

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

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Ex parte NORBERT DIEKHANS

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Appeal No. 2006-1015  
Application No. 10/358,460

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ON BRIEF

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Before CRAWFORD, NAPPI, and LEVY, Administrative Patent Judges.  
CRAWFORD, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 22 to 28, 30 to 32, 34, 35 and 37 to 43, which are all of the claims pending in this application. Claims 1 to 20 have been cancelled. Claims 29, 33 and 36 have been found allowable.

The appellant's invention relates to a self-propelled agricultural machine having contactlessly operating position-finding device and an adjusting device the orientation of the position-finding device relative to the working machine (specification, p. 1). A copy of the claims under appeal is set forth in the appendix to the appellant's brief.

#### THE PRIOR ART

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is

Diekhans et al. (Diekhans)          6,244,024          Jun. 12, 2001

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the answer (mailed March 14, 2005) and the supplemental answer (mailed Nov. 16, 2005) for the examiner's complete reasoning in support of the rejections, and to the brief (filed January 13, 2005) and reply brief (filed May 11, 2005) for the appellant's arguments thereagainst.

#### OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

The examiner has rejected the claims under 35 U.S.C. § 102(b). To support a rejection of a claim under 35 U.S.C. § 102(b), it must be shown that each element of the claim is found, either expressly described or under principles of inherency, in a single prior art reference. See Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

The examiner's finding regarding this rejection as it is directed to claim 21 can be found on page of the answer.

Appellant argues that Diekhans does not describe an adjustment device (1) operable to move the position finding device relative to the agricultural machine (2) in operable communication with the position finding device or (3) which moves the position finding device according to communication of a change of a change in the guide variable within the region of coverage.

Diekhans describes a position finding device for an agricultural machine including at least one position finding device OV and an adjustment device HSV. The adjustment device HSV may be adjusted to thereby adjust the position finding device OV. In this regard, Fig.2 depicts two positions of the adjustment device and thereby two positions of the position finding device. As the position finding device is moved by changing the links on the adjustment device HSV, it is our position that the adjustment device is in communication with the position finding device and moves the position finding device as broadly claimed. However, the adjustment device does not move the position finding

device according to a communication of a change in the guide variable. While, the adjustment device may move the position finding device when there is a change in the guide variable, Diekhans discloses nothing about moving the position finding device according to a communication about a change in the guide variable.

In view of the foregoing, we will not sustain the examiner's rejection of claim 21 or of claims 22 to 31 and 33 to 44 dependent thereon.

The decision of the examiner is reversed.

REVERSED

MURRIEL E. CRAWFORD  
Administrative Patent Judge

ROBERT E. NAPPI  
Administrative Patent Judge

STUART S. LEVY  
Administrative Patent Judge

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