

The opinion in support of the decision being entered today 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* TAMAKI NISHIKORI  
And RON DAVIS

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Appeal 2007-1804  
Application 10/885,053  
Technology Center 1700

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Decided: July 30, 2007

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Before EDWARD C. KIMLIN, BRADLEY R. GARRIS, and JEFFREY T. SMITH, *Administrative Patent Judges*.  
SMITH, *Administrative Patent Judge*.

DECISION ON APPEAL

*Statement of the Case*

This is an appeal under 35 U.S.C. § 134 from a final rejection of claims 28 and 30-32.<sup>1</sup> We have jurisdiction under 35 U.S.C. § 6 (2006).

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<sup>1</sup> The subject matter of claims 34-38 has been allowed (Br. 5). The subject matter of claim 33 has been objected to for being dependent upon a rejected claim (Br. 5).

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We AFFIRM.

Appellants invented a method for reducing vibration in a vacuum cleaner (Specification 5). Representative claim 28 follows:

28. A method of reducing vibration in a vacuum cleaner including a nozzle assembly and a canister assembly, comprising:

providing a biasing force between said nozzle assembly and said canister assembly to dampen vibration.

The prior art set forth below is relied upon by the Examiner as evidence of anticipation and obviousness:

Stein US 5,819,370 Oct. 13, 1998

Claims 28 and 32 stand rejected under 35 U.S.C. § 102(b) as anticipated by Stein; and claims 30 and 31 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Stein.

Appellants do not set forth separate substantive arguments against claims 28 and 30-32.<sup>2</sup> Appellants rely solely upon the asserted

<sup>2</sup> In the statement of rejections to be reviewed, Appellants did not restate the rejection of claims 30 and 31 under 35 U.S.C. §103 over the Stein reference. Rather, Appellants asserted that the subject matter of claims 30 and 31 are patentable for the reasons set forth regarding claim 28 (Br. 9). The Examiner notified the Appellants, Answer page 2, of the omission from the Brief. Appellants did not respond to the Examiner’s notification in a responsive Brief. Therefore, we presume that Appellants intended for the arguments presented regarding claim 28 to equally apply to the rejection of claims 30 and 31.

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misinterpretation of Stein by the Examiner (Br. 9). Accordingly, we will limit our consideration to the Examiner's rejection of claims 28 over Stein. The remaining claims will stand or fall together with claim 28.

Anticipation under 35 U.S.C. § 102 requires that a prior art reference describes each and every limitation of a claimed invention with "sufficient specificity" to establish anticipation. *Atofina v. Great Lakes Chem. Corp.*, 441 F.3d 991, 999, 78 USPQ2d 1417, 1423 (Fed. Cir. 2006)).

The issue presented for review with respect to this rejection is: Does the Stein reference have a disclosure that anticipates the claimed subject matter? The issue turns on whether Stein describes providing a biasing force between the nozzle assembly and the canister assembly. We answer this question in the affirmative.

The Examiner finds that Stein describes a method of reducing vibration in a vacuum cleaner including a nozzle assembly and a canister assembly, comprising "providing a biasing force between said nozzle assembly and said canister assembly to dampen vibration." The Examiner points to the spring 10a on nozzle assembly 4 as providing a biasing force (Answer 3). Appellants have not disputed the Examiner's factual findings.

Appellants contend that the torsion spring 10a of Stein is separate from the canister assembly and does not provide biasing force between the nozzle assembly in the canister assembly (Br. 9).

Appellants' contention is not persuasive. Appellants acknowledge that Stein comprises a torsion spring 10a mounted within the nozzle

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assembly. It has not been argued that the torsion spring of Stein does not provide a biasing force. Rather, Appellants assert that “[t]he torsion spring 10a does not engage in any part of the canister assembly 102 and as such cannot provide a biasing force between the nozzle assembly and the canister assembly as explicitly required by claim 28” (Br. 9). The subject matter of claim 28 does not require the biasing member to engage the canister assembly. Rather, the subject matter of 28 requires a biasing force to occur somewhere between the nozzle assembly and the canister assembly. There is no requirement that the biasing force engage both the nozzle assembly and the canister assembly. Stein discloses that the torsion spring 10a biases the inner part of the nozzle assembly 4 in a counterclockwise rotational direction with respect to the outer housing of the brush attachment (Col. 4, ll. 55-60). Appellants also have not argued that the torsion spring of Stein does not reduce vibration in the vacuum cleaner.

For the forgoing reasons and those set forth in the Answer, the decision of the Examiner rejecting claims 28 and 30-32 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv)(2006).

AFFIRMED

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