compartment. One would be motivated to attach the engine to the upper connection point in the suspension tower in the invention taught by Emmons, to allow the load of the engine to be supported by the suspension without the need for an intermediate connecting link between the suspension and the engine, thus reducing the weight of the vehicle and increasing the efficiency of the vehicle (answer page 4).

Each of the claims on appeal includes a limitation associated with the power train assembly of the motor vehicle being "cantilevered from the support members and bulkhead forward of the cross member." On page 13 of the specification, it is noted that "[b]y 'cantilevered' it is meant that the center of gravity of the power train assembly 204 is positioned outward from the bulkhead 102 and drive train support 202." This arrangement is best seen in Figures 8 and 9 of the application drawings, wherein it is clear that the center of gravity of the power train assembly (204) would be positioned outward from the bulkhead (102) and outward (i.e., forward of) the drive train support (202) towards the front end of the vehicle.

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Applying that same understanding of the “cantilevered” limitation to the examiner’s combination of Emmons and Hohnstadt, where the power train assembly would purportedly be supported from the upper connection points (74, 87) of the suspension towers (80), we note that while such a power train assembly may well be positioned outward from the bulkhead (i.e., fire wall 48), it would appear that it would not be positioned outward (i.e., forward of) the suspension towers/support members (80) towards the front end of the vehicle, and thus would not be “cantilevered from the support members and bulkhead forward of the cross member,” as required in the claims on appeal.

The examiner commentary on page 7 of the answer that

mounting the engine in the fashion taught by Emmons and as modified by Hohnstadt et al. does produce a cantilever mounting arrangement in the manner defined by applicant “member [engine] supported projecting beyond a fulcrum [the fulcrum is the engine’s center of gravity] and supported by [supported by the suspension mounts] a... force [force is the force applied by the engine mounts taught by Hohnstadt et al.] behind the fulcrum [the engine is support at a rear, upper end]”

incorrectly states that the fulcrum would be the engine’s center of gravity and appears to be fraught with speculation and conjecture as to exactly how the engine would be supported on suspension towers (80) at points (74,87), i.e., that the engine would somehow be supported “at a rear, upper end.”

Since we have determined that the teachings and suggestions found in Emmons and Hohnstadt would not have made the subject matter as a whole of independent claims 1, 6 and 20 on appeal obvious to one of ordinary skill in the art at the time of appellants’

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invention, we must refuse to sustain the examiner's rejection of those claims, and claims 2 through 5, 7 through 10, 14, 25 and 26 which depend therefrom, under 35 U.S.C. § 103(a).

As for the examiner's rejection of claims 11 through 13, 15 through 19 and 21 through 24 under 35 U.S.C. § 103(a) as being unpatentable over Emmons in view Hohnstadt and Matsumura, we have reviewed the patent to Matsumura and find that it does not overcome or otherwise cure the deficiency in the basic combination to Emmons and Hohnstadt noted above. Thus, the rejection of dependent claims 11 through 13, 15 through 19 and 21 through 24 under 35 U.S.C. § 103(a) will likewise not be sustained.

In light of the foregoing, the decision of the examiner is reversed.

REVERSED

CHARLES E. FRANKFORT) Administrative
Patent Judge)
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TERRY J. OWENS) BOARD OF PATENT
Administrative Patent Judge) APPEALS
) AND
) INTERFERENCES

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