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15/551,021	08/14/2017	Patrice BESSON	1606.129076	3372
24978	7590	03/19/2020	EXAMINER	
GREER, BURNS & CRAIN, LTD 300 S. WACKER DR. SUITE 2500 CHICAGO, IL 60606			GUHARAY, KARABI	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* PATRICE BESSON and THIERRY SAUVAGET<sup>1</sup>

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Appeal 2020-000011  
Application 15/551,021  
Technology Center 2800

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Before BRADLEY W. BAUMEISTER, DENISE M. POTHIER, and  
JENNIFER S. BISK, *Administrative Patent Judges*.

BAUMEISTER, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner’s final rejection of claims 1–13, which constitute all claims pending in this application. Appeal Br. 5–6.<sup>2</sup> We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies BLUEBUS as the real party in interest. Appeal Brief filed June 18, 2019 (“Appeal Br.”), 4.

<sup>2</sup> We refer to the above mentioned Appeal Brief, as well as the following documents for their respective details: the Final Action mailed October 25, 2018 (“Final Act.”); the Examiner’s Answer mailed August 2, 2019 (“Ans.”); and the Reply Brief filed September 30, 2019 (“Reply Br.”).

### CLAIMED SUBJECT MATTER

Appellant describes the present invention as follows:

A public transport land vehicle, in particular of the bus type, includes a passenger compartment intended to accommodate several people, and at least one technical compartment [that] can be accessed from the passenger compartment, at least one technical compartment, called upper compartment, is arranged on/in the upper wall of the passenger compartment.<sup>3</sup>

Abstract.

Independent claim 1, which illustrates the claimed subject matter, reads as follows:

1. A public transport land vehicle, comprising:

a passenger compartment including an upper wall and configured to accommodate several people seated or standing in an aisle;

several technical compartments, called upper compartments, which can be accessed from said passenger compartment, arranged on the upper wall of said passenger compartment and each being a longitudinal conduit;

two of said upper compartments configured for ventilation; and

another of said upper compartments configured for lighting and positioned between said two of said upper compartments configured for ventilation.

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<sup>3</sup> Appellant's Specification contrasts the term "upper wall" from "side wall" and uses the term "upper wall" to mean the vehicle's ceiling or roof that extends horizontally between the two vertical side walls. E.g. Spec. 1:18, 7:23–33; *see also* Fig. 1 (depicting "upper wall" or roof 110 and side wall 104). We, therefore, interpret "upper wall" to mean a ceiling or roof—not an upper portion of a side wall.

### THE REFERENCES

The Examiner bases the prior-art rejections on the following references:

Name	References	Date
Stanton et al. (“Stanton”)	US 6,416,116 B1	July 9, 2002

### STATEMENT OF THE REJECTIONS

Claims 1–12 stand rejected under 35 U.S.C. § 102(a)(1) as anticipated by Stanton. Final Act. 2–4.

Claim 13 stands rejected under 35 U.S.C. § 103 as being unpatentable over Stanton. Final Act. 4.

### STANDARD OF REVIEW

The Board conducts a limited *de novo* review of the appealed rejections for error based upon the issues identified by Appellant, and in light of the arguments and evidence produced thereon. *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential).

### THE EXAMINER’S DETERMINATIONS

The Examiner finds Stanton teaches all of the limitations of independent claim 1. Final Act. 2. In particular, the Examiner finds, *inter alia*, Stanton discloses roof 30 and cornice 25 corresponding to the claimed upper wall, advertising panel 47 and primary duct 48 corresponding to two upper compartments configured for ventilation arranged on the upper wall, and lighting assembly 46 corresponding to technical compartments configured for lighting positioned between said technical compartments configured for ventilation. *Id.*

The Examiner finds Stanton’s advertising panel 47 includes “distribution element 65 along with air ducts 68 [and] 69 are attached to cornice part of the upper wall” (Final Act. 5, Ans. 3) and that “[f]eeder duct 63 is clearly shown in the roof[,] which is a part of the ventilation system.” Ans. 3. Examiner further finds “[feeder duct] 63 conducts air from primary duct 48 to air distribution element 64, so the feeder duct is a part of ventilation system.” *Id.*

### CONTENTIONS AND ANALYSIS

Appellant asserts “[Stanton’s] cornice 25 is clearly part of the side wall 13 and extends to the roof 30. Thus, the cornice 25 is not part of the roof 30.” Appeal Br. 9. Appellant continues,

Fig. 3 . . . clearly shows that the housing has two air ducts 68, 69 that are on the side wall and feeder duct 63 that is below the housing and adjacent to the lighting assembly 46. Neither of these ducts 68, 69 or 63 are on the roof panel 30 (upper wall). . . .

The housing for the air distribution element 64 is clearly on the side wall of the vehicle, and not on the roof panel 30 (upper wall). Similar to the compartments of the public transit vehicles described in the prior art above, the air distribution element 64 with ducts 68 and 69, covers, and thereby, blocks external natural light from entering the interior space of the vehicle through the side wall. Contrary to the Examiner’s rejection in the Final Office Action, Stanton does not disclose two air ventilation compartments and the light compartment that are all on the upper wall[,] as recited in claim 1.

Appeal Br. 10–11.

Appellant’s arguments are unpersuasive. We understand that Appellant’s invention, *as disclosed in Appellant’s Specification*, entails arranging the ventilation and lighting technical compartments on the upper

wall, spaced from the vehicle's side walls in order to obstruct less sunlight from entering the vehicle. Spec. 1–2. However, claim 1 recites Appellant's invention more broadly than disclosed, and the claim does not limit the compartments' positions to the particular configuration described in the Specification.

Claim 1 merely states that the several technical compartments are “arranged on the upper wall of said passenger compartment.” Claim 1 does not require that the compartments be arranged *only* on the upper wall or otherwise be spaced from the side walls. As such, claim 1 is broad enough to read on a vehicle that, like the prior art, has technical compartments that are arranged on both the upper wall and the side walls.

Turning to the cited art, Stanton's feeder duct 63, distribution element 65, and air ducts 68, 69 are contained within cornice 25. Stanton Figs. 1–3. As such, Stanton's cornice corresponds to a technical compartment configured for ventilation, as claimed. Furthermore, the cornice can be interpreted as being “arranged on an upper wall,” as claimed, because at least part of Stanton's cornice 25 is arranged on roof 30. *Id.* Fig. 2.

Moreover, Appellant acknowledges that Stanton's cornices are arranged on both the upper wall and the side walls: “[a]s shown in Figs. 2 of Stanton . . . , the cornice 25 is clearly part of the side wall 13 *and extends to the roof 30.*” Appeal Br. 9 (emphasis added).

Appellant additionally argues Stanton's feeder duct 63 is not a ventilation compartment because “feeder duct 63 does not include any vents for emitting air to the interior space of the vehicle.” *Id.* at 12 (citing Stanton, col. 8, lines 4–7.)

Appellant's argument is unpersuasive. First, Appellant provides insufficient reasoning for why a ventilation intake section, as opposed to the ventilation discharge section, cannot reasonably be interpreted as constituting part of a ventilation compartment. Second, even assuming, *arguendo*, that feeder duct 63 does not constitute part of the ventilation compartment, other portions of the cornice 47, including at least air distribution element 64, fan assembly 65, and air ducts 68, 69, reasonably can be interpreted as constituting parts of a ventilation compartment, as claimed.

Finally, Appellant argues Stanton does not teach a lighting assembly between ventilation elements because the term "between," appearing in claim 1's last limitation, must be interpreted so narrowly as to preclude the upper compartments from having any portions that are disposed either vertically above or below lighting assembly 46:

[T]he lighting assembly 46 is not between the feeder duct 63 and the duct 48. Additionally, the ducts 68 and 69, which are associated with the fan assembly 65, are both positioned well below the lighting assembly 46. The lighting assembly 46 is therefore not between the ducts 68 and 69 (first ventilation compartment) and the duct 48 (second ventilation compartment).

Appeal Br. 13.

Appellant's arguments are unpersuasive because the proffered interpretation is inconsistent with Appellant's own Specification. For example, Figure 5 of Appellant's Specification depicts a lighting compartment 502 disposed between ventilation compartments 212, 214. Spec., Fig. 5. Figure 5 further depicts the exterior edges of the lighting compartment extending horizontally below and beyond the interior edges of

the ventilation compartments such that portions of the ventilation compartments are above portions of the lighting compartment. *Id.*

### CONCLUSION

For these reasons, we affirm the anticipation rejection of claim 1. We, likewise, affirm the anticipation rejection of dependent claims 2–12, which Appellant does not argue separately. Appeal Br. 13.

We, likewise, affirm the obviousness rejection of dependent claim 13. Appellant only argues claim 13 is patentable based upon its dependency on claim 1. *Id.*

### DECISION SUMMARY

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference</b>	<b>Affirmed</b>	<b>Reversed</b>
1–12	102(a)(1)	Stanton	1–12	
13	103	Stanton	13	
<b>Overall Outcome</b>			1–13	

### TIME PERIOD FOR RESPONSE

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

**AFFIRMED**