

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

Appeal No. 2006-0294
Application No. 09/953,030

ON BRIEF

Before KIMLIN, JEFFREY T. SMITH and FRANKLIN, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-19 and 21. Claims 1 and 19 are illustrative:

1. An apparatus for dampening vibrations, comprising:
an enclosure containing a gel-like material and
a bladder disposed within the enclosure, the bladder at least partially surrounded by and in contact with the gel-like material.
19. A method of attenuating vibration, the method comprising the steps of:
disposing a vibration dampening apparatus in a fixture, the vibration dampening apparatus comprising:

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an enclosure containing a gel-like material;
and

a bladder disposed within the enclosure, the
bladder at least partially surrounded by and
in contact with the gel-like material;

disposing a work piece on the fixture; and

adjusting the apparatus to vary contact between the
apparatus and at least a portion of one of the work piece
and the fixture to change a frequency characteristics [sic]
thereof.

The examiner relies upon the following reference as evidence
of obviousness:

Thomas et al. (Thomas) 6,049,927 Apr. 18, 2000

Appellant's claimed invention is directed to an apparatus
and method for dampening vibrations. The apparatus comprises an
enclosure containing a gel-like material and a bladder, with the
bladder at least partially surrounded by and in contact with the
gel-like material.

Appealed claims 1-19 and 21 stand rejected under 35 U.S.C.
§ 103(a) as being unpatentable over Thomas.

We have carefully reviewed the respective positions advanced
by appellant and the examiner. In so doing, we find ourselves
in agreement with appellant that the examiner has failed
to establish a prima facie case of obviousness for the claimed

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subject matter. Accordingly, we will not sustain the examiner's rejection.

According to the examiner, the only difference between the claimed invention and the invention disclosed by Thomas is that the bladder of the claimed invention is in contact with the gel-like material. The examiner explains that it would have been obvious for one of ordinary skill in the art to remove bladder pad 140 from the device of Thomas to result in contact between gel-like material 110 and the bladder.

The flaw in the examiner's reasoning, as pointed out by appellant, is that Thomas does not describe member 110 as a gel-like material. Rather, Thomas describes support layer 110 as high density base foam. The examiner reasons, however, that "the member 110 is a gel-like member to the broad degree claimed" (page 3 of answer, second paragraph).

Appellant's specification provides the following disclosure:

The enclosure 6 is filled with a gel-like material 10, or other suitable dampening material, for example, propylene glycol, highly plasticized polyvinyl chloride, hydrogel, etc., although, any generally viscous material may be employed. [Sentence bridging pages 4 and 5.]

Accordingly, it can be seen that when the claim language "gel-like material" is read in light of the present specification, it cannot be reasonably said that the language embraces the high

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density foam of Thomas. The examiner has not provided any factual basis for concluding that a gel-like material would include high density foam. Also, the examiner has failed to make any correlation between the high density foam material of Thomas and the gel-like material of the present invention which, according to the supporting specification, should be a viscous material. Nor has the examiner presented any line of reasoning why it would have been obvious for one of ordinary skill in the art to replace the high density foam of Thomas with a gel-like material.

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In conclusion, based on the foregoing, we are constrained to reverse the examiner's rejection.

REVERSED

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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JEFFREY T. SMITH)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
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BEVERLY A. FRANKLIN)	
Administrative Patent Judge)	

ECK:hh

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