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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/044,411	02/16/2016	Alain ZAUGG	466838US41	7774
22850	7590	09/18/2020	EXAMINER	
OBLON, MCCLELLAND, MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314			WICKLUND, DANIEL PM	
			ART UNIT	PAPER NUMBER
			2844	
			NOTIFICATION DATE	DELIVERY MODE
			09/18/2020	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ALAIN ZAUGG, STEFAN ROMBACH,
DOMINIQUE LECHOT, and JEAN-PHILIPPE ROCHAT

Appeal 2019-005448
Application 15/044,411
Technology Center 2800

Before MICHAEL P. COLAIANNI, JEFFREY B. ROBERTSON, and
DONNA M. PRAISS, *Administrative Patent Judges*.

COLAIANNI, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the
Examiner’s decision to reject claims 1, 4, 5, and 7–10. We have jurisdiction
under 35 U.S.C. § 6(b).

We AFFIRM.

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 Montres
Breguet S.A. Appeal Br. 1.

Appellant's invention is directed to an autonomous chronograph mechanism comprising its own energy accumulator, its own regulating system, and a gear train connecting the energy accumulator to the regulating system (Spec. 1:3–6; Claim 1).

Claim 1 is representative of the subject matter on appeal:

1. A chronograph mechanism comprising:
an energy accumulator comprised of a strip-spring;
a regulating system;
a gear train; and
a rack,
wherein the rack has one end arranged to cooperate with the strip-spring and another end arranged to cooperate with the gear train,
wherein the rack is arranged to regulate a torque delivered by the strip-spring,
wherein the rack is mounted to pivot in one direction of rotation to drive the gear train, and
wherein the rack connects the energy accumulator to the regulating system.

Appellant appeals the following rejections:

1. Claims 1, 4, 5, 9, and 10 are rejected under 35 U.S.C. § 102(a)(1) as unpatentable over Barbasini (CH 706 208 A2, Sept. 13, 2013 (as translated)).
2. Claim 7 is rejected under 35 U.S.C. § 103(a) as unpatentable over Barbasini in view of Feigel (US 2,700,868, Feb. 1, 1955).
3. Claim 8 is rejected under 35 U.S.C. § 103(a) as unpatentable over Barbasini in view of Jolidon (US 2005/0007888 A1, Jan. 13, 2005).

Appellant argues the subject matter of claim 1 only (Appeal Br. 3–5). Appellant’s arguments regarding the § 103 rejections are that the secondary references, Feigel and Jolidon, do not cure Barbasini’s deficiencies (Appeal Br. 5–6). Therefore, claims 7 and 8 will stand or fall with our analysis of the rejection of claim 1 under § 102(a)(1).

FINDINGS OF FACT & ANALYSIS

The Examiner’s findings in the § 102(a)(1) rejection over Barbasini with respect to claim 1 are located on pages 2 to 3 of the Final Action.

Appellant argues Barbasini does not teach that rack 7 has one end arranged to cooperate with strip-spring 21 and another end arranged to cooperate with the gear train (Appeal Br. 4). Appellant contends that Barbasini clearly distinguishes the auxiliary mechanism driving control wheel 17 from the main mechanism driving chronograph drive wheel 26 (Appeal Br. 4). Appellant argues that Barbasini distinguishes the two mechanism by disclosing that the drive of control disk mechanism does not apply to the main cylinder of the movement and the operation and the power reserve main movement is not affected by control disk mechanism function (Appeal Br. 4). Appellant argues that Barbasini’s main mechanism is regulated by the main movement with the module driving wheel 25 through a gear train which is not described in the Figures of Barbasini (Appeal Br. 4). Appellant argues that Barbasini cannot anticipate the claimed subject matter because it does not show every feature in as complete detail as contained in the claim (Appeal Br. 5).

The Examiner responds that claim 1 requires the rake element of the rack “cooperate with” the gear train (Ans. 3). The Examiner finds Merriam-

Webster’s dictionary defines “cooperate” as “to act or work with another” (Ans. 4). The Examiner finds that “cooperate” does not require that the components (i.e., the rack and the gear train) be connected directly with each other (Ans. 4). The Examiner finds that Barbasini’s rack 7 does not drive the gear train (i.e., elements 24, 25, 38, and gear train recited in ¶ 50), but rack 7 does cooperate with this gear train when the auxiliary mechanism (i.e., regatta “countdown” chronograph mechanism) is in operation via timing wheel 20 (Ans. 4). The Examiner finds that Barbasini’s auxiliary mechanism and main mechanism may have separate driving mechanisms, but they are each regulated by and connected to the same balance type regulator (Ans. 5). The Examiner finds that Barbasini’s auxiliary mechanism is only connected to this regulator during its operation via gear train (i.e., elements 13, 15, 17, and 20) and gear train (elements 24, 25, 38 and gear train recited in ¶ 50) due to the partially toothed timing wheel 20 (Ans. 5). The Examiner finds that Appellant argues limitations not in the claims (Ans. 6). We agree.

Claim 1 recites, in relevant part, “the rack has one end arranged to cooperate with the strip-spring and another end arranged to cooperate with the gear train.” Claim 1 does not recite that the rack directly engages the gear train as Appellant appears to argue. Appellant contends that Barbasini’s temporary connections between the rack 7, clutch wheel 24 and timing wheel 20 do not cooperate with the gear train (i.e., wheels/gears 24, 25, 26) because these various elements do not work together (Reply Br. 4). Appellant’s argument is not persuasive because Barbasini discloses that the clutch wheel 24 meshes with timing wheel 20 during countdown mode (Barbasini ¶¶ 46, 48, 49). In other words, the toothed end 11 of rack 7

engages with the pinion 13 which is connected to the control wheel 17, which is integral with the timing wheel 20 that meshes with clutch wheel 24 and the gear train during countdown mode. The subject matter of product claim 1 is met by the cooperation of rack/lever 7 with the gear train (i.e., wheels/gears 24, 25, 26) during countdown mode.

Although Appellant argues the Examiner's definition of "cooperate," Appellant does not direct us to any definition of that term in the Specification that differs from the Examiner's definition. Appellant argues that if A cooperates with B and B cooperates with C, it does not necessarily follow that A cooperates with C (Reply Br. 4). Appellant's supposition is not persuasive here because the Examiner has shown that Barbasini's rack 7 does work with the gear train (24, 25, 26) when in auxiliary (regatta) mode. The claims do not require a direct and constant cooperation of the rack with the gear train as Appellant appears to argue.

We find that the Examiner has established by a preponderance of the evidence that the selective engagement of the timing wheel 20 with the clutch wheel 24 and the gear train provides an indirect cooperation of the rack 7 with the gear train. On this record, we affirm the Examiner's § 102(a)(1) rejection over Barbasini. For the same reasons, we affirm the Examiner's § 103 rejections of claim 7 over Barbasini in view of Feigel and claim 8 over Barbasini in view of Jolidon.

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 4, 5, 9, 10	102(a)(1)	Barbasini	1, 4, 5, 9, 10	
7	103	Barbasini, Feigel	7	
8	103	Barbasini, Jolidon	8	
Overall Outcome			1, 4, 5, 7–10	

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