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VOLVO GROUP INTELLECTUAL PROPERTY 7900 NATIONAL SERVICE ROAD MAIL STOP, CC1/19 GREENSBORO, NC 27409			ALSOMIRI, MAJDI A	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHAD LEE BURCHETT and
ARTHUR NALSON FOWLER

Appeal 2015-002048
Application 12/865,428
Technology Center 3600

Before BRETT C. MARTIN, LYNNE H. BROWNE, and
JEFFREY A. STEPHENS, *Administrative Patent Judges*.

BROWNE, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Chad Lee Burchett and Arthur Nalson Fowler (Appellants) appeal under 35 U.S.C. § 134 from the rejection of claims 1–14 and 17. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

CLAIMED SUBJECT MATTER

Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method for increasing the aerodynamic efficiency of a vehicle comprising:

monitoring an operating condition of a vehicle;
determining if a pre-selected event has occurred with respect to the operating condition of the vehicle;
communicating a spacing value to a moving device that repositions a trailer kingpin; and
using the moving device to reposition the trailer kingpin along the trailer, as the vehicle travels, and thereby adjust a spacing between a cab and the trailer of the vehicle based on the communicated spacing value.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Arnold	US 6,663,195 B1	Dec. 16, 2003
Wong	US 2004/0075298 A1	Apr. 22, 2004
Algüera	US 7,717,451 B2 ¹	May 18, 2010

REJECTIONS

- I. Claims 1–14 and 17 stand rejected under 35 U.S.C. § 102(b) as anticipated by Algüera.
- II. Claims 2, 3 and 7–11 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Algüera and Arnold.
- III. Claims 2–5 and 7–13 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Algüera, Arnold, and Wong.

DISCUSSION

Rejection I

Claim 1 requires the steps of “communicating a spacing value to a moving device that repositions a trailer kingpin; and using the moving

¹ The Examiner indicates that Algüera is the U.S. equivalent of WO 2006/029731 A1). Final Act. 2.

device to reposition the trailer kingpin *along the trailer.*” Appeal Br. 8 (emphasis added). Movement of the trailer kingpin is disclosed as an alternative to “movement of the fifth wheel of the cab.” Spec. ¶ 43.

The Examiner finds that Algüera discloses each and every limitation of independent claim 1. *See* Final Act. 2–3. In particular, the Examiner finds that Algüera discloses “using the moving device to reposition the trailer kingpin along the trailer, as the vehicle travels.” *Id.* at 2 (citing Algüera, 2:39–56).

Appellants contend that Algüera “does not teach a kingpin that moves along the trailer as the vehicle travels.” Appeal Br. 5. In support of this contention, Appellants explain that Algüera “teaches a fifth wheel that moves relative to the truck and that pulls or pushes the kingpin and trailer along therewith, but the kingpin movement that results from moving the fifth wheel does not cause the kingpin to move along or relative to the trailer.” *Id.* (emphasis omitted). As evidence in support of this explanation, Appellants quote column 5 lines 11–16 of Algüera which states:

FIG. 1 shows schematically a semi-trailer aggregate (double train) (40) with tractor (25) and semi-trailer (41). The aggregate (40) has a fifth wheel coupling (30) and a sliding device (20). The sliding device (20) enables sliding the coupling (30) in the longitudinal direction of the tractor (25).

Algüera, 5:11–16 (emphasis omitted).

Appellants are correct. As quoted above, in Algüera the sliding device allows the fifth wheel coupling 30 to move relative to the tractor. However, this is not movement of the trailer kingpin along the trailer. Rather, in Algüera, the trailer kingpin is always attached to the trailer at the fifth wheel coupling regardless of the position of the fifth wheel coupling with respect to the tractor. Thus, the trailer kingpin is not repositioned along

Appeal 2015-002048
Application 12/865,428

the trailer as required by claim 1. Appeal Br. 8. Accordingly, the Examiner's finding is in error.

For this reason, we do not sustain the Examiner's decision rejecting claim 1, and claims 2–13 which depend therefrom, as anticipated by Algüera. Claims 14 and 17 similarly require “using the moving device to reposition the trailer kingpin along the trailer” and “a moving device connected to receive a spacing value from the controller and configured to reposition[] a trailer kingpin along the trailer, as the vehicle travels.” Appeal Br. 9, 10. Accordingly, we do not sustain the Examiner's decision rejecting claims 14 and 17 for the same reason.

Rejections II and III

Rejections II and III rely on the same erroneous finding as Rejection I. Neither Arnold nor Wong cure the deficiency in this finding. Accordingly, we do not sustain Rejections II and III for the reasons discussed *supra*.

DECISION

The Examiner's rejections of claims 1–14 and 17 are REVERSED.

REVERSED