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Paper 36
Entered: October 30, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MOTIVEPOWER, INC.,
Petitioner,

v.

CUTSFORTH, INC.,
Patent Owner.

Case IPR2013-00270
Patent 7,417,354 B2

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 (1–13) (the "challenged claims") of U.S. Patent No. 7,417,354 B2 (Ex. 1001, "the '354 patent") pursuant to 35 U.S.C. §§ 311–19. Paper 1 ("Pet."). The Board granted the Petition and instituted trial for all asserted claims. Paper 9 ("Dec. on Inst."). Although Petitioner proposed five grounds of unpatentability, the panel instituted trial on the following grounds: [1]

(1) Claims 1–13 as anticipated by Kartman;

(2) Claims 1–7 and 11–13 as anticipated by Baylis;

(3) Claims 1–13 as obvious over Bissett and Kartman; and

(4) Claims 8–10 as obvious over Baylis and Kartman.

During trial, Patent Owner, Cutsforth, Inc. filed a Patent Owner Response relying on Declarations of Dr. Thomas A. Keim (Ex. 2001) and Mr. Dustin Cutsforth (Ex. 2050). Paper 15 ("PO Resp."). Petitioner filed a Reply to Patent Owner's Response. Paper 26 ("Pet. Reply").

We granted Patent Owner's motion requesting cancellation of claim 3 of the '354 patent. Paper 17, Order on Mot. to Amend. Additionally, an oral hearing was held on August 6, 2014, and a transcript of the hearing is included in the record. Paper 35 ("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.

[1] U.S. Patent No. 5,043,619 (Ex. 1003) ("Kartman"); U.S. Patent No. 3,432,708 (Ex. 1004) ("Bissett"); and U.S. Patent No. 629,418 (Ex. 1005) ("Baylis").

For the reasons that follow, we determine that Petitioner has met its burden to prove by a preponderance of the evidence that claims 1–2 and 4–13 of the ’354 patent are unpatentable.

A. The ’354 Patent (Exhibit 1001)

The ’354 patent generally relates to a brush holder assembly for use in electrical devices and slip ring assemblies. Ex. 1001, col. 1, ll. 17–19. 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. 23–25. 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. 36–55. The ’354 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. 66 – col. 2, l. 4. Alternatively, the ’354 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. 5–9. 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. 9–13.

One embodiment of the ’354 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. 61–64. For example, Figure 1 of the ’354 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. 22–28; col. 6, ll. 15–29.

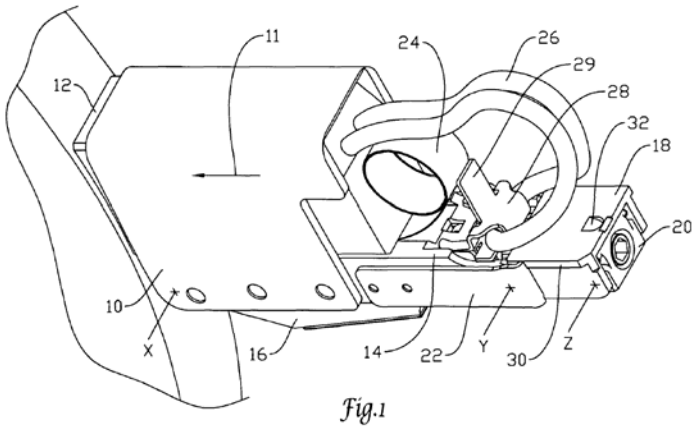

Fig.1

According to Figure 1 above, brush box 10 is affixed to beam 14, which is attached, via a hinge, to lower mount block 16. *Id.* at col. 4, ll. 28–36. 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. 7, ll. 1–11.

The '354 patent further describes a "disengaged" configuration, shown in particular with respect to Figure 2, reproduced below.

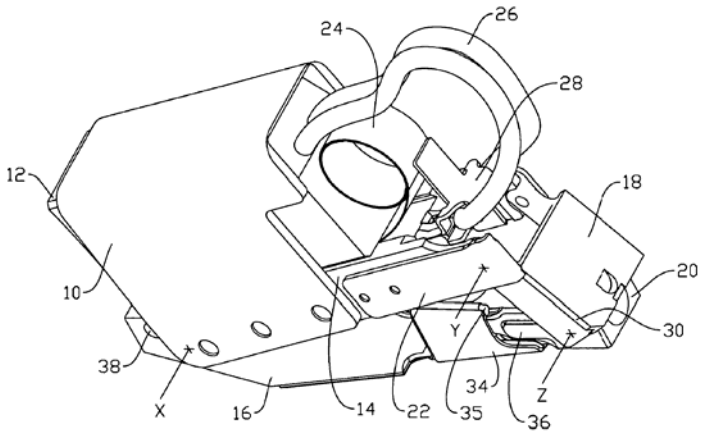

Fig.2

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. 44–51. 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. 43–54.

B. Illustrative Claim

Claims 1 and 11 of the '354 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 an electrical brush in contact with a conductive surface, the brush holder assembly comprising:
>
> a mounting block including first and second outer side surfaces; and
>
> a brush holder component for coupling to the mounting block, the brush holder component defining a channel for receiving a portion of the mounting block, the channel including first and second inner side surfaces;
>
> wherein when the brush holder component is coupled to the mounting block, at least a portion of the mounting block is disposed within the channel such that at least a portion of the first and second outer side surfaces of the mounting block are disposed between the first and second inner side surfaces of the channel; wherein the mounting block includes a mounting aperture extending there through, and wherein when the brush holder component is coupled to the mounting block, at least a portion of the mounting aperture is disposed within the channel.

II. ANALYSIS

A. 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 '354 patent as follows:

Table 1

Term	Interpretation
"mounting block"	a base for affixing to another structure
"selective coupling"	coupling in a selective manner
"comparative widths"/ "comparative sizes"	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
"higher amperage capacity"	allowing for an amount of electric current to be carried by brushes in close proximity to each other
"stationary base"	"stationary base" is associated with the electrical device

Dec. on Inst. 7–14. The parties challenge only our construction for the terms "mounting block" and "selective coupling." Consequently, we adopt the

constructions for the remaining terms as stated in Table 1 in accordance with the analysis stated in our Decision on Institution. Dec. on Inst. 7–14.

As for the challenged claim constructions, we analyze each 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. 6. 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 18 (arguing that Baylis's clamping member J is inherently moveable, and, therefore it is not a "fixed block").

In support of this argument, Patent Owner relies on Figure 15B of the '354 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 7–8. 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 8–10. 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, but 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. 16, ll. 18–21 (bolts and washers "*secure* the lower mount block 16 to a mount base" (emphasis added)); col. 14, ll. 56–58 ("mount holes 96 may include threading or other elements that allow for attachment to a mount base"); col. 16, ll. 21–24 ("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. 34–37 ("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. 8–10. 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. 15, ll. 14–15. 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. 40–41; col. 15,

ll. 12–17 (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.[2]

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 claim 11 recites that the "mounting block extend[s] 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."[3] *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. 11–12. Accordingly, to avoid confusion, Patent Owner proffers that the construction of "mounting block" should refer to a block, not a base. *Id.*

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. *Id.* We agree with Petitioner. Although the claims recite a "base" and a "block" distinctly, the claims, however, may recite these two terms in a

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[2] *See e.g.*, Chicago Manual of Style, 15th 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.").

[3] *Block Definition (4)*, WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY, UNABRIDGED (1993) (EX. 3001).

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"

Claim 2, which depends from claim 1, requires that "the brush holder component is configured for selective coupling to the mounting block." Ex. 1001, col. 18, ll. 7–9. Patent Owner seeks to construe the word "selective." PO Resp. 12–13. For example, Patent Owner provides a dictionary definition 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 15. 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 4–5.

We note that the claim is silent concerning any specific position of the brush holder component with respect to the mounting block. That is, the claim, broadly, but reasonably, encompasses the selection of coupling stages without restriction of what those stages are and what positions those stages include. 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. 22–31. 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, l. 56 – col. 14, l. 14 (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. 41–51 (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 between coupling states."

B. 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.

C. 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 1–2 and 4–13 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. 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.

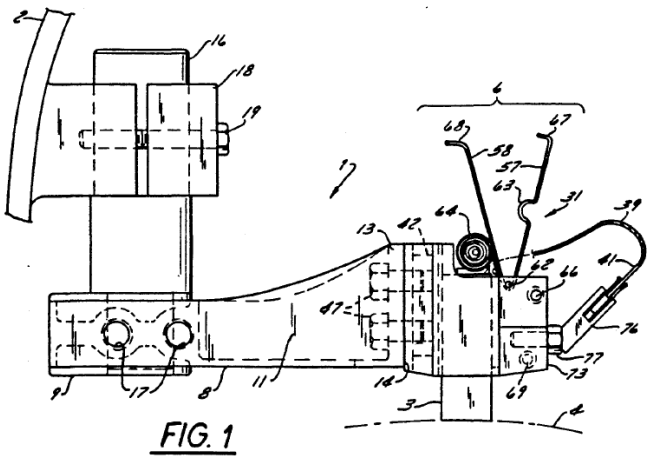


FIG. 1

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.

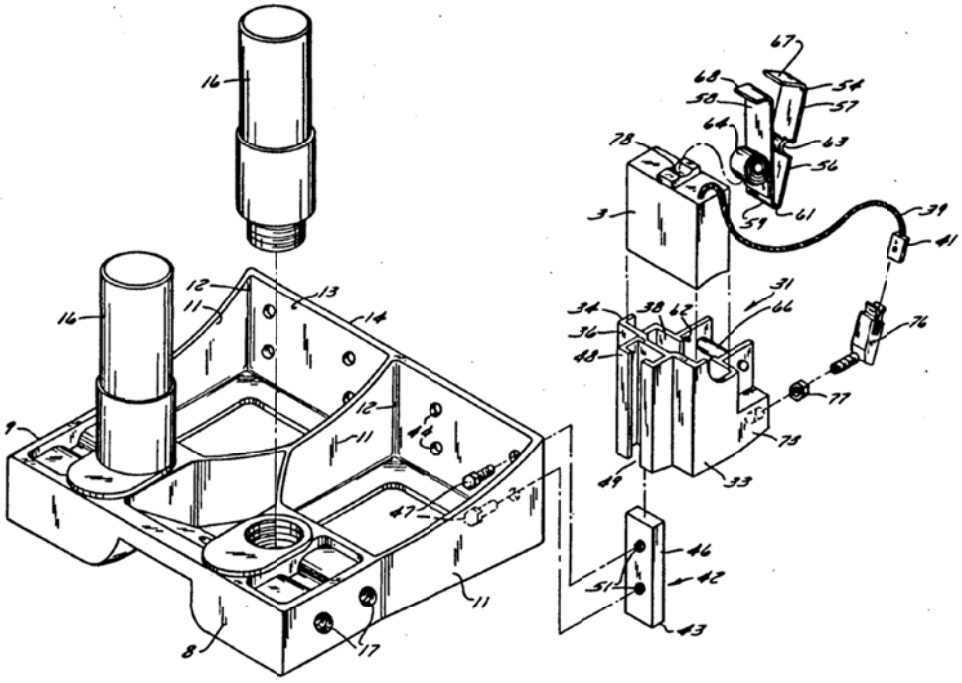


FIG. 3

Figure 3, above, further depicts detachable connecting means 42 for connecting brush holder 31 to mounting surface 14. *Id*. at col. 3, ll. 62–66. 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. 9–14. 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.

1. Comparison of Kartman and Claims 1 and 11

Concerning independent claims 1 and 11, Petitioner has shown that Kartman discloses a detachable connecting means 42 (corresponding to the "mounting block"), the brush holder 31 (corresponding to the "brush holder component"), the rear channel 48 (corresponding to the "channel"), and threaded apertures 51 (corresponding to the "mounting aperture"). Pet. 10–13, 17–20. Petitioner has shown that Kartman further discloses the coupling between brush holder 31 and detachable connecting means 42 (and its component, the quick-release clamp bar 46), and the arrangement of the channel surfaces with respect to the surfaces and apertures of detachable means 42. *Id.*

As for structural limitations recited only in claim 11, Petitioner has shown that Kartman's stationary mounting surface 14 discloses the recited "stationary base" and that Kartman's brush 3 discloses the recited "brush." Pet. 18–19. Claim 11 further recites a size limitation, i.e., "the brush holder is sized larger than the mounting block such that the comparative sizes of the brush holder and the mounting block allows for higher brush density on the industrial electrical device." Petitioner points to Figure 3 of Kartman as depicting that brush holder 31 is larger than detachable means 42, which, in fact, fits completely within brush holder 31. Pet. 19. Kartman further depicts in Figure 2 the side-by-side placement of the brush holders, thus allowing for extremely close brush placement. *Id*. at 20. This showing of an assessment of the structure sizes and the brushes in close proximity is consistent with our construction of the terms "comparative sizes" and "higher brush density."

Patent Owner challenges the evidence of anticipation of claims 1 and 11 by Kartman by arguing that Kartman fails to describe a "mounting block." PO Resp.

25–28. Particularly, Patent Owner argues that because Kartman employs a clamping mechanism, clamp bar 46 is inherently moveable. *Id.* at 27. 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 also find that clamp bar 46 is designed to fit inside channel 48 such that when the detachable means are securing brush holder 31, the "first and second outer surfaces of the mounting block are disposed between the first and second inner side surfaces of the channel," as recited in claim 1. *See* Ex. 1003, Fig. 2 (illustrating Kartman's clamp bar 42 disposed within channel 48 of the brush box); col. 4, ll. 17–19. Kartman further discloses that clamp bar 42 includes a pair of internally threaded apertures 51 alignable with holes 44, thus disclosing the recited "mounting block includ[ing] a mounting aperture extending there through." *Id.* at col. 4, ll. 13–17. Finally, we find that Kartman discloses that when the cap screws are tightened, a compressive force engages rear channel 48 so that it is "locked" into position against mounting surface 14. *Id.* at col. 5, ll. 16–19. That is, when "locked" into position, Kartman's brush holder is secured in place and coupled to the clamp bar (which has the apertures disposed within channel 48), and, therefore, Kartman discloses that "when the brush holder component is coupled to the mounting block, at least a portion of the mounting aperture is disposed within the channel," as recited in claim 1.

As for the remaining elements recited in claims 1 and 11, which were not disputed by Patent Owner, we also find that Kartman discloses those elements according to the comparisons between the Kartman disclosures presented in the Petition and the claim limitations.

2. Comparison of Kartman and Dependent Claims 2 and 4

Petitioner has shown evidence, as to the requirement in claim 2 that the brush holder component is configured for selective coupling to the mounting block, that Kartman discloses coupling between brush holder 31 and detachable means 42, thereby meeting the recited "selective coupling" limitation. Pet. 13. As to the recitation in claim 4 of a fastener member disposed within the mounting aperture, Petitioner has shown that cap screws 47 secure quick-release clamp bar 46 to base 14, meeting the recited "fastener member" limitation. *Id.* at 14–15. Patent Owner challenges these showings by arguing that Kartman does not teach both "selective coupling," and the "fastener member." PO Resp. 28–31. The argument regarding the alleged failure of Kartman to disclose "selective coupling" relies on Patent Owner's proffered construction of that term, which we did not adopt. *Id.* at 28–29. As for the argument regarding the "fastener member," the argument is unpersuasive because it is based on a narrow reading of the claim—to require attaching the mounting block firmly so it cannot be moved—which is not commensurate with the scope of the claim. *See id.* at 31. We address each of these arguments in turn.

With regard to "selective coupling," Patent Owner argues that because Kartman utilizes a clamp there is no coupling at "only one, predetermined location." *Id.* at 29. Patent Owner admits that it is possible in Kartman to couple the brush holder at any number of positions. *Id.* That coupling, however, Patent

Owner proffers, involves "arbitrary" positions and 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*. 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 brush holder component [that] is configured for selective coupling to the mounting block," as recited in claim 2.

With regard to the "fastener member" limitation, recited in claim 4, Patent Owner argues that Kartman does not "secure the mounting block to a stationary base" because Kartman's clamping mechanism does not attach firmly clamp bar 46 to cross beam 13 and mounting surface 14. PO Resp. 30–31. We are not persuaded because the claims are silent concerning any permanence or firmness of the attachment of the mounting block to the stationary base. Specifically, the claim recites a "fastener member . . . *securing* the mounting block to a stationary base."

Ex. 1001, col. 18, ll. 15–16 (emphasis added). Patent Owner does not explain how the word "securing" involves *firm* attachment or any fastening that precludes the ability to reposition the mounting block on the stationary base. The claim language requires neither permanence nor any specific firmness of attachment at all times. Kartman's clamping mechanism secures, as recited in claim 4, the clamp bar inside the channel of the brush box to "lock it into position against the mounting surface 14." Ex. 1003, col. 5, ll. 16–19. We find that Kartman discloses the recited "fastener member" because the cap screws, when tightened, i.e., at least during operation, press the clamp bar in the direction of surface 14 such that the clamp bar is secured to that surface.

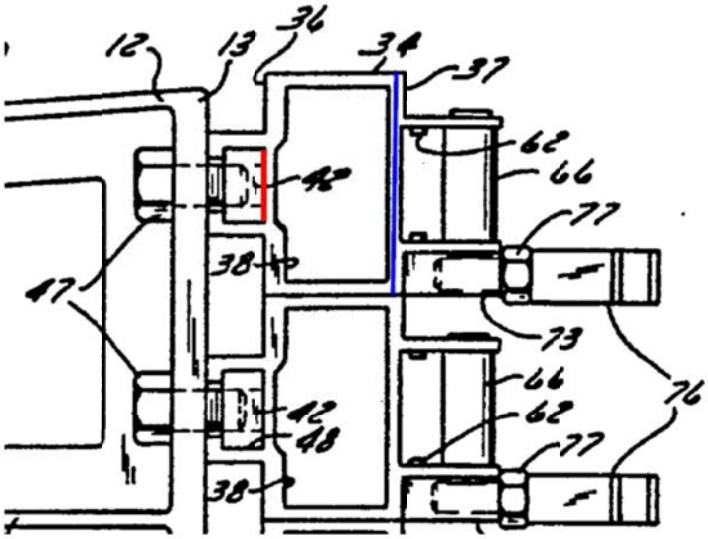
As for the remaining elements recited in claims 2 and 4, which were not disputed by Patent Owner, we also find that Kartman discloses those elements as shown by the comparisons between the Kartman disclosures presented in the Petition and the claim limitations. Pet. 13–15.

3. Remaining Dependent Claims 5–10 and 12–13

Petitioner has presented evidence showing how Kartman discloses the further limitations recited in dependent claims 5–10 and 12–13. Pet. 13–17, 20–21. Patent Owner has not challenged the evidence presented regarding Kartman's anticipation of these dependent claims.

We find that Kartman discloses the further limitations recited in these dependent claims. For example, regarding claim 5, Kartman discloses brush holder 31 comprising the rear channel 48 (corresponding to the recited "beam defining the channel"). Pet. 15. With regards to claims 6, 8, and 9, which recite "width" or "size" limitations, we find that Figure 3 of Kartman clearly shows the size of brush holder 31 being larger than detachable means 42. *Id*. Specifically,

and to illustrate this disclosure, regarding the "width" limitations recited in claims 8 and 9, 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 that the recited "width" limitations are disclosed by: (1) the blue line corresponding to a width of brush holder 31 ("brush holder component") and (2) the red line showing the width of clamp bar 46 in detachable connecting means 42 ("mounting block"). Pet. 16. As to claims 10, 12, and 13, we find that Kartman also discloses the limitations of the "comparative widths" or "comparative sizes . . . allow[ing] for higher brush density" and "allow[ing] for higher amperage capacity" read on the arrangement of the brush holder 38, i.e., the side-by-side placement of the brushes. *See id.* at 17, 20–21. The side-by-side placement of brush-holders 38 allows for extremely close brush placement. *Id.* This evidence is consistent with our construction of the terms "comparative widths" and "comparative sizes," as the assessment of the respective widths and sizes allow the placement of the brushes in close proximity,

thus resulting in "higher amperage capacity" and "higher brush density," as we have construed those terms.

Based on the foregoing, we are persuaded that Petitioner has proved by a preponderance of the evidence that claims 5–10 and 12–13 are anticipated by Kartman.

III. CONCLUSION

Petitioner has demonstrated, by a preponderance of the evidence, that claims 1–2 and 4–13 of the '354 patent are anticipated by Kartman. Because claims 1–2 and 4–13 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 1–2 and 4–13 of the '354 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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