

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

Paper No. 27

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte STEPHEN BRIANCOURT

Appeal No. 2004-0077
Application No. 09/674,681

HEARD: February 17, 2004

Before ABRAMS, FRANKFORT, and STAAB, Administrative Patent Judges.
ABRAMS, Administrative Patent Judge.

ON REQUEST FOR REHEARING

The appellant has filed a paper captioned "Request for Clarification of Decision on Appeal," in which he requests that we confirm the interpretation we gave to the phrase "angularly variable pivot axis" in our decision of March 8, 2004, wherein we reversed the examiner's final rejection of claims 1-7, 10-14 and 17-20. We have designated this paper to be a request for rehearing.

GRANTED.

BACKGROUND

The appellant's invention relates to a an aircraft landing gear. An understanding of the invention can be derived from a reading of exemplary claim 1, which appears in the appendix to the Brief. All of the claims were rejected by the examiner under 35 U.S.C. § 102(b) as being anticipated by Lucien U.S. Patent No. 2,982,500, issued May 2, 1961.

As we stated in our decision, the appellant's invention is directed to a mechanism for pivotally retracting and extending the landing gear of an aircraft which causes the landing gear to move along an essentially arcuate path upon retraction in such a manner as to clear obstacles in the restricted space in which it must be operated. According to the claims, this is accomplished by causing the pivoting retraction movement of the leg of the landing gear to occur about "an angularly variable pivot axis." A key issue in evaluating the patentability of the claims resided in the interpretation to be given to this phrase, and it formed the basis for our reversal of the examiner's rejection over the Lucien reference.

In this regard, on page 4 of our decision, with reference being made to the drawings and to the explanation in the specification of the preferred embodiments, we interpreted the phrase "angularly variable pivot axis" to mean that "[t]he angle of the pivot axis with respect to point 19 varies as link 30 pivots about point 33, that is, the pivot axis orientation after retraction is not parallel to the pivot axis when the gear is in

the extended position” (emphasis added). The appellant now requests that we make it clear that the claims are not limited to the disclosed examples, inasmuch as they require only that the attachments of the gear leg mounting members be “configured to allow retraction movement of the leg to occur about an angularly variable pivot axis” (emphasis added).

We agree with the appellant that the claims do not require that in the retracted position the orientation of the gear pivot axis not be parallel with the orientation when the gear is in the extended position. It was not our intention to interpret the phrase in issue in such a manner as to limit the claims to the showing in the preferred embodiment disclosed in the specification, but only to make reference to that showing to explain why this limitation was not present in Lucien. From our perspective, the appellant’s claims require only that the angle of the pivot axis vary during the retraction movement, with no requirement as to the orientation of the axis when the gear is in the extended position.

The appellant’s request for rehearing is granted to the extent set forth above

REQUEST FOR REHEARING GRANTED

NEAL E. ABRAMS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
CHARLES E. FRANKFORT)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
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LAWRENCE J. STAAB)	
Administrative Patent Judge)	

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