UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/748,437	01/23/2013	Richard Terrell Barrett	TBAR01232013	1809

71372 7590 05/03/2017
JEFFREY H. RODDY
525 ROYAL CREST DRIVE
RICHARDSON, TX 75081

EXAMINER
WILLIAMS, MAURICE L

ART UNIT	PAPER NUMBER
3611	

MAIL DATE	DELIVERY MODE
05/03/2017	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RICHARD TERRELL BARRETT and MARC GRAY

Appeal 2016-000696
Application 13/748,437[1]
Technology Center 3600

Before MICHAEL C. ASTORINO, NINA L. MEDLOCK, and ROBERT J. SILVERMAN, *Administrative Patent Judges*.

ASTORINO, *Administrative Patent Judge*.

DECISION ON APPEAL

The Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's decision finally rejecting claims 1, 4, and 5. We have jurisdiction over the appeal under 35 U.S.C. § 6(b).

We AFFIRM.

---

[1] According to the Appellants, the real parties in interest are the inventors, Richard Terrell Barrett and Marc Gray. Br. 2.

STATEMENT OF THE CASE

Claimed Subject Matter

The Appellants claimed subject matter "relates generally to a powered hitching and parking assist for a trailer." Spec. ¶ 1. Claim 1, the sole independent claim, is representative of the subject matter on appeal and reproduced below.

> 1. A stowable powered trailer jack assembly for steering a boat trailer comprising:
>
> (1) a support tube mounted to a trailer frame, the tube terminating at one end with a mounting plate and having a rotatable drive shaft therethrough,
>
> (2) a swivelable sub-assembly including a fully enclosed high-torque worm drive transmission with the worm and driven gear positioned between wheels possessing an axle track of at least 6 inches which are mounted to, and driven by a transverse axle,
>
> (3) an electric motor mounted to an end of the support tube opposite the mounting plate for driving the transmission via the drive shaft.

Rejection

Claims 1, 4, and 5 are rejected under 35 U.S.C. § 103(a) as unpatentable over Richards et al. (US 7,494,154 B2, iss. Feb. 24, 2009, hereinafter "Richards"), Marom (US 4,605,086, iss. Aug. 12, 1986), and Hawgood (US 3,156,315, iss. Nov. 10, 1964).

ANALYSIS

At the outset, we note that the Appellants include various arguments in the Appeal Brief. *See* Br. 7–10. Initially, the Appellants disagree with

the Examiner that the claimed "mounting plate" reads on the top portion of Richards's fork 22. Br. 7; *see* Richards Fig. 6. The Appellants' disagreement is based on the view that the claimed "mounting plate" is distinguishable from fork 22 because fork 22 includes arms that "extend to the sides of a supported wheel" whereas the Appellants' mounting plate lacks arms. *See* Br. 7. The Appellants' disagreement is not persuasive of error. The claims do not recite or otherwise require the claimed "mounting plate" to not have attached arms. *See* Ans. 5. And, we find that a skilled artisan would understand that the top portion of fork 22 corresponds with the "mounting plate" of claim 1. Richards Fig. 6.

The majority of the Appellants' arguments are directed towards an understanding of the "resultant combination" of teachings from Richards, Marom, and Hawgood (*see* Br. 7–10) that is based on speculation. The Appellants' understanding starts with the observation "that mount (fig. 1, 20) of Richards is mounted atop tongue (T) and is level with transmission (28) when wheel (241) is fully raised" and that "Marom . . . teaches a lifting and maneuvering device for motor vehicles to provide the dual wheels for the combination." Br. 7–8; *see also* Richards Figs. 5a, 5b, 6. The Appellants then offer the view that the "resultant combination" of teachings from Richards and Marom is such that at least one of the two wheels would abut and rub against the bottom of Richards's trailer tongue T. *See* Br. 8.

We fail to understand why a person having ordinary skill in the art armed with the teachings of Richards and Marom would have positioned one of the two wheels such that it would abut and rub against Richards's trailer tongue T. *See also* Ans. 6. The Examiner modifies Richards's trailer jack in view of Marom's teaching of "a motorized, wheeled jack assembly (Fig. 9)

with a transmission unit (321) disposed between wheels (318, 320) on an axle[]" and "several different embodiments with a two wheeled base (see Figs. 2, 3, 7 and 8)." Final Act. 2–3 (emphasis omitted). And, we find it reasonable that a person having ordinary skill in the art would have added a wheel at a distance away from Richards's trailer tongue T to maintain the operational functionality of the trailer jack, which includes the ability of the trailer jack's sub-assembly to be swiveled (i.e., pivoted) and steered. *See also* Ans. 5–6.

The Appellants contend, based on their view of the "resultant combination" of teachings of Richards and Marom, that the inclusion of a second wheel would make it "likely that . . . Richards['s] jack device would no longer be reasonably steerable at least with the wheel(s) in the fully or partially raised position as depicted in (fig.1)." Br. 8 (emphasis omitted). Additionally, the Appellants contend that the modification to Richards's trailer jack is "so radical . . . requiring numerous unpredictable modifications to the mounting (20) and the crank" rendering the jack inoperable and that the modification would change the principle of operation of Richards's trailer jack. *Id.* For similar reasons as discussed above, the Appellants' contentions are not persuasive as they are based on speculation. *See also* Ans. 6.

The Appellants contend that there is no reason to combine Marom's mounting, which is a permanent installation to a car, with Richards's detachable trailer jack because the combination would not yield predictable results. *See* Br. 8–9. The Appellants' contention is not persuasive because it is directed to teachings from Marom not relied upon in the Examiner's rejection. The Examiner relies on Marom for teaching a two wheeled base

(Final Act. 2–3), whereas the Appellants' contention is directed to a distinct teaching from Marom, i.e., that a mount can be permanently installed on a car. *See also* Ans. 6–7.

The Appellants also address the Examiner's reliance on Hawgood to further modify Richards's trailer jack. *See* Br. 9. The Examiner relies on Hawgood to teach "[a] device for steering a trailer with a high torque[] worm drive transmission (7, 35) which is fully enclosed (casing 6), including forward and reverse controls (via 38)." Final Act. 3 (emphasis omitted). Then, the Examiner further modifies Richards's trailer jack in view of this teaching. *See id.* It is the Appellants' view that "an enclosed worm gear transmission <u>between dual wheels</u> was not a[] well known alternative for powered trailer jacks at the time of the invention." Br. 9. The Appellants' view seems to relate to the following rationale in the Examiner's rejection,

> [i]t would have been obvious to a person having ordinary skill in the art . . . to include a structure to fully enclose the transmission elements . . . as taught by Hawgood in order to yield the predictable result of providing an *alternative, well-known transmission means* to drive the wheels and shield it from debris during travel, in addition to providing a means of accurately positioning the trailer.

Final Act. 3 (emphasis added). However, the Appellants' view does not explain error in the Examiner's rejection. The Examiner's rationale is based on a finding that Hawgood teaches, among other things, an enclosed worm drive transmission as an alternative kind of transmission for maneuvering trailers. *See id.* The Examiner does not rely on Hawgood to teach an enclosed worm gear transmission *between dual wheels*. Rather, the Examiner relies on a combination of teachings from Richards, Marom, and

Hawgood to find that the resultant combination corresponds to the claimed subject matter, i.e., an enclosed worm gear transmission between dual wheels. *See id.* at 2–3.

For reasons similar to those discussed above, the Appellants conclude that modifying Richards's trailer jack to have two wheels "would frustrate the purpose; e.g., steerability, of the Richards jack," "require a total redesign of Richards['s] mount (20) as well as the Richards height crank (16)," "not yield predictable results," and "is not credible." Br. 9. For similar reasons as discussed above, we determine that these conclusions are not persuasive.

The Appellants contend "that one of the ramifications of Applicant[s'] axle and transmission being between wheels instead of superior to the wheel as taught by Richards, is that Applicant[s'] wheels can pivot, and are steerable at any height position as determined by the limits of the mounting configuration shown in Applicant[s'] disclosure." *Id.* The Appellants' contention is not persuasive of error. First, the claims do not require wheels that are able to be pivoted and/or steered at every available height position. Second, as discussed above, we do not agree with the Appellants that the modification of Richards's trailer jack fails to maintain its operational functionality, which includes the ability for its sub-assembly to be swiveled (i.e., pivoted) and steered. *See* Ans. 7.

Thus, we sustain the Examiner's rejection of claims 1, 4, and 5 as unpatentable over Richards, Marom, and Hawgood.

DECISION

We AFFIRM the Examiner's decision rejecting claims 1, 4, and 5.

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

AFFIRMED