

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MOTIVEPOWER, INC.,  
Petitioner,

v.

CUTSFORTH, INC.,  
Patent Owner.

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Case IPR2013-00267  
Patent 7,122,935 B2

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Before TRENTON A. WARD, MIRIAM L. QUINN, and CARL M. DeFRANCO,  
*Administrative Patent Judges.*

QUINN, *Administrative Patent Judge.*

FINAL WRITTEN DECISION  
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

## I. BACKGROUND

MotivePower, Inc., Petitioner, filed a Petition to institute an *inter partes* review of all the claims (1–7) (the “challenged claims”) of U.S. Patent No. 7,122,935 B2 (Ex. 1001, “the ’935 patent”) pursuant to 35 U.S.C. §§ 311–19. Paper 2 (“Pet.”). The Board granted the Petition and instituted trial for all asserted claims. Paper 10 (“Dec. on Inst.”). Although Petitioner proposed five grounds of unpatentability, the panel instituted trial on the three following grounds:<sup>1</sup>

- (1) Claims 1–7 anticipated by Kartman;
- (2) Claims 1–7 anticipated by Bissett; and
- (3) Claims 1–7 obvious over Bissett and Kartman.

During trial, Cutsforth, Inc., Patent Owner, filed a Patent Owner Response (“PO Resp.”) addressing the grounds involved in trial and relying on the Declarations of Thomas A. Keim (Ex. 2019) and Mr. Dustin Cutsforth (Ex. 2050). Paper 15. Petitioner filed a Reply to Patent Owner’s Response. Paper 24 (“Pet. Reply”). Additionally, an oral hearing was held on August 6, 2014, and a transcript of the hearing is included in the record. Paper 33 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6(c). This final written decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73.

For the reasons that follow, we determine that Petitioner has met its burden to prove by a preponderance of the evidence that claims 1–7 of the ’935 patent are unpatentable.

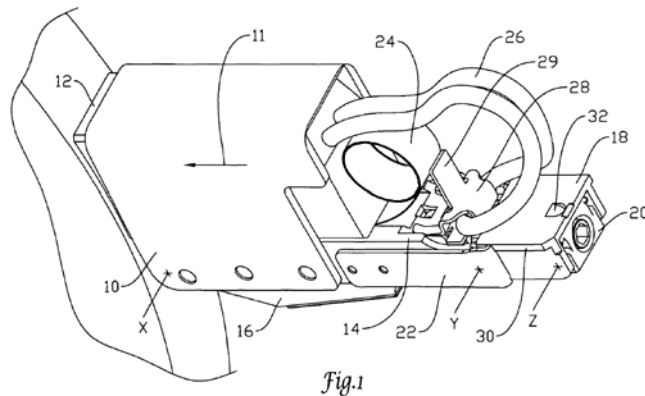
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<sup>1</sup> U.S. Patent No. 5,043,619 (Ex. 1003) (“Kartman”) and U.S. Patent No. 3,432,708 (Ex. 1004) (“Bissett”).

*A. The '935 Patent (Exhibit 1001)*

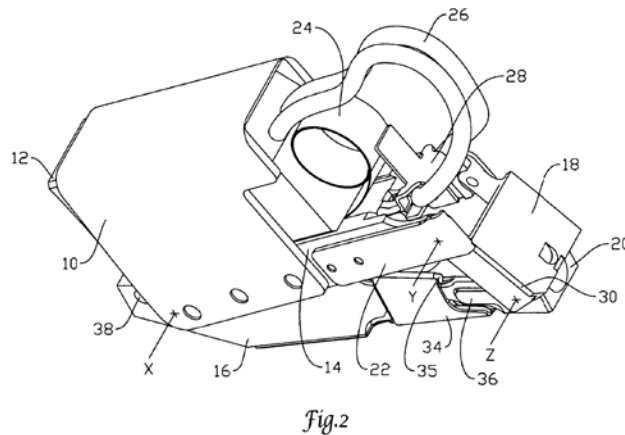
The '935 patent generally relates to a brush holder assembly for use in electrical devices and slip ring assemblies. Ex. 1001, col. 1, ll. 15–17. In particular, the patent describes that a brush is used in an electrical device to pass electrical current from a stationary contact to a moving contact surface, and vice versa. *Id.* at col. 1, ll. 21–23. Because the brush typically is in contact with a moving surface, the surface of the brush wears down, thus reducing the quality of the electrical contact. *Id.* at col. 1, ll. 33–52. The '935 patent describes that when the brush is so worn that it requires replacement, the moving contact surface may need to be halted, which may be difficult or expensive. *Id.* at col. 1, l. 64 – col. 2, l. 1. Alternatively, the '935 patent describes that maintaining the relative motion during replacement of the brush may be unsafe because of the risk of arcing and an accidental short circuit in the electrical components. *Id.* at col. 2, ll. 1–5. The patent, thus, describes that it would be an advantage to remove or replace a worn brush without stopping the moving parts involved. *Id.* at col. 2, ll. 5–9.

One embodiment of the '935 patent describes a brush holder assembly with a mounting bracket in an “engaged” configuration, relative to a lower mount block. *Id.* at col. 2, ll. 55–58. For example, Figure 1 of the '935 patent, reproduced below, illustrates an “engaged” configuration where brush 12, surrounded by brush box 10, is put in contact with a conducting surface because brush spring 24 pushes the brush toward the bottom edge of box 10. *Id.* at Fig.1; col. 4, ll. 14–32; col. 6, ll. 6–27.



According to Figure 1 above, brush box 10 is affixed to beam 14, which is affixed, via a hinged attachment, to lower mount block 16. *Id.* at col. 4, ll. 22–29. In the “engaged” position, a conductive path is formed from brush 12 through brush conductor 26, terminal 28, and conductor strap 34 (shown in Figure 2, reproduced *infra*). *Id.* at col. 6, ll. 63–67.

The ’935 patent further describes a “disengaged” configuration, shown in particular with respect to Figure 2, reproduced below.



As illustrated in Figure 2 above, a hinging action takes place at certain pivot lines, such as pivot line “X,” about which beam 14 moves with respect to lower mounting block 16. *Id.* at col. 6, ll. 33–43. In the disengaged position, conductor

strap 34 breaks contact with terminal 28, thus interrupting the current flow before the brush breaks contact with the conductive surface. *Id.* at col. 10, ll. 37–59.

*B. Illustrative Claim*

Challenged claims 1 and 6 of the '935 patent are the only independent claims at issue. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A brush holder assembly for holding a brush in contact with a moving conductive surface, the brush holder assembly comprising:
  - a mounting block configured to extend from a stationary base, the mounting block having an overall width; and
  - a removable component for selective coupling to the mounting block, the removable component including a brush holder for holding the brush, and a beam for selectively coupling the removable component to the mounting block, the beam defining a channel, wherein the mounting block extends into the channel of the beam when the removable component is selectively coupled to the mounting block, wherein the removable component has an overall width greater than the width of the mounting block and wherein the brush holder has a width that is greater than the width of the mounting block.

## II. ANALYSIS

*C. Claim Interpretation*

In an *inter partes* review, claim terms in an unexpired patent are interpreted according to their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,766 (Aug. 14, 2012). Claim terms also are given their ordinary and customary meaning as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Also, we must be careful not to

read a particular embodiment appearing in the written description into the claim if the claim language is broader than the embodiment. *See In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) (“limitations are not to be read into the claims from the specification”).

In the Decision on Institution, we interpreted various claim terms of the ’935 patent as follows:

**Table 1**

Term	Interpretation
“mounting block”	a base for affixing to another structure
“selectively coupled”/ “selective[ly] coupling”	coupling in a selective manner
“comparative thicknesses”	an assessment based on the comparison of the thicknesses of a structure, relative to the thickness of another structure
“higher brush density”	allowing for brushes to be closer in proximity with each other

Dec. on Inst. 7–12. Neither party challenges the construction of the terms “comparative thicknesses” and “higher brush density.” Pet. Reply 2 (omitting these terms from discussion of claim construction); PO Resp. 8–17 (omitting these terms from discussion of claim construction). Consequently, we adopt the constructions for those terms as stated in Table 1 in accordance with the analysis stated in our Decision on Institution. Dec. on Inst. 11–12.

In the Decision on Institution, we did not construe the term “beam,” for which Patent Owner argues that “its interpretation has little practical relevance to

this proceeding.” PO Resp. 13. Nevertheless, Patent Owner, urging uniform construction of terms across the pending *inter partes* review proceedings involving related patents, incorporates by reference its arguments made in the briefs of those other proceedings. *Id.* Based on the prohibition on incorporation by reference (47 C.F.R. § 42.6(a)(3)) and the admitted little relevance the construction of “beam” has in the present *inter partes* review, we do not construe expressly that term here.

Regarding the terms “mounting block” and “selective coupling,” Patent Owner argues that the constructions should be modified. Each of those terms is analyzed in turn.

1. “*mounting block*”

Patent Owner argues that the construction for “mounting block” must reflect the “specification’s requirement that the mounting block must be fixed to a location.” PO Resp. 8. The sought-after construction is relevant to Patent Owner’s arguments regarding how the prior art does not teach a “mounting block” that is “fixed,” i.e. non-moveable. *See id.* at 19 (arguing that Kartman’s clamp bar 46 is inherently moveable, and, therefore it is not a “fixed block”).

In support of this argument, Patent Owner relies on Figure 15B of the ’935 patent as depicting that lower mounting block 16, i.e., the “mounting block,” is fixed in place to mount base 41 via bolts 43. *Id.* at 9. Patent Owner further points to descriptions of various embodiments of the attachment of the “mounting block” to a base or to a location. *Id.* at 10–11. Neither Figure 15B nor the statements in the specification identified by Patent Owner *require* the non-moveable, or “fixed,” aspect. Figure 15B does not show that the attachment excludes any ability to adjust the block. Indeed, the bottom surface of the mount is not depicted, leaving us to speculate concerning the shape of mount holes 96, because a round hole would suggest there is no adjustability, while a slotted or

elongated hole would suggest adjustability. *But see* Ex. 1001, Fig. 9 (not cited by Petitioner, and confirming that elongated holes 96 are contemplated). The lack of description and depiction of the shape of the holes compels us to reject Patent Owner’s characterization of Figure 15B as supporting a “fixed” or non-moveable attachment. Furthermore, as for the descriptions of how the mount is attached, the specification uses the word “secure” and describes various embodiments of the attachment, none of which requires non-movability of the mount after the brush holder component is installed. *See* Ex. 1001, col. 15, ll. 64–67 (bolts and washers “*secure* the lower mount block 16 to a mount base” (emphasis added)); col. 14, ll. 34–35 (“mount holes 96 may include threading or other elements that allow for attachment to a mount base”); col. 16, ll. 1–5 (“in other embodiments, a welded, keyed, pinned or other attachment scheme may be used to *secure* the lower mount block 16 to a mount base” (emphasis added)). In fact, the specification makes a point of not limiting the attachment of the mount to any particular method, fixed or not fixed. *See id.* at col. 12, ll. 18–21 (“or other attachment scheme may be used to secure the lower mount block 16 to a mount base near a moving conductive surface or in position to move relative to a conductive surface”). Nor does the language of the claim recite any method of attachment that limits the mounting block to something that cannot be adjusted, shifted, re-positioned, or otherwise moved, after attachment to the base.

Patent Owner further proposes that the written description teaches that all embodiments include a “fixed” mounting block, and, therefore, the “mounting block” should be so construed. PO Resp. 10–11. The specification states: “with the lower mount block 16 being the only portion that must be ‘fixed’ to a location, attachment steps are simplified . . . .” Ex. 1001, col. 14, ll. 56–61. We are not



persuaded by Patent Owner's argument. Although the specification uses the word "fixed" with respect to lower mount block 16, that portion of the specification is focused on describing "the present embodiment" of a lower mount block shown in Figure 14, which illustrates a lower mount block "*for use in several embodiments,*" not *all* embodiments, as Patent Owner argues. Ex. 1001, col. 14, ll. 17–18, 56–61 (emphasis added). Moreover, that portion of the specification does not describe *the invention* as a fixed lower mount block. Indeed, Patent Owner's characterization of the "fixed" lower mount block may stretch the specification too far, as it may be inferred by the use of the word "fixed," shrouded in quotation marks, that its use in that passage is not to be taken literally.<sup>2</sup>

In our Decision on Institution, we noted that the specification does not define the term "mounting block," and that nothing in the claim language indicates that the term is used other than in accordance with its plain and ordinary meaning. Dec. on Inst. 8. We further noted that claims 1 and 6 recite that the "mounting block [is] configured to extend from a stationary base." *Id.* Guided by evidence of the plain and ordinary meaning consistent with the specification, we determined that the word "block" means "a base, platform or supporting frame."<sup>3</sup> *Id.* at 8–9. Patent Owner, however, objects to the word "base" as defining the "mounting block" because the claims recite another base, the "stationary base." PO Resp. 12–13. Accordingly, to avoid confusion, Patent Owner proffers that the construction of "mounting block" should refer to a block, not a base. *Id.*

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<sup>2</sup> See e.g., Chicago Manual of Style, 15<sup>th</sup> edition, Section 7.58 ("When a word or term is not used functionally but is referred to as the word or term itself, it is either italicized or enclosed in quotation marks.").

<sup>3</sup> *Block Definition (4)*, WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY, UNABRIDGED (1993) (Ex. 3001).

Petitioner argues that the proposal to define “block” to mean a block does not clarify any issues and that Patent Owner has not argued that the prior art does not disclose a “block.” Pet. Reply 4. Consequently, the clarification is unnecessary. We agree with Petitioner. Although the claims recite a “base” and a “block” distinctly, the claims, however, may recite these two terms in a synonymous ordinary meaning, to indicate that the two distinct structures have similar functions, as bases.

Therefore, we construe the term “mounting block” according to the ordinary meaning of the term to mean “a base for affixing to another structure.”

2. “*selective coupling*”

The claims require “a removable component for selective coupling to the mounting block.” Ex. 1001, col. 17, ll. 41–42; col. 18, ll. 34–35. Patent Owner seeks to construe the word “selective.” PO Resp. 13–14. In support for its position, Patent Owner provides two dictionary definitions of the word “selective” to argue that there is a “specific, predetermined way in which the brush holder component is coupled to the mounting block.” *Id.* at 14 (citing the *New Oxford American Dictionary* and *American Heritage Dictionary*, Exs. 2017–18). The selective manner of the recited “selectively coupling,” Patent Owner emphasizes, is dictated by the precision of the brush holder’s position when it is engaged, “with no need for adjustment or other manipulation by the installer.” *Id.* at 16. Petitioner characterizes Patent Owner’s claim construction position as an attempt to include, as a claim limitation, the unrecited over-center locking embodiment. Pet. Reply 5–6.

The claims recite that when the removable component is selectively coupled to the mounting block, the mounting block extends into the channel of the beam.

We note that the claims do not state that the selective coupling results in a full extension of the mounting block into the channel. That is, the claims, broadly, but reasonably, encompass coupling stages other than the fully engaged position of the removable component. Therefore, we do not agree with Patent Owner's assertion that the meaning of the word "selective," when viewed in context of the surrounding claim language and the specification, requires a predetermined position of the brush holder where there is no need for adjustment or other manipulation.

Guided by the specification, we conclude that the word "selective" refers to the selection between coupling states, e.g., a selection between engaged or disengaged configurations. Several embodiments describe coupling stages between the beam and the mounting block. The engaged configuration is described in one embodiment in which beam 14 is fully extended onto lower mount block 16 (an embodiment of the "mounting block"). Ex. 1001, col. 4, ll. 15–27. An intermediate coupling stage, where at least a portion of beam 14 is coupled to lower mount block 16, between an "engaged" position and a "disengaged" position is also described. *See id.* at col. 13, ll. 36–60 (describing disengaged configuration and the intermediate stage from the disengaged configuration); Figs. 13A–13C (illustrating disengaged, intermediate, and engaged stages and the relative interactions between beam 132 and lower mount 130); Fig. 2 (depicting a disengaged position where lower mount 16 is coupled to the beam 14); col. 6, ll. 28–40 (describing hinging action in the transition from engaged to disengaged configurations). All of these descriptions convey that the beam of the removable component interacts with the mounting block in a range of positions, between engaged and disengaged, and that, at a minimum, the selection

of the coupling extends between the two states of engaged and disengaged.

Based on the foregoing, we construe the “selectively coupling” terms according to the ordinary meaning to mean “coupling by selecting a coupling state.”

*D. Patentability of Claims*

To prevail in its challenges to the patentability of claims, the Petitioner must establish facts supporting its challenges by a preponderance of the evidence. 35 U.S.C. § 316(e); 37 C.F.R. § 42.1(d). A claim is anticipated, and, thus, unpatentable, if a single prior art reference discloses each and every element of the claimed invention. *See Schering Corp. v. Geneva Pharm.*, 339 F.3d 1373, 1377 (Fed. Cir. 2003).

We analyze the instituted grounds of unpatentability in accordance with the above-stated principles.

*E. Anticipation by Kartman*

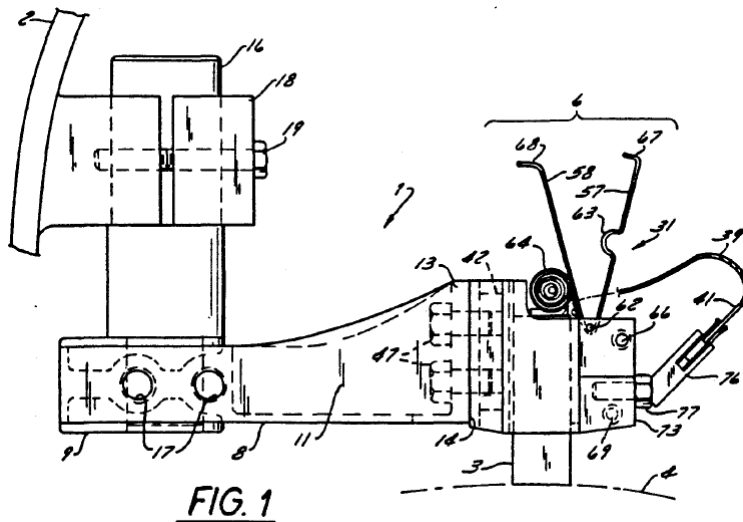
With respect to the alleged ground of unpatentability based on anticipation by Kartman, we have reviewed the Petition, the Patent Owner Response, and Petitioner’s Reply, as well as the relevant evidence discussed in each of those papers. We are persuaded, by a preponderance of the evidence, that claims 1–7 are anticipated by Kartman under 35 U.S.C. § 102(b).

*1. Overview of Kartman (Ex. 1003)*

Kartman discloses a brush holder assembly for use in a dynamoelectric machine, such as a motor or generator. Ex. 1003, Abstract, col. 3, ll. 33–34. The assembly is mounted on a frame of the machine such that the brushes engage with the machine’s rotatable commutator. *Id.* at col. 3, ll. 35–36. The components of the brush holder assembly are concentrated in a central location and in closely

spaced relation to each other to allow for fast and safe service, such as adjustment or removal of the brush or brush holder. *Id.* at col. 3, ll. 37–41; col. 4, ll. 25–31; col. 5, ll. 46–51. Furthermore, the brush holders are attached, side-by-side, to the assembly, each by a detachable connection that permits their individual replacement. *Id.* at Abstract.

One embodiment of the Kartman brush holder assembly 1 mounted on frame 2 of a machine is depicted in Figure 1, reproduced below.



As shown in Figure 1, brush holder assembly 1 comprises casting 8 with mounting surface 14, “to which a plurality of individual brush holders are detachably connected.” *Id.* at col. 3, ll. 42–52. Each individual brush holder 31 is connected—detachably, mechanically, and electrically—to mounting surface 14. *Id.* at col. 3, ll. 62–64. Brush holder 31 slideably receives brush 3, which is held in the operative position against the curved surface of commutator 4 by constant brush force applying means 54 that includes force spring 64. *Id.* at col. 4, ll. 32–36, 45–48.

An exploded view of brush holder assembly 1, illustrating details of brush

holder 31, brush 3, and constant brush force applying means 54, is shown in Figure 3, reproduced below.

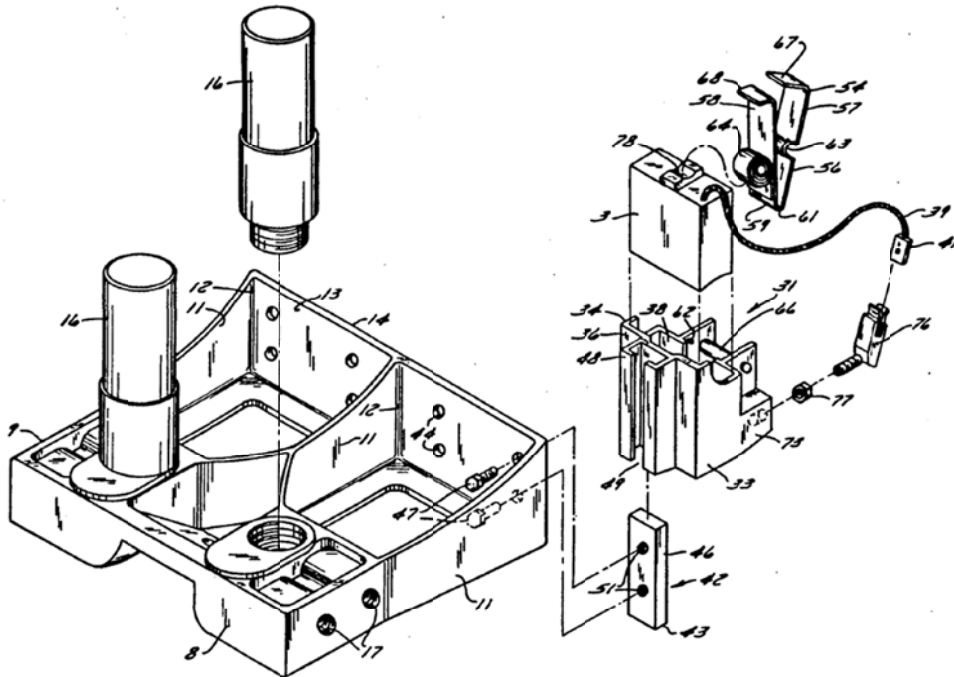
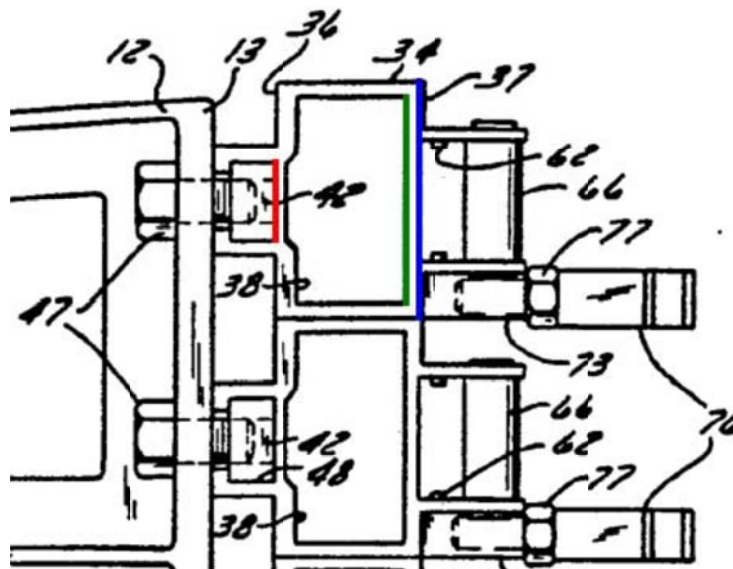


FIG. 3

Figure 3 further depicts in detail detachable connecting means 42 for connecting brush holder 31 to mounting surface 14. *Id.* at col. 3, l. 62 – col. 4, l. 2. Means 42 comprises quick-release clamp bar 46, having a pair of threaded apertures 51 that align with the pair of vertically spaced-apart holes 44 on mounting surface 14. *Id.* at col. 4, ll. 9–16 Sliding quick-release clamp bar 46 into rear channel 48 of brush holder 31 and tightening cap screws 47 through threaded apertures 51 results in a compressive force on clamp bar 46 that secures brush holder 31 to casting 8 of brush holder assembly 1. *Id.* at col. 4, ll. 19–26. Unscrewing slightly cap screws 47 to an unclamped position releases clamp bar 46 from the compressive force, thus permitting the adjustment or removal of the brush box. *Id.* at col. 4, ll. 26–31.

2. Comparison of Kartman and Claims 1 and 6

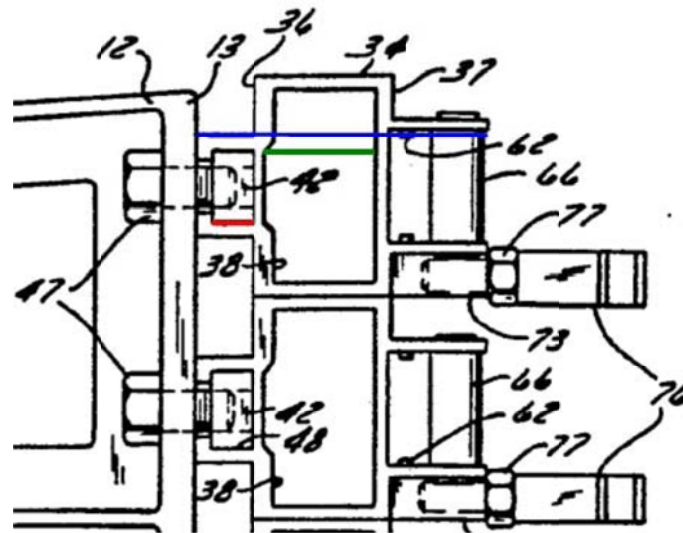
Concerning independent claims 1 and 6, Petitioner has shown that Kartman discloses a stationary mounting surface 14 (corresponding to the recited “stationary base”), a detachable connecting means 42 (corresponding to the “mounting block”), the brush holder 31 (corresponding to the “removable component”), the rear channel 48 (corresponding to the “beam” and “channel”), and brush holder 38 (corresponding to the “brush holder”). Pet. 9–14, 17–22. With respect to the limitations of “width of the mounting block” and “width[s]” of the “removable component” and “brush holder,” recited in independent claim 1, Petitioner provides an annotated Figure 2 of Kartman, reproduced below, depicting the various widths of the relevant Kartman components.



The annotated Figure 2 of Kartman, above, illustrates Petitioner’s contention that the “width” limitations recited in claim 1 are disclosed by: (1) the blue line corresponding to a width of brush holder 31 (“removable component”); (2) the red line showing the width of detachable connecting means 42 (“mounting block”);

and (3) the green line showing the width of brush box 38 (“brush holder”). Pet. 15. The width demonstrated by the red line in Petitioner’s annotation, in actuality, points to the width of the quick-release clamp bar 46, and we acknowledge that detachable connecting means 42 comprises quick-release clamp bar 46.

With regard to the “thickness” limitations recited in independent claim 6, Petitioner similarly provides an annotated Figure 2 of Kartman, below, illustrating with colored lines the “thickness” of the “removable component,” “mounting block,” and “brush holder.” Pet. 21.



According to Petitioner’s annotations of Figure 2, Kartman discloses that the thickness of brush holder 31 (“removable component”), shown in blue, is greater than the thickness of detachable means 42 (“mounting block”), shown in red, and greater than the thickness of brush box 38 (“brush holder”), shown in green. The red-lined thickness in Petitioner’s annotation, in actuality, corresponds to the quick-release clamp bar 46, which is part of the detachable means 42.

Patent Owner challenges Petitioner’s evidence of anticipation by Kartman, arguing that Kartman does not disclose “a mounting block” and “a removable



component for selective coupling.” PO Resp. 18–23. Both of these arguments, however, rely on Patent Owner’s proffered construction of these terms, which we did not adopt. *Id.*

Particularly, with regard to the “mounting block,” Patent Owner argues that because Kartman employs a clamping mechanism, clamp bar 46 is inherently moveable. PO Resp. 18–19. But we have determined that “mounting block,” based on the plain and the ordinary meaning of the term, does not mean that the block must be fixed or non-moveable. *See* Section II.C.1, *supra*. Accordingly, this argument is not persuasive.

Instead, we find that Kartman discloses a “mounting block” because clamp bar 46 is a base for affixing brush holder 31 to mounting surface 14. *See* Ex. 1003, col. 3, l. 62–col. 4, l. 2; Fig. 3. We find that clamp bar 46 is designed to fit in a certain position along mounting surface 14, thereby disclosing that the “mounting block [is] configured to extend from a stationary base.” *See* Ex. 1003, Fig. 3 (illustrating Kartman’s clamp bar 42 disposed with cap screws 47 that match the orifices 44 on the mounting surface).

With regard to the “removable component for selective coupling,” Patent Owner argues that because Kartman utilizes a clamp there is no coupling at “only a single predetermined position.” PO Resp. 22. Patent Owner admits that the coupling position in Kartman “is selected by the user, and can vary over the course of repeated removal and re-installation operations.” *Id.* That coupling, however, Patent Owner proffers, requires a worker to use two hands. *Id.* We are not persuaded by these arguments for they rely on an interpretation of “selective coupling” that does not comport with the plain and ordinary meaning as we have determined above. *See* Section II.C.2, *supra*. As discussed above, the claim term

requires that there be a selection of a coupling state. We determined above that the claim term does not require that there be a *predetermined position* for a selected coupling state to be covered by the plain and ordinary meaning of the claim language, “selective coupling.”

We find that Kartman discloses that clamp bar 46 allows the brush holder to be secure in place when the clamped position is selected by acting on cap screws 47. Ex. 1003, col. 4, ll. 19–26. And we further find that Kartman discloses selecting the unclamped position by unscrewing slightly cap screws 47, which releases clamp bar 46 from the compressive force, thus permitting the adjustment or removal of the brush box. *Id.* at col. 4, ll. 26–31. Therefore, Kartman discloses two coupling states, clamped and unclamped, both of which are selectable by the mere turn of a cap screw. Accordingly, we find that Kartman discloses “a removable component for selective coupling to the mounting block,” as recited in independent claims 1 and 6.

As for the remaining elements recited in claims 1 and 6, which were not disputed by Patent Owner, we also find that Kartman discloses those elements as shown by the comparisons between the Kartman disclosures presented in the Petition and the claim limitations. Pet. 10–14, 17–21.

### 3. *Comparison of Kartman and Dependent claims 2–5 and 7*

We are persuaded by a preponderance of the evidence that Kartman discloses the limitations recited in dependent claims 2–5 and 7. Pet. 14–17, 21–22. In particular, as to the limitations in claims 2 and 3 regarding relative thicknesses between claim elements, Petitioner shows that Kartman discloses the recited thicknesses as depicted in annotated Figure 2 above. *Id.* at 14–15. According to Petitioner, Kartman further shows that the outer side surfaces of detachable means

42 (actually pointing to quick-release clamp bar 46) and the interior surfaces (and inner side surfaces) of channel 48 are arranged as recited in claims 4 and 5. *Id.* at 16–15. Finally, Petitioner argues, as to claim 7, that the “comparative thicknesses . . . allow[ing] for higher brush density” limitation reads on the arrangement of brush holder 38, i.e., the side-by-side placement of the brushes. *Id.* at 21. According to Petitioner, such side-by-side placement allows for extremely close brush placement. *Id.* This evidence is consistent with our construction of the terms “comparative thicknesses” and “higher brush density.” Based on the foregoing, we are persuaded that Petitioner has established, by a preponderance of the evidence, that claims 2–5 and 7 are anticipated by Kartman.

### III. CONCLUSION

Petitioner has demonstrated, by a preponderance of the evidence, that claims 1–7 of the ’935 patent are anticipated by Kartman. Because claims 1–7 are unpatentable as anticipated by Kartman, we need not decide whether the claims are unpatentable also under the additional grounds for which we had instituted the *inter partes* review.

This is a final written decision of the Board under 35 U.S.C. § 318(a). Parties to the proceeding seeking judicial review of this decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

#### IV. ORDER

Accordingly, it is hereby:

ORDERED that, as set forth in Section III above, claims 1–7 of the '935 patent have been shown to be unpatentable.

FURTHER ORDERED that the parties to the proceeding seeking judicial review of this Final Written Decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

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