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Smartpat PLC Axel Nix 400 Renaissance Center Suite 2600 Detroit, MI 48243			BOEHLER, ANNE MARIE M	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte KARSTEN BETTIN

Appeal 2019-004496
Application 15/283,407
Technology Center 3600

Before MURRIEL E. CRAWFORD, PHILIP J. HOFFMANN, and
BRADLEY B. BAYAT, *Administrative Patent Judges*.

HOFFMANN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–5 and 7–10². We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as the inventor, Karsten Bettin. Appeal Br. 2.

² Although claim 6 is pending (*see* Appeal Br., Claims App.), the Examiner does not reject claim 6, but instead objects to the claim and indicates that the claim recites allowable subject matter (*see* Final Action 4).

According to Appellant, “[t]he invention relates to a bicycle with a bicycle seat assembly rotatably connected thereto.” Spec. ¶ 1. Claim 1 is the sole independent claim on appeal. Below, we reproduce claim 1 as representative of the appealed claims.

1. A bicycle, comprising:

a rear wheel having a rear wheel axis which is arranged perpendicular to a central reference plane of the bicycle;

a bicycle frame comprising a head tube, the head tube having a head tube axis which is arranged in the central reference plane; and

a bicycle seat assembly comprising a bicycle seat, wherein the bicycle seat can move to the left and to the right of the central reference plane while in use independently of a steering motion of the bicycle.

REJECTION AND PRIOR ART

The Examiner rejects claims 1–5 and 7–10 are rejected under 35 U.S.C. § 103(a) as unpatentable over Lin (US 6,336,649 B1, iss. Jan. 8, 2002) and Horiike et al. (US 4,903,790, iss. Feb. 27, 1990) (“Horiike”).

ANALYSIS

In support of independent claim 1’s rejection, the Examiner finds that Lin’s foldable bicycle discloses certain claim recitations, but “lacks a seat that can move to the left and to the right of the central reference plane of the bicycle while in use independently of a steering motion of the bicycle.” Answer 3. The Examiner finds that Horiike discloses “a seat 12 that can move angularly (to angle C1 in Figure 4), to the left and right relative a central reference plane C0 of the [motor]cycle (the entire seat moves to each opposite side of the central axis, as illustrated in Figure 4).” *Id.* The Examiner determines that it would have been obvious to combine the

moving seat, frame, and rear wheel of Horiike's motorcycle, with the foldable bicycle of Lin, "in order to allow the rider to shift his weight and that of the cycle seat to the inside of a turn, so that the cycle can safely take a turn at a higher rate of speed and/or with less tilt angle of the frame." *Id.* at 4; *see also id.* at 6 ("This allows a rider to take a tight turn at a higher rate of speed because the lean angle of the fixed frame portion can be reduced.")

Appellant argues that "there is no plausible rationale for combining [Lin's] . . . folding bicycle with [Horiike's] . . . movable motorcycle seat." Appeal Br. 7. Appellant argues that there is "certainly no evidence on record . . . that reducing the lean angle of a [foldable] bicycle allows for higher speed turns." Reply Br. 2; *see also* Appeal Br. 6 ("Examiner has provided no evidence that cornering speed is a design consideration for bicycles in general"). Based on our review of the record, we do not sustain the rejection.

The key to supporting a prima facie conclusion of obviousness under 35 U.S.C. § 103 is the clear articulation of the reason why the claimed invention would have been obvious. The Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) indicated that the analysis supporting a rejection under 35 U.S.C. § 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006), cited with approval in *KSR*, 550 U.S. at 418.

Lin discloses that the "primary objective of the invention herein is to provide an improved structure foldable bicycle in which the major sections

of the bicycle frame are collapsible to provide for easy portability and storage, safety and stability, time and energy savings, and additional practicality.” Lin col. 1, ll. 58–62. Lin does not discuss speed as a concern. Further, Appellant is correct that there is “no evidence on record . . . that reducing the lean angle of a [foldable] bicycle allows for higher speed turns.” Reply Br. 2. For these reasons, the Examiner does not support adequately that one of ordinary skill would have been motivated to attempt to increase the speed of turning for a foldable bicycle—especially Lin’s foldable bicycle whose primary objective includes considerations such as ease of portability and storage, and safety and stability. Restated, the Examiner does not provide a rational underpinning for the articulated reason for combining Lin and Horiike.

Based on the foregoing, we do not sustain the Examiner’s obviousness rejection of independent claim 1. We also do not sustain the obviousness rejection of claims 2–5 and 7–10 that depend from, and the Examiner rejects with, claim 1.

CONCLUSION

We REVERSE the Examiner’s obviousness rejection of claims 1–5 and 7–10.

Appeal 2019-004496
Application 15/283,407

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1-5, 7-10	103(a)	Lin, Horiike		1-5, 7-10

REVERSED