

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today  
(1) was not written for publication in a law journal and  
(2) is not binding precedent of the Board.

Paper No. 8

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JAMES ZAGUROLI JR.,  
JAMES M. WEITZ  
and  
JAMES L. DAUBERT

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Appeal No. 97-1086  
Application 08/326,604<sup>1</sup>

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ON BRIEF

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Before ABRAMS, FRANKFORT and McQUADE, Administrative Patent  
Judges.

FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

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<sup>1</sup> Application for patent filed October 20, 1994.

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This is a decision on appeal from the examiner's final rejection of claims 1 through 13, which are all of the claims pending in this application.

Appellants' invention relates to a linear guideway arrangement for low friction movement of a structure (load) supported thereon along a linear path. Claims 1 and 3 are representative of the subject matter on appeal and a copy of those claims, as they appear in the Appendix to appellants' brief, is attached to this decision.

The prior art references of record relied upon by the examiner as evidence of obviousness of the claimed subject matter are:

Neighbour 1950	2,525,712	Oct. 10,
Gallone et al. (Gallone) 1986	4,623,201	Nov. 18,
Isert 1991 (German Patent) <sup>2</sup>	3,013,410	Oct. 8,

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<sup>2</sup> A translation of this foreign language document prepared by the U.S. Patent and Trademark Office is attached to this

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Claims 1 through 3, 8 and 10 through 13 stand rejected under 35 U.S.C. § 103 as being unpatentable over Gallone.

Claims 4, 5 and 9 stand rejected under 35 U.S.C. § 103 as being unpatentable over Gallone in view of Isert.

Claims 6 and 7 stand rejected under 35 U.S.C. § 103 as being unpatentable over Gallone in view of Isert as applied to claim 4 above, and further in view of Neighbour.

Reference is made to the examiner's answer (Paper No. 7, mailed August 29, 1996) for the examiner's reasoning in support of the above-noted rejections and to appellants' brief (Paper No. 6, filed June 12, 1996) for appellants' arguments thereagainst.

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decision.

OPINION

As a preliminary matter, we note that claims 1, 2, 10, 11 and 12 on appeal will stand or fall together since appellants have grouped these claims accordingly on page 4 of their brief. Claims 3, 8 and 13 are said to form a separate group, while claims "4, 5, 7 [sic] and 9" define another group for consideration. Claim 7 is then said to be separately argued from claim 6. Thus, we focus our attention on independent claim 1 and dependent claims 3, 4 and 7 for consideration in this appeal.

Our evaluation of the obviousness issues raised in this appeal has included a careful assessment of appellants' specification and claims, the applied prior art references, and the respective positions advanced by appellants and the examiner. As a consequence of our review, we have reached the conclusions which follow.

Looking at the grouping of claims 1, 2, 10, 11 and 12, we note that appellants have indicated on page 4 of their

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brief that claim 1 sets forth "separate shafts mounted on a support member to be held spaced apart but parallel . . . ."

However, appellants have not then pointed out or specified supposed errors in the examiner's rejection with regard to claim 1, or provided an explanation of how limitations in claim 1 would render the claimed subject matter therein unobvious over the applied prior art reference to Gallone.

The examiner has taken the position that the embodiment of the guide (13) in Figure 5 of Gallone includes separate upper and lower guide bars defined respectively by the upper enlarged portion of the guide (13) and the lower enlarged portion of the guide (13) on which the roller sets (20) ride. These "guide bars" are mounted on and supported by the intermediate portion of the guide (13) and are held spaced apart but extending parallel to each other. A holder member defined by elements (14, 15, 14) in Figure 5 of Gallone carries the upper and lower sets of rollers mounted thereon so that they are spaced apart to receive the upper and lower guide bars.

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Appellants have simply not put forth any argument or convincing line of reasoning as to why the examiner's reading of claim 1 on the structure of Gallone Figure 5 is in error. Accordingly, we will sustain the examiner's rejection of claim 1 under 35 U.S.C. § 103 based on Gallone. Claims 2, 10, 11 and 12 which are grouped together with claim 1 will likewise fall.

Turning to claim 3 and the claims which depend therefrom, we note that appellants have argued (brief, pages 4-5) that the examiner's reading of the bottom wall of the longitudinal grooves (25) of Gallone as the "series of guide bar locator pieces" specified in claim 3 is unreasonable. We agree with appellants' position. Given the particular structure and function of the guide bar locator pieces set forth in claim 3, we see no way that the bottom wall of the longitudinal grooves (25) in Gallone Figure 5 can be read as being such locator pieces. As a further point, we note that the examiner's assertion (answer,

page 3) that the "attachment means of claim 3 is deemed inherent in the structure [of Gallone]" is made totally without support or explanation. Clearly the bottom walls of the grooves (25) in Gallone do not provide means for "drawing and holding" (emphasis added) said respective upper and lower guide bars in abutment against the respective ends of locator pieces as in appellants' claim 3.

As explained on page 5 of appellants' specification and as seen in Figure 2, the locator pieces (74) have end contours (76, 78) accurately cut therein so as to mate precisely with the upper and lower guide bars (18, 20) and thereby establish a precise spacing and alignment of the guide bars. The upper and lower guide bars are drawn tightly against the end contours (76, 78) of the locator pieces by means of cap screws (80, 82) received through holes in the upper and lower legs (70, 72) of the support channel (56) and threadably engaging aligned bores in the upper and lower guide bars (18, 20), respectively. No such structure exists in Gallone. Moreover, having additionally reviewed the

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references to Isert and Neighbour, we note the presence of no such structure in those references either.

Accordingly, we will not sustain the examiner's rejection of claim 3 or the claims which depend therefrom under 35 U.S.C. § 103.

Based on the foregoing reasoning, we have sustained the examiner's rejection under 35 U.S.C. § 103 of claims 1, 2, 10, 11 and 12, but reversed the examiner's rejections of claims 3 through 9 and 13 under 35 U.S.C. § 103. The decision of the examiner is accordingly affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

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	NEAL E. ABRAMS	)	
	Administrative Patent Judge	)	
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		)	BOARD OF
PATENT		)	
	CHARLES E. FRANKFORT	)	APPEALS AND
	Administrative Patent Judge	)	
INTERFERENCES		)	
		)	
		)	
	JOHN P. McQUADE	)	
	Administrative Patent Judge	)	

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APPENDIX

1. A linear guideway arrangement comprising:

an elongated upper guide bar comprised of a shaft having an upper guide surface extending along the length thereof;

an elongated lower guide bar spaced below and extending parallel to said upper guide bar, said lower guide bar comprised of a separate shaft having a lower guide surface extending along the length thereof;

an elongated support member supporting said separate upper and lower guide bars held spaced apart but extending parallel to each other;

an upper set of rollers including a pair of rollers mounted for rotation about respective axes angled towards each other;

said upper set rollers resting on and running along said guide surface of said upper guide bar;

a lower set of rollers spaced below said upper set of rollers including a pair of rollers mounted for rotation about respective axes angled towards each other and running along said lower guide surface of said lower guide bar; and,

a holder member having each of said upper and lower roller sets mounted thereon spaced apart to receive said upper and lower guide bars.

3. The guideway arrangement according to claim 1 further including a series of guide bar locator pieces supported by said support member, each locator piece having opposite ends, each end abutting a respective upper or lower guide bar, and attachment means for drawing and holding said respective upper and lower guide bars in abutment against said

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respective end thereof to be held spaced apart by the length  
of said locator pieces.