

Petitioner's Demonstratives

**Godbersen-Smith Construction Company
d/b/a Gomaco Corporation**

v.

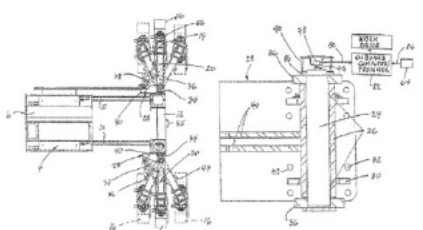
Guntert & Zimmerman Const. Div., Inc.

**IPR2024-00835
Patent No. 11,535,318**

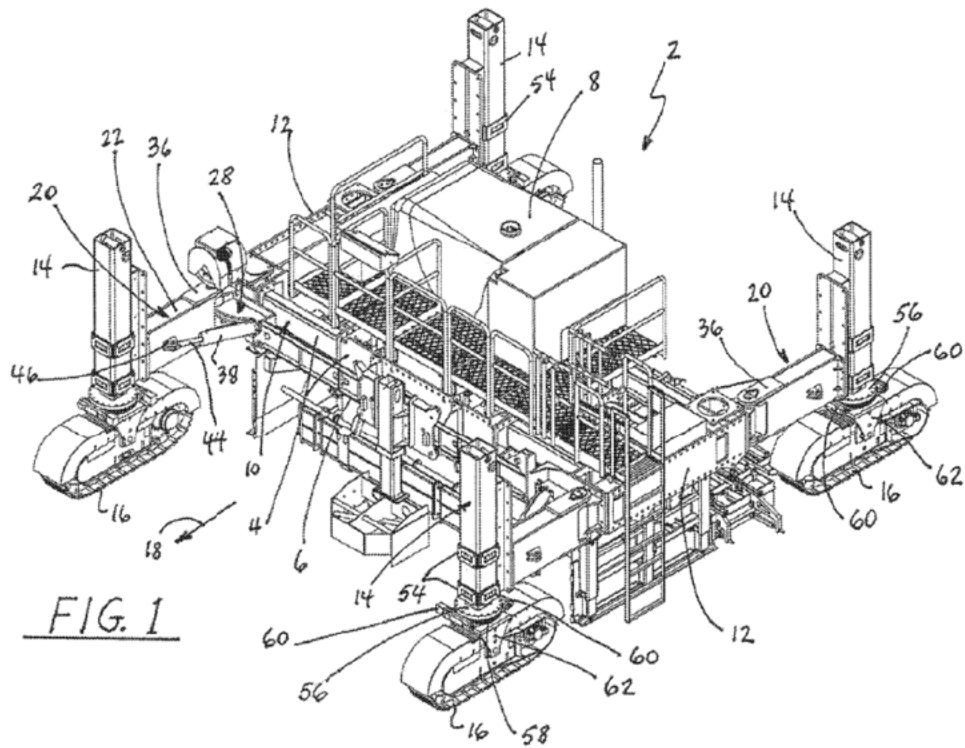
August 20, 2025

The Challenged Patent

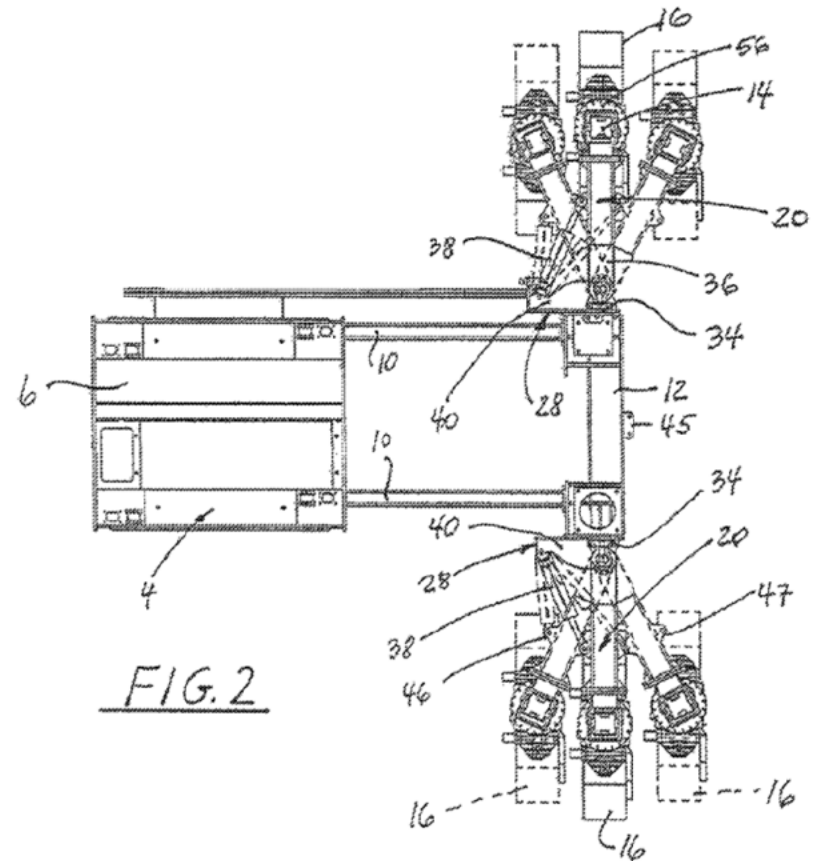
U.S. Patent No. 11,535,318

 US011535318B2	
United States Patent Gunter, Jr. et al.	
(10) Patent No.:	US 11,535,318 B2
(45) Date of Patent:	*Dec. 27, 2022
(54) AUTOMATICALLY ADJUSTING SWING LEGS FOR MOUNTING AND ALIGNING AND REORIENTING CRAWLERS	(58) Field of Classification Search CPC F01C 23/04; B62D 7/06; B62D 11/20; B62D 55/0655; B62D 55/084 (Continued)
(71) Applicant: GUNTER & ZIMMERMAN CONST. DIV., INC., Ripon, CA (US)	(56) References Cited U.S. PATENT DOCUMENTS 3,523,340 A 5/1966 Widdington 3,572,458 A 3/1971 Tax (Continued)
(72) Inventors: Ronald M. Gunter, Jr., Stockton, CA (US); Gerald L. Dablinger, Ripon, CA (US); Richard Wood Francis, Stockton, CA (US)	FOREIGN PATENT DOCUMENTS DE 19814052 10/1999 DE 10 2011 014 666 A1 11/2001 DE 102011010479 3/2012
(73) Assignee: Gunter & Zimmerman Const. Div., Inc., Ripon, CA (US)	OTHER PUBLICATIONS U.S. Appl. No. 13/069,096, "Office Action", dated Sep. 26, 2012, 7 pages. (Continued)
(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days. This patent is subject to a terminal disclaimer.	Primary Examiner —Gary S. Hartmann (74) Attorney, Agent, or Firm —Kilpatrick Townsend & Stockton LLP
(21) Appl. No.: 16/820,449	(57) ABSTRACT A swing leg assembly, coupled to a paving machine for spreading, leveling and finishing concrete, includes a pivotable swing leg coupled to the paving machine. The swing leg may pivot between multiple angular orientations relative to the paving machine. A jacking column is coupled to the swing leg, and a crawler track is coupled to the jacking column. A slew drive coupled to the jacking column and crawler track rotates the crawler track relative to the swing leg between multiple angular orientations. A processor using sensors determines the angular positions of the swing leg and crawler track, and in response to determining a change in angular orientation of the swing leg controls the slew drive to cause the crawler track to rotate relative to the jacking column.
(22) Filed: Mar. 16, 2020	8 Claims, 18 Drawing Sheets
(65) Prior Publication Data US 2020/0255074 A1 Aug. 13, 2020	
Related U.S. Application Data	
(63) Continuation of application No. 16/222,714, filed on Dec. 17, 2018, now Pat. No. 10,589,807, which is a (Continued)	
(51) Int. Cl. B62D 11/20 (2006.01) B62D 55/084 (2006.01) (Continued)	
(52) U.S. CL. CPC B62D 55/084 (2013.01); B62D 7/06 (2013.01); B62D 11/001 (2013.01); B62D 11/20 (2013.01); (Continued)	
	
Page 1 of 33	GOMACO EXHIBIT 1001

The Challenged Patent

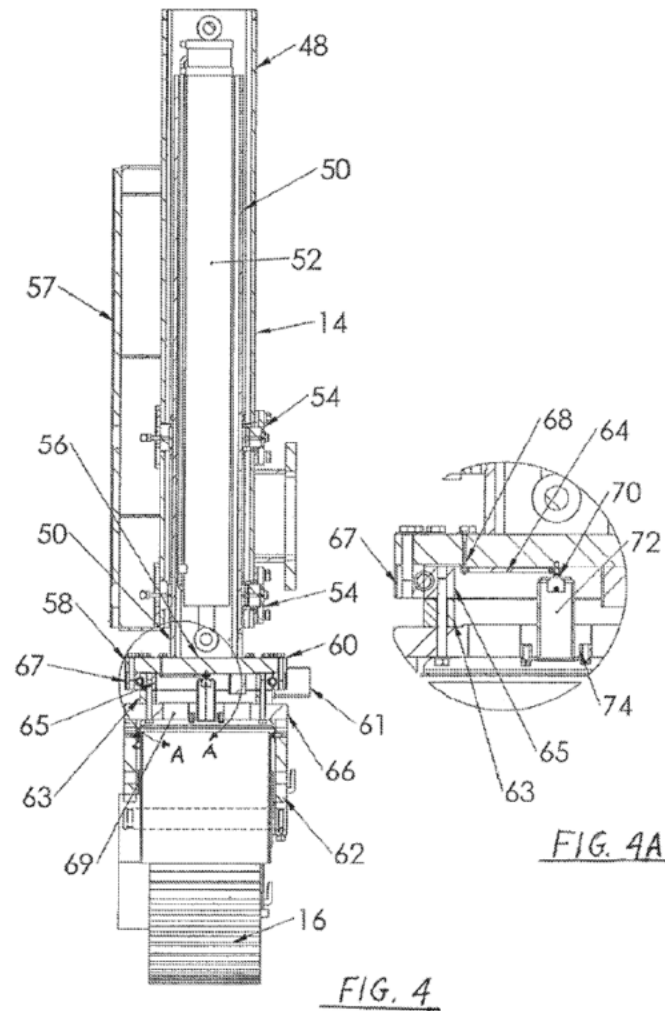


'318 patent at Fig. 1.



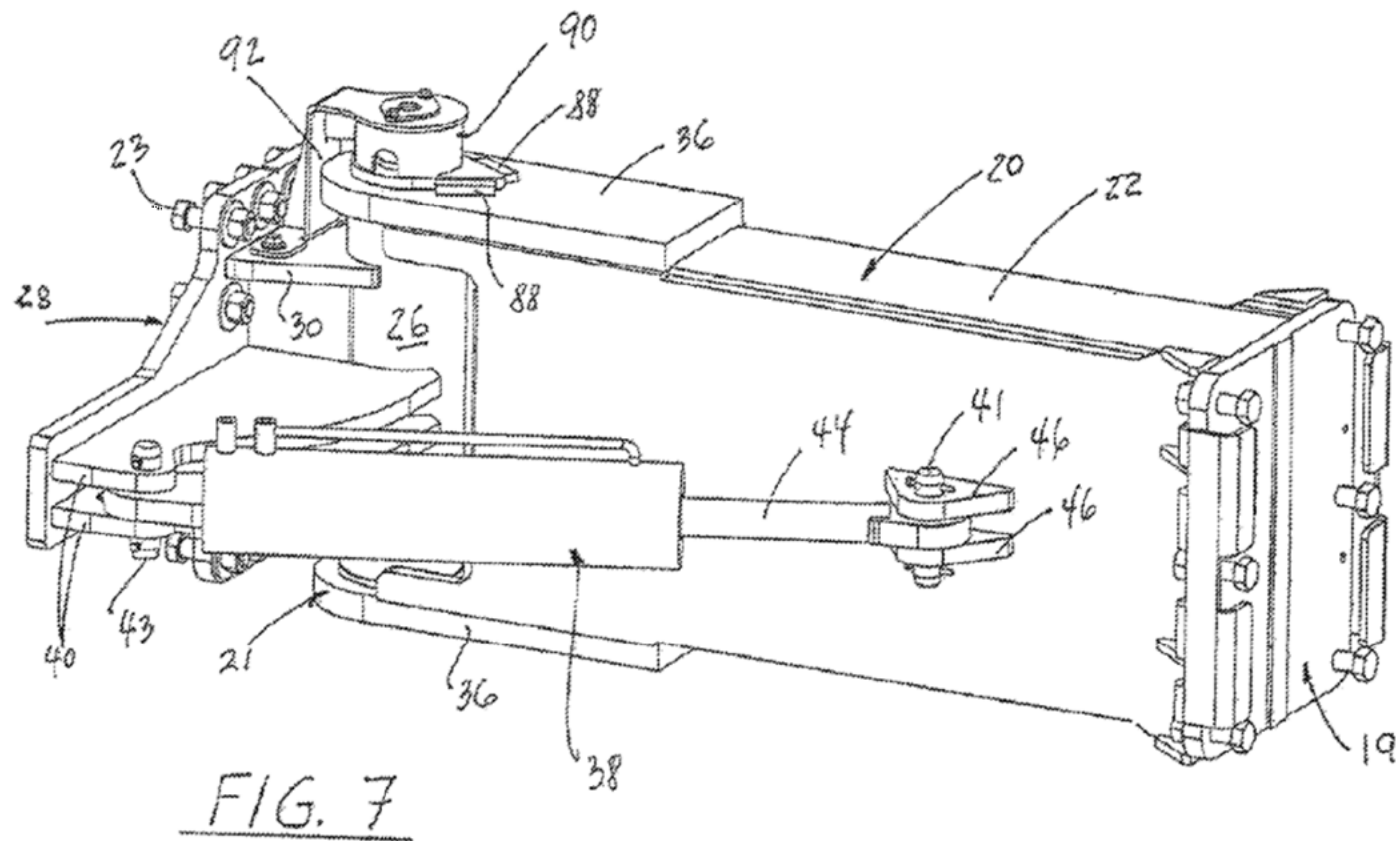
'318 patent at Fig. 2.

The Challenged Patent



'318 patent at Figs. 4, 4A.

The Challenged Patent



'318 patent at Fig. 7.

'318 Patent Claim 1

Claim 1

A swing leg assembly configured to be coupled to a paving machine configured to move in a paving direction for spreading, leveling, and finishing concrete into a form having a generally upwardly exposed, finished concrete surface and terminating in lateral concrete sides, the swing arm assembly comprising:

a swing leg configured to be coupled to the paving machine, and configured to pivot about a first axis to a first angular orientation relative to the paving machine;

a jacking column coupled to the swing leg;

a crawler track rotatably coupled to the jacking column, wherein the crawler track is configured to rotate about a second axis to a second angular orientation relative to the jacking column;

a slew drive coupled to the jacking column and the crawler track, wherein the slew drive is configured to cause rotation of the crawler track relative to the jacking column;

a first sensor configured to emit a first signal corresponding to the first angular orientation;

a second sensor configured to emit a second signal corresponding to the second angular orientation; and

a processor configured to:

receive the first signal from the first sensor, and the second signal from the second sensor;

determine a change of the first angular orientation based on the first signal;

in response to determining the change of the first angular orientation, determine a target second angular orientation based on the determined change of the first angular orientation and the second angular orientation based on the second signal; and

send a control signal to the slew drive in order to cause the second angular orientation of the crawler track to rotate to the target second angular orientation.

Claim Construction

G&Z's Claim Construction Position Fails

- Claim 1 is ***NOT*** confined to scenarios where the paving machine is moving in a paving direction while the crawler tracks are under load.
 - No language in claim 1 requires on-the-fly steering
 - G&Z's preamble argument fails because the swing-leg assembly need only be "configured to be coupled" to the paving machine, not actually coupled
 - Dependent claim 4 (which depends from claim 1) requires a swing leg positioned in transport orientation.
 - **G&Z's expert agreed that "[w]henver the machine is in the transport position it is not driving in the paving direction."**

G&Z's Claim Construction Position Fails

'318 Patent	'749 Patent from IPR2020-01698
1. A swing leg assembly configured to be coupled to a paving machine configured to move in a paving direction for spreading, leveling, and finishing concrete into a form having a generally upwardly exposed, finished concrete surface and terminating in lateral concrete sides, the swing arm assembly comprising:	17. A paving machine configured to move in a paving direction for laying concrete into a molded form, having a generally upwardly exposed concrete surface and terminating in lateral concrete sides, the paving machine comprising:
a swing leg configured to be coupled to the paving machine, and configured to pivot about a first axis to a first angular orientation relative to the paving machine;	a swing leg configured to mechanically couple with a surface of the module frame;

- In IPR2020-01698 the Board discerned nothing in the claims that confine them to on-the-fly steering embodiments.
- G&Z did not make a “paving direction” argument for a similar claim (claim 17) in IPR2020-01698.

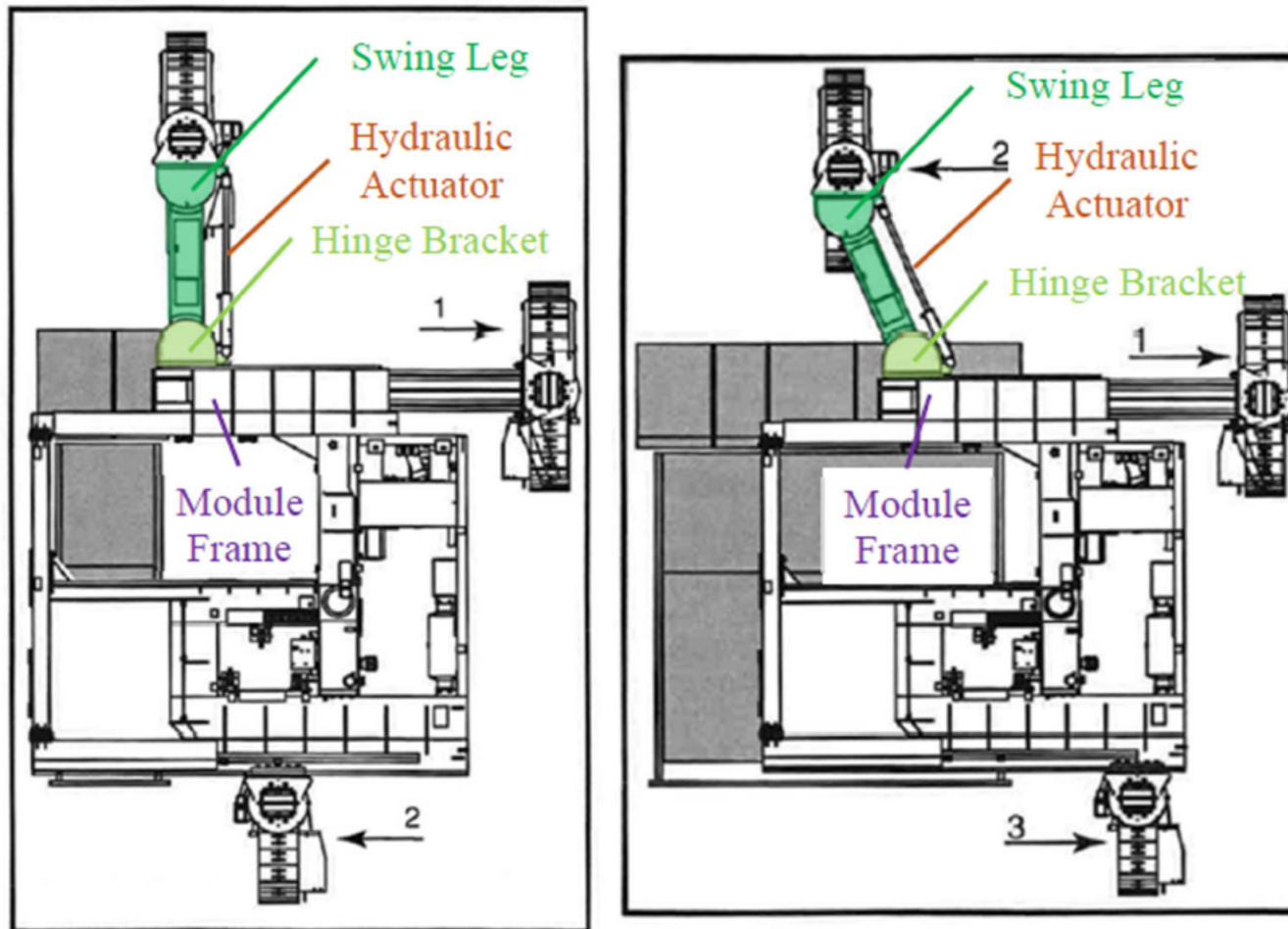
Prior Art Combinations

Instituted Grounds (Claims 1-8)

Ground	Challenged Claims	Basis	Prior Art
<u>1</u>	1-8	103	CIII and Rio
<u>2</u>	2-7	103	CIII, Rio, and Smolders

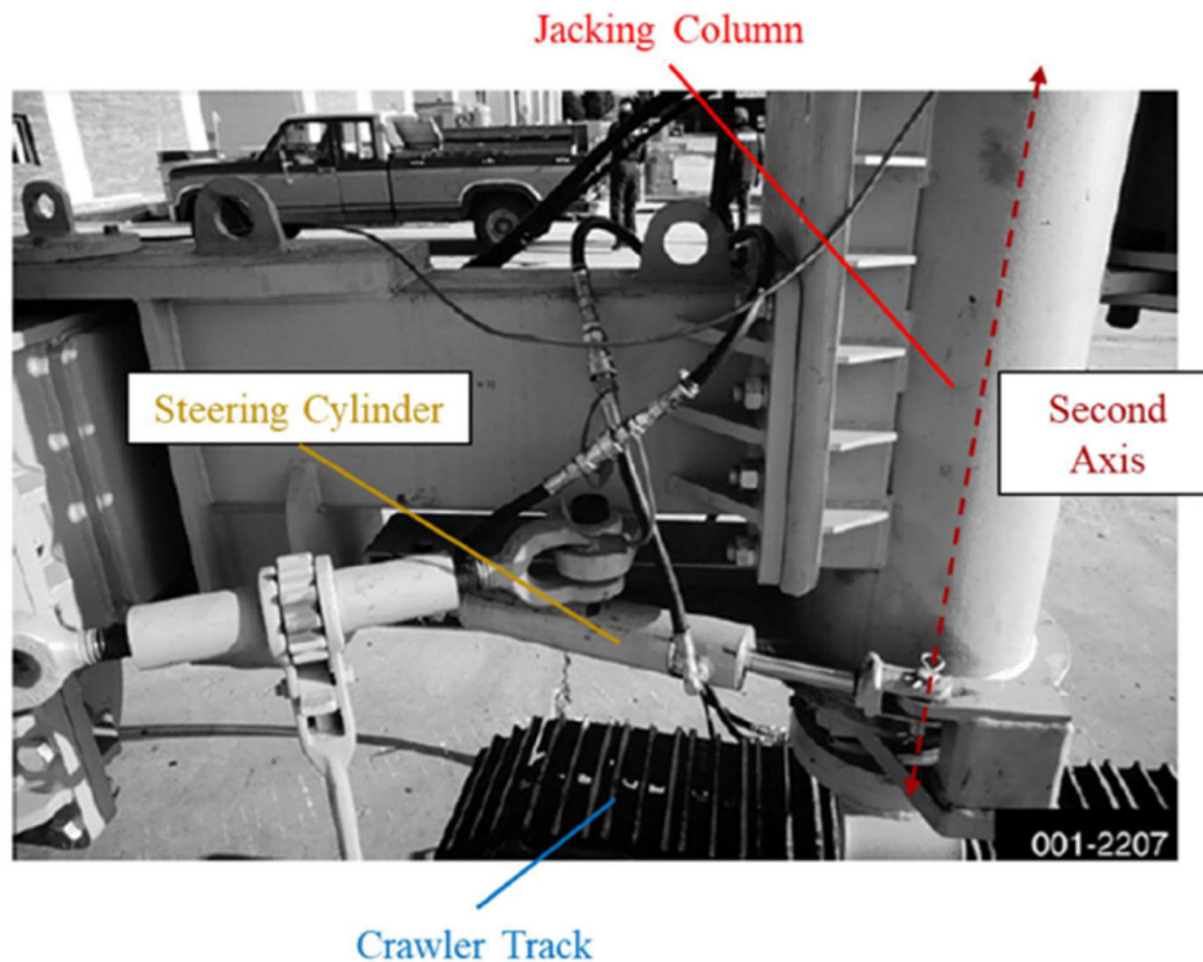
- The grounds shown above are the entirety of the grounds presented in the Petition.
- The Board instituted “with respect to all grounds set forth in the Petition”

CIII – Discloses Swing Leg



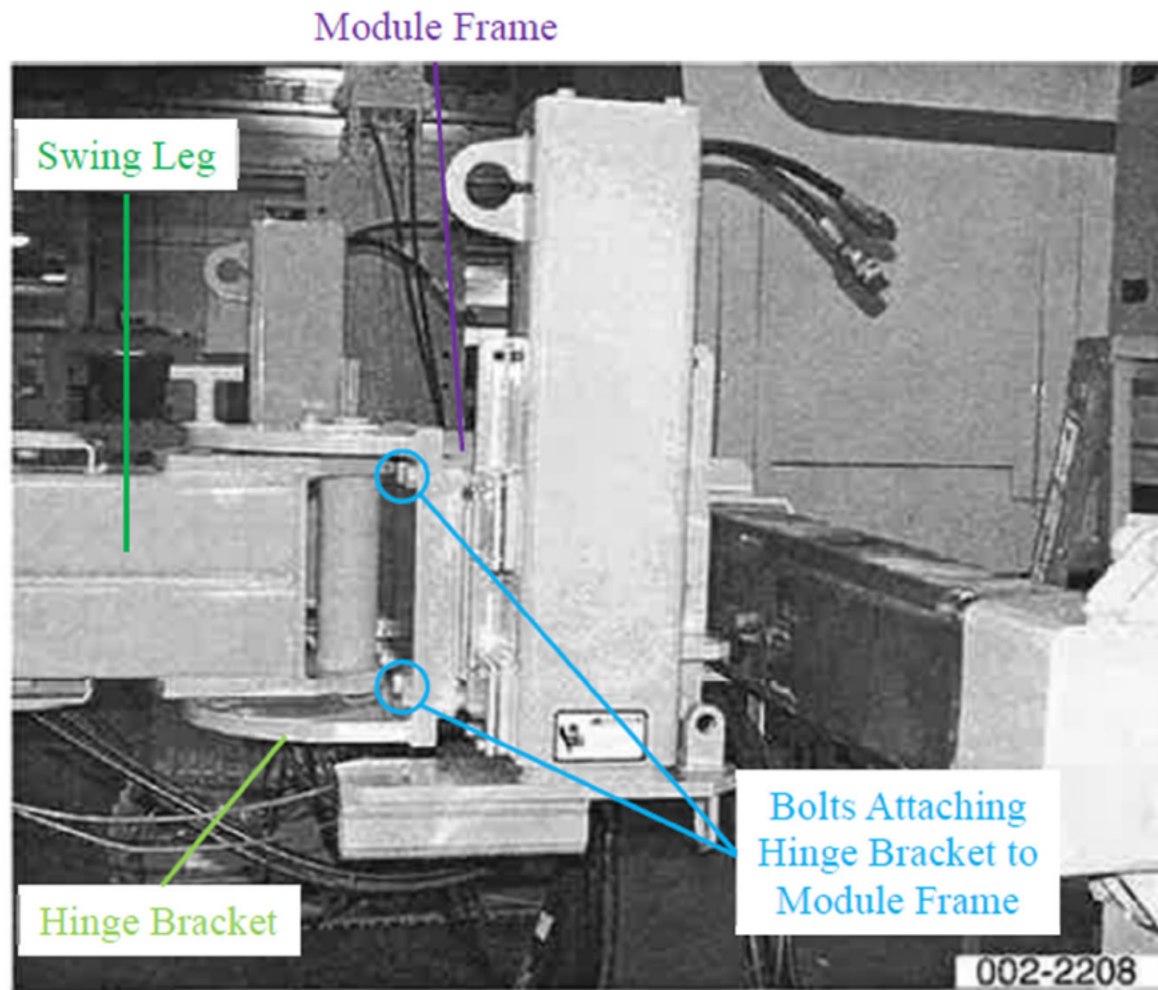
Petition at 65.
CIII (Ex. 1005) at 76 (annotated).

CIII – Discloses Steering Actuator



Petition at 44.
CIII (Ex. 1005) at 265.

CIII – Discloses Hinge Bracket



Petition at 62.
CIII (Ex. 1005) at 85.

Rio - Smart Swing Leg on Road-Milling Machine

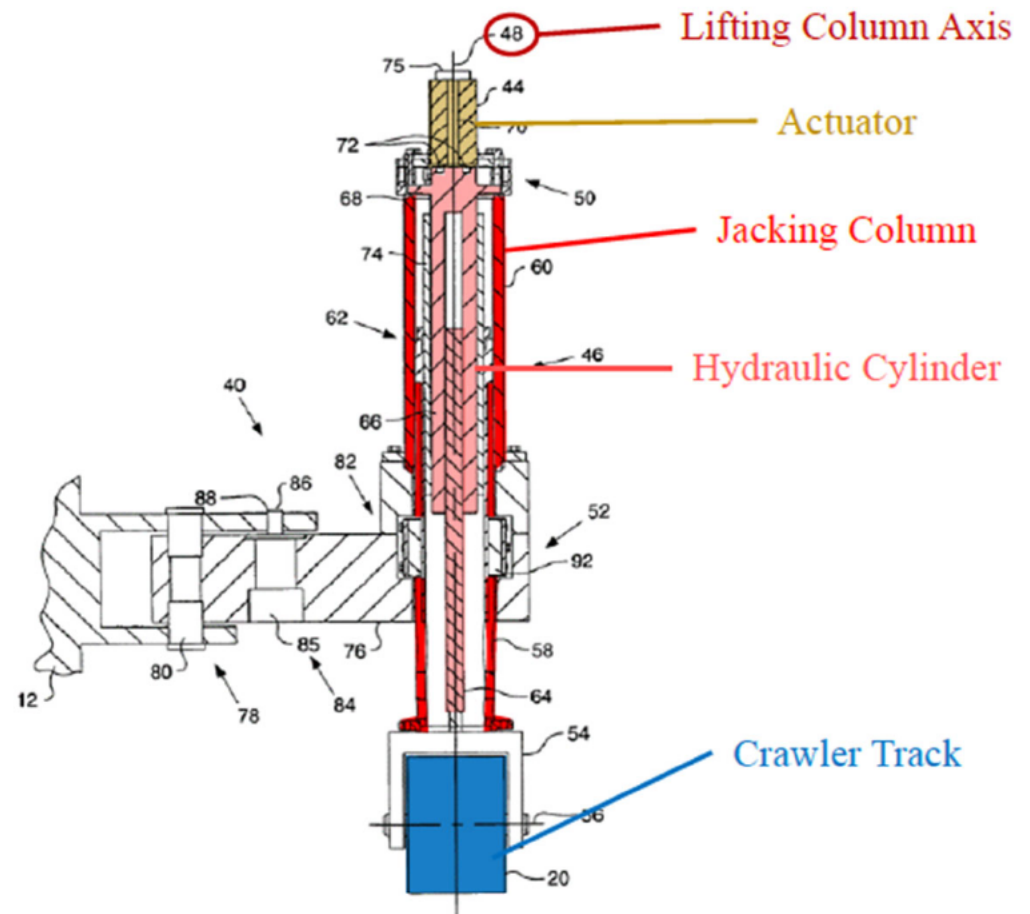
- Jacking column with hydraulic cylinder inside that extends and retracts to raise and lower the machine
- Linear and/or rotary actuators that pivot swing leg and steer crawler track
- Sensors that measure swing-leg pivoting and crawler-track steering
- Coordinated swing-leg pivoting and crawler-track steering

Rio (Ex. 1006) at 5:32-52, 6:19-22, 4:56-5:3, 6:4-6, 7:19-27, 6:64-7-13, 8:31-55, Figs. 2-4.
Petition at 22-26

Location of Rotary/Slew Drive

Rio's Power Drive (Rotary Actuator) Disclosures

- Rio discloses
 - a power drive (rotary actuator) attached to
 - a jacking column (lifting column 46) that causes
 - a crawler track (ground engaging unit 20) to rotate about a vertical axis of the jacking column (lifting column axis 48).
- G&Z has not disputed these disclosures.

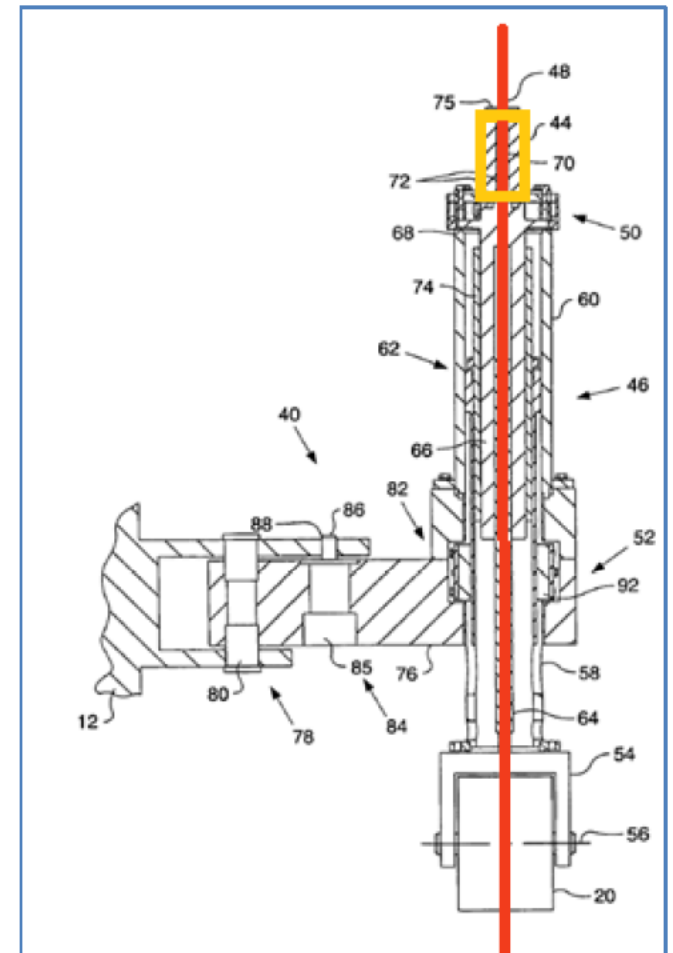


Rio (Ex. 1006) at Fig. 2, 4:56-57, 4:61-5:7, 6:4-6.
Singhose Declaration (Ex. 1002) at 74-75.
Petition at 45.

Rio's Positioning of the Rotary Actuator

- Fig. 2 shows a rotary actuator located atop a lifting column, but Rio further discloses that the rotary actuator can also be positioned on the lifting column “along the lifting column axis 48.”

In another of the preferred embodiments, the second actuator 44 is positioned on the lifting column 46 at a location spaced apart from the first actuator 42 along the lifting column axis 48.



Rio (Ex. 1006) at Fig. 2, 5:8-11.
Petition at 24, 29-30, 45-47.

GOMACO's Combination - Rotary Actuator at Bottom

- Components inside jacking column **no longer rotate**. Only crawler track rotates.
- Fix either inner guide tube to outer, non-rotatable cylinder of jacking column.
- Rotary drive is attached to the bottom of the fixed jacking column on one side and to the crawler track on the other.
- Results in relative rotational movement.

Rio (Ex. 1006) at 4:61-5:11, 5:54-6:6.

Petition at 27-35.

Singhose Decl. (Ex. 1002) at ¶¶57, 61, 69, 72-74.

Reasons to Combine

- A skilled artisan would have been motivated to use Rio's power drive design at the bottom of the CIII and Swisher jacking columns:
 - Would have **simplified the jacking column design in CIII**—the guide tubes would no longer need to rotate relative to the outer cylinder.
 - Rio's rotary actuator is used to steer a crawler track and **would perform the same operation** in CIII/Swisher, which also has crawler tracks that require steering.
 - Would have **simplified the manufacturing and maintenance** of the jacking column and **reduced the power/torque needed to rotate** the actuator because only the tracks would rotate.
 - Rotary actuator would have **increased the crawler track's rotational range of motion**, which would have led to **greater maneuverability**.

Rio (Ex. 1006) at 5:8-11, 9:15-42.

Petition at 27-35.

Singhose Decl. (Ex. 1002) at ¶¶57, 61, 69, 72-74, 77, 79, 81.

Board Findings in IPR2020-01698 ('749 Patent)

“We find that Rio does not limit the position of rotary actuator 44 (which steers the crawler track) to the top of its lifting column. Rio expressly discloses that rotary actuator 44 can be located on lifting column 46 along axis 48. . . . This express disclosure would include positioning actuator 44 on lifting column 46 at the bottom of the column.”

“[P]ositioning the actuator at the bottom of CIII jacking column would simplify the jacking column’s design” because “the guide tubes would no longer need to rotate relative to the outer cylinder.”

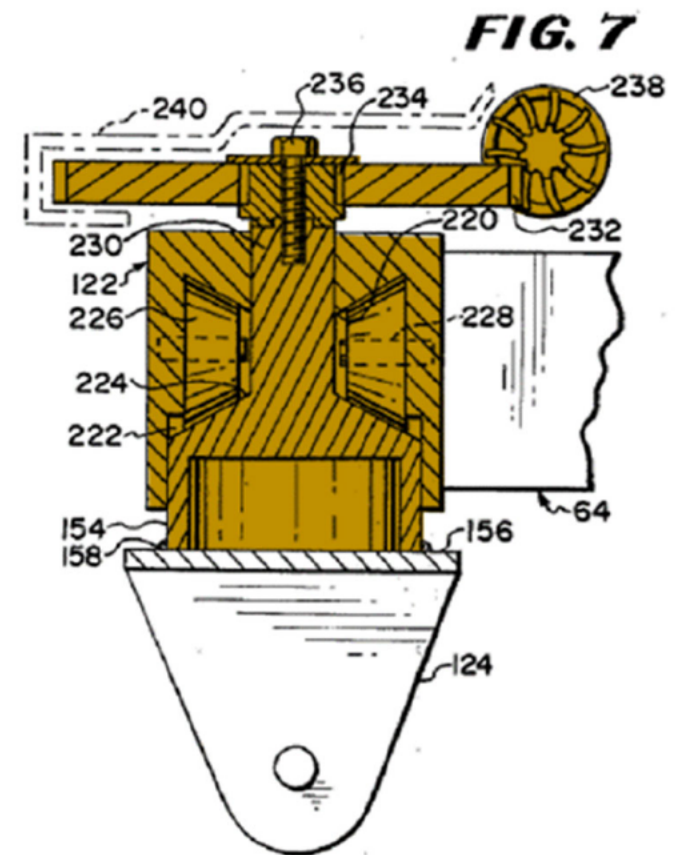
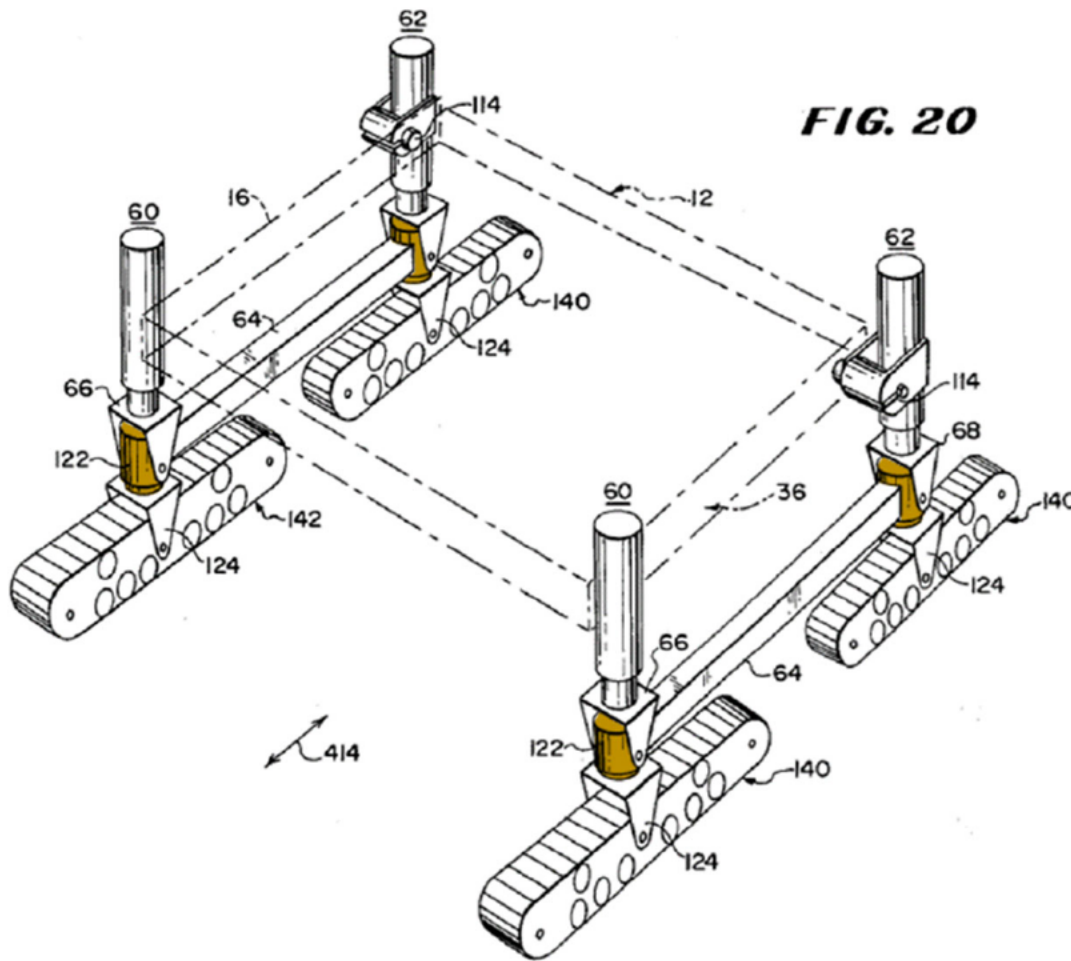
Godbersen-Smith Const. Co. v. Guntert & Zimmerman Const. Div., Inc., IPR2020-01698, Paper 80 at 74-75 (Apr. 12, 2022).
Petition at 24, 29-30, 46.

State of the Art Evidence

- Gomaco presented state of the art evidence showing:
 - slew/rotary drive coupled to the bottom of jacking column on one side and the top of the crawler track apparatus on the other side
 - Relative rotation between the jacking column and crawler track

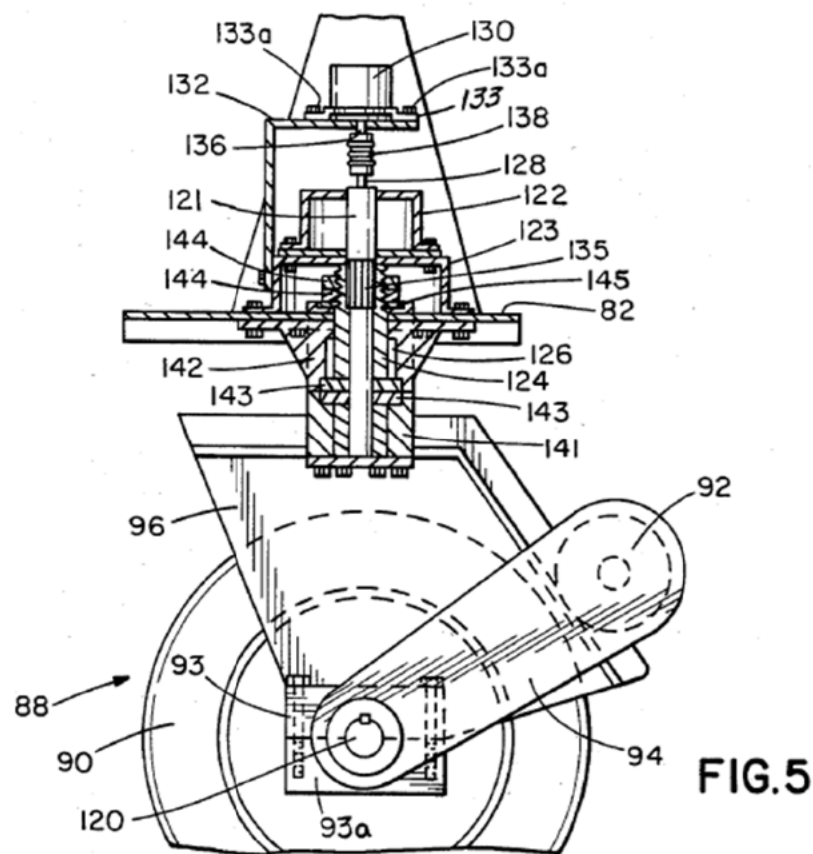
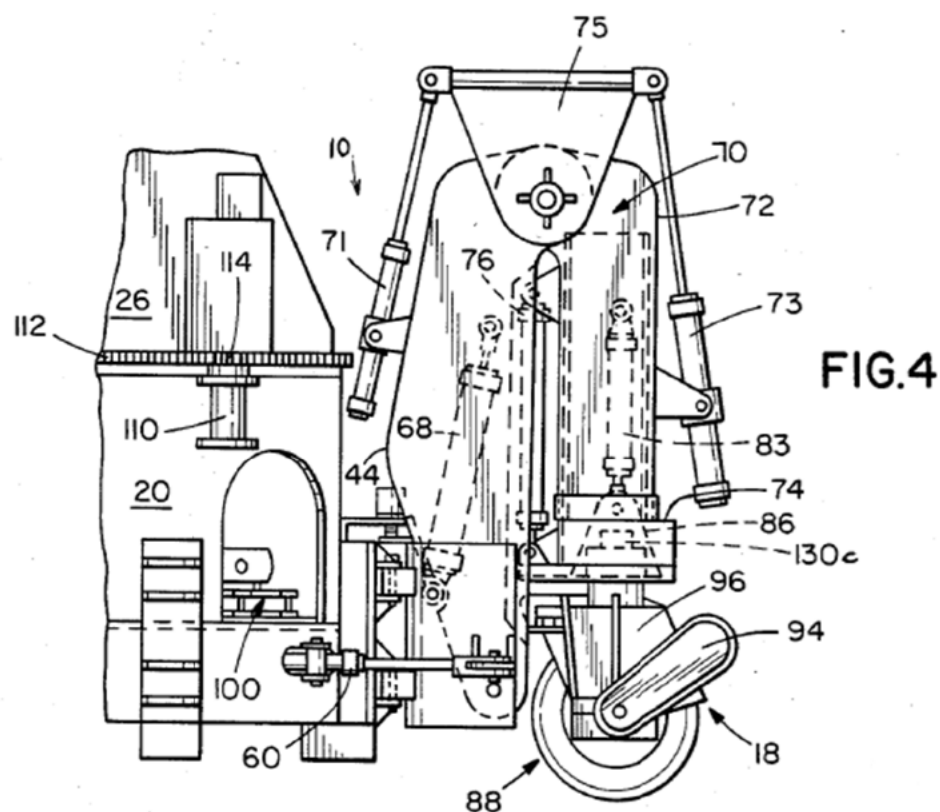
Miller

- Discloses a rotary power drive at the bottom of a jacking column used to rotate a crawler track.



Miller (Ex. 1008) at Figs. 7, 20.
Petition at 30.
Singhose Decl. (Ex. 1002) at ¶¶62-63.

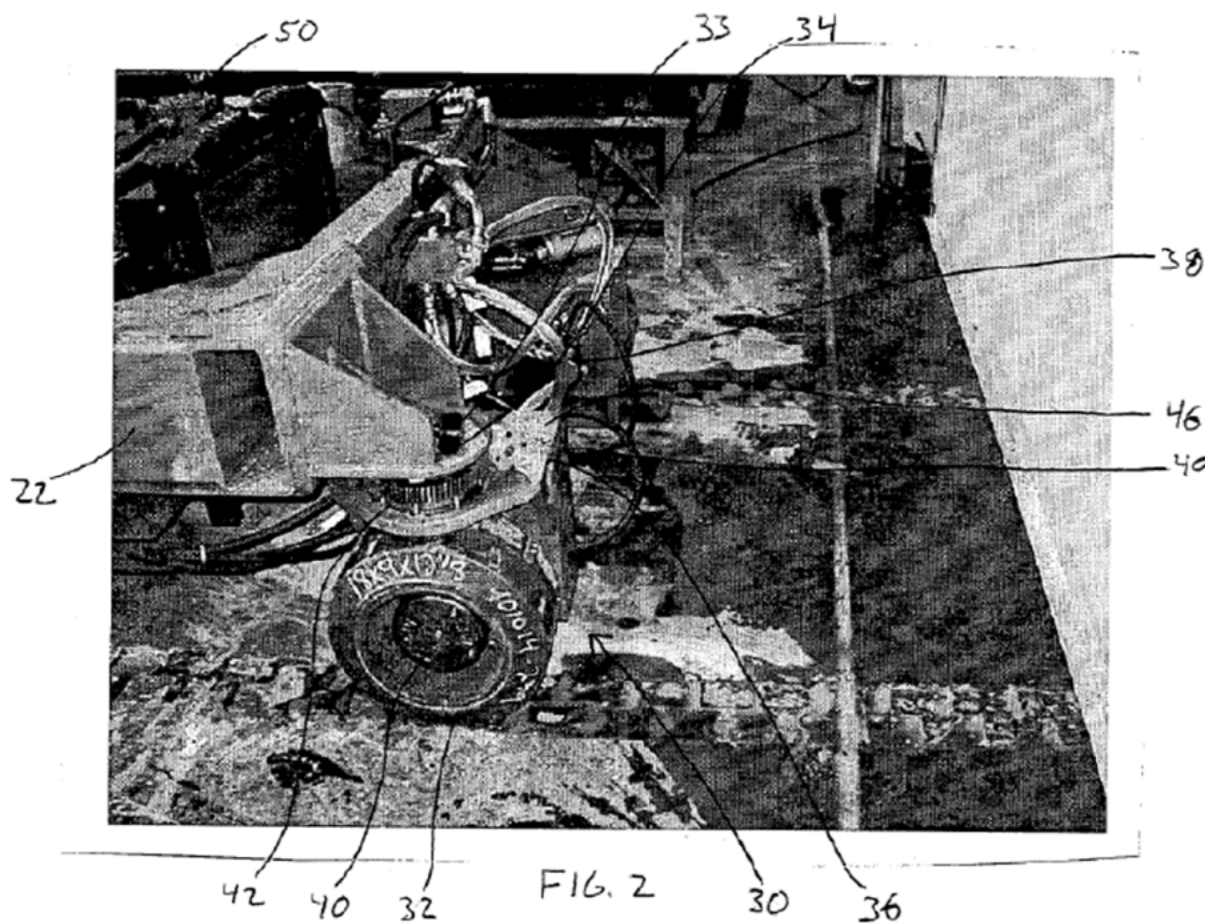
- Discloses a rotary power drive at the bottom of a jacking column used to rotate a crawler track.



Littman (Ex. 1007) at 5:14-59, Figs. 4-5.
 Petition at 30.
 Singhose Decl. (Ex. 1002) at ¶¶77, 89.

Johns

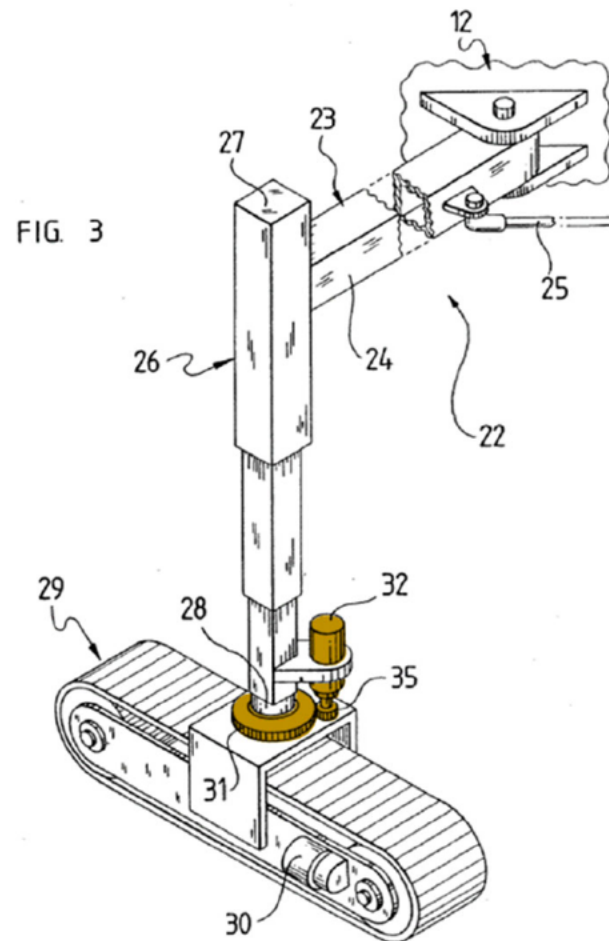
- Discloses slew drive 42 between frame and wheel to rotate the wheel.



Johns (Ex. 1011) at ¶ [0020], Fig. 2.
Petition at 30.
Singhose Decl. (Ex. 1002) at ¶¶ 65, 81.

Whitaker

- Telescoping jacking column remains rotationally fixed as rotary actuator turns the crawler track



Whitaker (Ex. 1011) at Fig. 3.
Petition at 29-31.
Singhose Decl. (Ex. 1002) at ¶¶ 64, 70.

GT-3200

- Discloses “rotary actuator system that allows” for 180° rotation



GT-3200 (Ex. 1010) at 3 (annotated).
Petition at 29, 75.
Petitioner's Reply at 10.
Singhose Decl. (Ex. 1002) at ¶¶ 71, 133.

Q. Is the rotary actuator . . . this passage what rotates the front crawler track?

A. Yes.

Q. Okay, and it rotates the front crawler track relative to the jacking column components above it?

A. Yes.

* * *

Q. So the crawler track is rotating in response to the rotary drive?

A. Uh-huh, yes.

Q. And nothing above the rotary drive is rotating?

A. Right.



Relocating the Jacking Column

Rio – Relocating the Jacking Column

FIG. 3 -

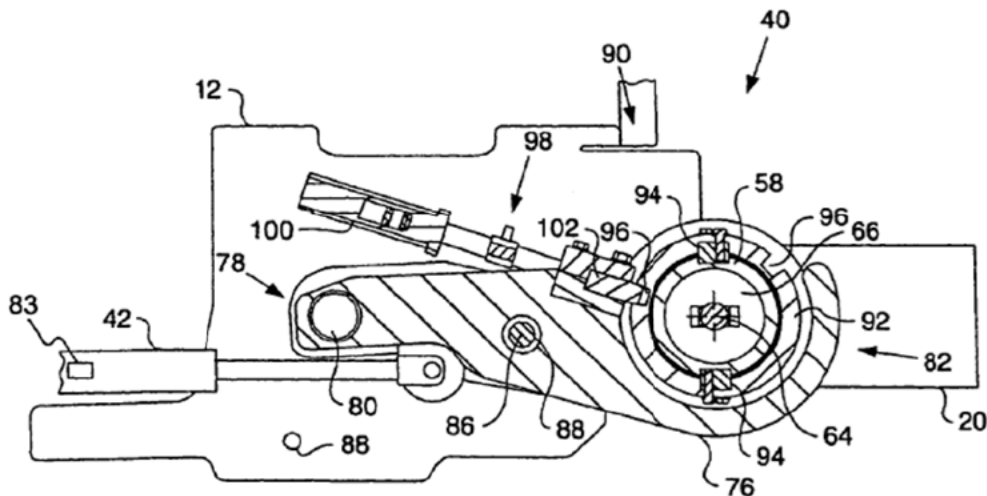
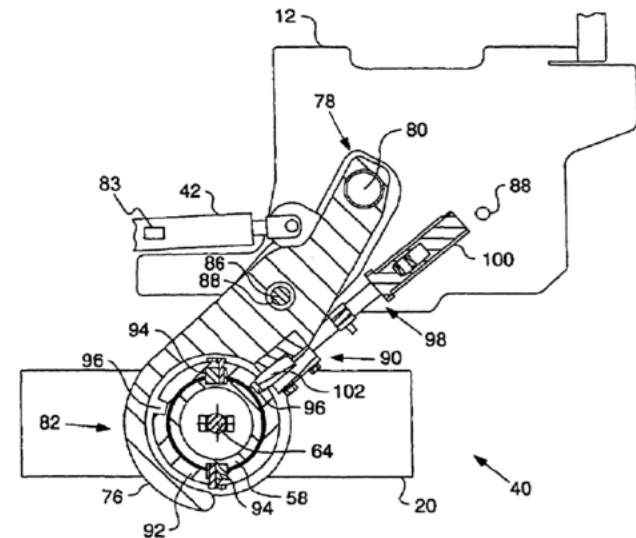


FIG. 4 -



- G&Z's expert admitted that Rio discloses a design where the swing leg pivots at least 90°, and the crawler track counter-rotates *during pivoting* by that same amount to keep the crawler track parallel to the machine frame at all times.

Rio (Ex. 1006) at Figs. 3, 4.
Nelson Tr. (Ex. 1157) at 70:21-75:14.
Reply at 13.

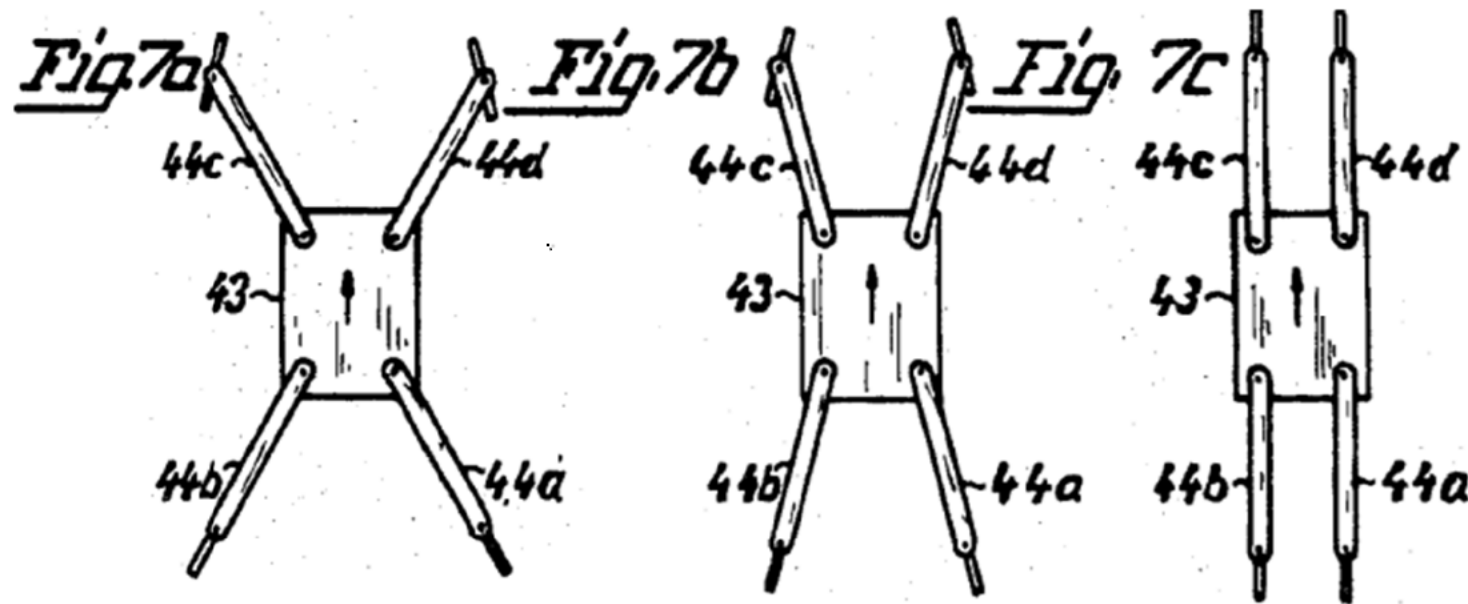
Rio – Relocating the Jacking Column

- Board Finding from IPR2020-01698
 - “Rio discloses that sufficient torque can be generated to rotate the crawler track, both when engaged with the ground and raised off the ground.”

'749 FWD (Ex. 1036) at 59
Rio (Ex. 1006) at 8:1-59, 9:15-42.
Reply at 13.

Tax – Relocating the Jacking Column

- Worm drive rotates wheels under load
- Machine drives forward and swing legs pivot



Tax (Ex. 1016) at 5:1-18, Figs. 7a, 7b, 7c.
Reply 14-15.
Singhose Decl. (Ex. 1002) at ¶ 80.

Littman – Relocating the Jacking Column

In the second mode, the wheels are positioned perpendicular to the stabilizer legs so as to allow the legs to pivot while the legs are on the ground supporting the prime mover and its load.

Littman (Ex. 1007) at 9:61-64.
Singhose Decl. (Ex. 1002) at ¶80.

Dr. Bryden's Testimony on Littman

Q. So the crawler track is on the ground?

A. Uh-huh.

Q. And it's experiencing some load?

A. Some load.

* * *

Q. And as the swing leg pivots, the crawler track remains perpendicular –

A. Yes.

Q. – throughout the pivoting process?

A. Right

Q. How does the system keep, if it does, the crawler track perpendicular while the swing leg's pivoting?

A. I think you're looking for the rotary device again. The gearbox maintains that position.

Q. With the use of a sensor?

A. With the use of a sensor.



Ex. 1184 (Bryden Dep. Tr.) at 88:10-92:13.
Reply at 14.

Dr. Bryden's Testimony on Littman

Q. [U]nder this second example we have been talking about –

A. Uh-huh –

Q. – with the perpendicular example –

A. Yes.

Q. – the crawler track then turns back to meet the steering positions of the other three legs?

A. Hmm, let's go back and read this section to see what he says specifically. Yes, so it says it returns to a position synchronized with the other three.

Q. It's still on the ground when this happens –

A. Yes.

Q. – the crawler track is?

A. Yes, uh-huh.

Q. And how does the crawler track return to its steered position?

A. It rotates to get wherever it's going.

Q. How does it know where to go?

A. It has a computer that tells us what it needs to be doing.



Ex. 1184 (Bryden Dep. Tr.) at 93:6-94:4.
Reply at 14.

Dr. Bryden's Testimony on Skotnikov

Q. So if I'm pivoting the swing legs and the crawler tracks get out of position (indicating), the system will be able to reorient the crawler tracks back to the correct position –

A. Yes.

Q. – while the swing leg's pivoting?

A. I believe so, yes.

Q. Okay.

A. It – Also, it really is telling that you as the device is driving, if the track gets out of alignment for whatever reason, it's being pushed by forces in the field and this and that or maybe the – maybe the rows aren't straight, though in today's technology rows are always straight –

Q. Uh-huh

A. – but if . . . the arms and the – and the wheels get out of alignment with the field, you can – it adjusts them on the fly without operator input.

Q. Okay. As the machine is moving forward?

A. As the machine is moving forward.

Q. While the crawler tracks are on the ground?

A. Yes.

Q. Under load?

A. Under load, uh-huh.

Q. And that's what you learned from this column 5, lines 1 through 34?

A. Yes.



Ex. 1185 (Bryden Dep. Tr.) at 54:2-56:21.
Reply at 14.

Dr. Bryden's Analogous Art Admissions

Q. So assume we've reached the phase where we've decided we want to have a swing leg assembly for –

A. Okay.

Q. – a paver?

A. Uh-huh.

Q. At what point would it be worth—would you consider advising your students to go look at swing leg assemblies on other machines?

A. Certainly. You would be interested in how other people have solved similar problems. So what you would be doing is looking back at your functional requirements and the challenges that you have with them. There is always compromises in design, and in that then you would say, [w]ell, go look at other examples that solve that particular problem.

Q. Okay, and would those examples include farm equipment swing legs?

A. Certainly.

Q. Crane swing legs?

A. Yeah

Q. Okay; so do you encourage students to go look at swing legs on any type of heavy machinery, for example?

A. I encourage them to go look at swing legs on chairs. I mean, I think that – I think that many of those characteristics are similar, though you're looking at the functional requirements that you need to fulfill and whether they meet – and what's happening here.



Ex. 1184 (Bryden Dep. Tr.) at 30:9-31:15.
Reply at 15.

Secondary Considerations Do Not Support Nonobviousness

G&Z Is Estopped

- The Board rejected G&Z's almost identical arguments and evidence in the '749 IPR



Ex. 1036 at 79-95; Compare POR at 58-84, with '749 POR at 70-83.

- Collateral estoppel applies even though the claims are not identical because the *issues* are identical *Ohio Willow Wood Co. v. Alps S., LLC*, 735 F.3d 1333, 1342 (Fed. Cir. 2013).
- Collateral estoppel applies even if new evidence exists *SynQor, Inc v. Vicor Corp.*, 988 F.3d 1341, 1355 (Fed. Cir. 2021).
- Collateral estoppel prevents relitigation of secondary considerations of related patents

Yita LLC v. MacNeil IP LLC, IPR2023-00173, Paper 70 at 107-10 (PTAB Jun. 6, 2024).

Petition at 81; Reply at 16-17.

G&Z Has Not Demonstrated the Required Nexus

- G&Z no longer argues for a presumption of nexus
- G&Z failed to show nexus

Reply at 17.

No Long-Felt Need

- The Board rejected G&Z's similar long-felt need argument in the '749 IPR
 - “Patent Owner d[id] not demonstrate a nexus between the claimed invention and a long-felt need”
 - “[E]ven if Patent Owner demonstrated a nexus . . . [the] evidence is not entitled to much weight.”



Ex. 1036 at 85-86; *Compare* POR at 59-62, with '749 POR at 70-74.

Reply at 18.

No Long-Felt Need

- G&Z argues alleged need “for repositioning the swing leg/crawler track when moving and under load”

POR at 58.

- Repositioning the legs/tracks while moving and *under load* is not required by the claims

Reply at 1-4, 18.

- Even if it was, these features are provided by the prior art

Reply at 18-19.

- Alleged need was also not *long felt*.

- Need arose “as late as 2009,” and priority date is 2010

Ex. 2022, ¶5, Ex. 1036 at 86.

Reply at 18-19.

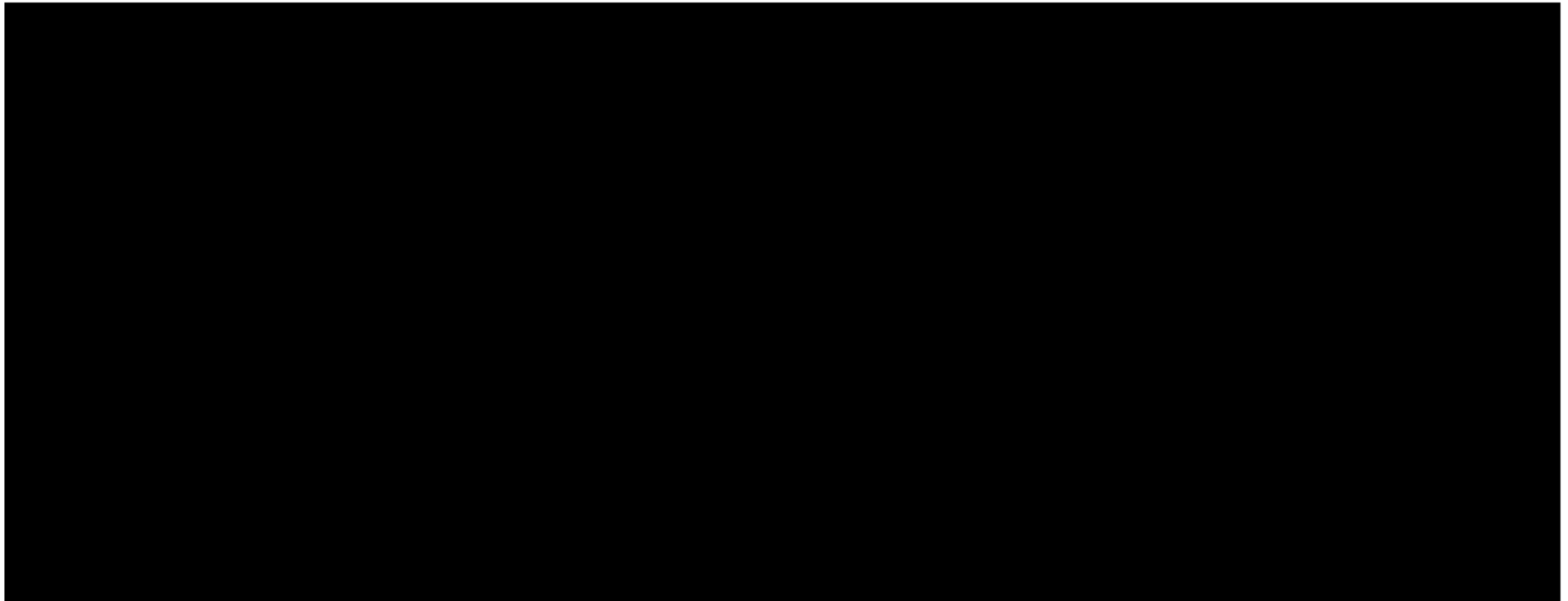
No Industry Skepticism

- G&Z contends there was industry skepticism of the “use of a slew drive for driving and steering under load”
POR at 62-63.
- Steering *under load* is not required by the claims
Reply at 19.
- Even if it was, G&Z’s evidence does not show skepticism
Reply at 19-20.

**BEGIN G&Z CONFIDENTIAL –
PROTECTIVE ORDER MATERIAL
FOLLOWS**

No Industry Skepticism

CONFIDENTIAL – PROTECTIVE ORDER MATERIAL



Ex. 2013

— [Redacted text block]

— [Redacted text block]

Reply at 19-20.

No Industry Skepticism

CONFIDENTIAL – PROTECTIVE ORDER MATERIAL

[REDACTED]

Ex. 2024

— [REDACTED]

— [REDACTED]

Reply at 190-20.

**END G&Z CONFIDENTIAL –
PUBLIC MATERIAL FOLLOWS**

No Copying

- G&Z and Dr. Bryden cite no evidence showing GOMACO copied
- In the '749 IPR, the Board found GOMACO's development documents showed that GOMACO's "selection of a slew drive was the product of routine engineering processes" rather than copying

POR at 67, Ex. 2015, ¶88.



Godbersen-Smith Const. Co. v. Guntert & Zimmerman Const. Div., Inc., IPR2020-01698, Paper 80, at 60, 90 (Apr. 12, 2022).

Reply at 20-21.

No Copying

- G&Z's claim chart does not show copying
- GOMACO disputes infringement
- But *even if GOMACO infringed*, infringement alone is not evidence of copying.
 - “Not every competing product that arguably falls within the scope of a patent is evidence of copying. Otherwise every infringement suit would automatically confirm the nonobviousness of the patent.”

POR at 68-75.

Iron Grip Barbell Co. v. USA Sports, Inc., 392 F.3d 1317, 1325 (Fed. Cir. 2004).

Reply at 20-21.

No Copying

● GOMACO used “Smart” for years before G&Z’s S600

Smart steer controls: The smart steer panel contains a five position steer mode select switch and a steering control knob for manually steering the tracks. When using the smart steer system, the main screen must be in the run (R) mode and the individual steering control loops must be in the automatic (A) mode.

Smart steer cylinder

The smart steer cylinder feedback pot on each track is used to control how far the track will turn for a given sensor movement. Without the feedback pot, the track



Ex. 1005, 1, 44, 408.

The GOMACO G21 and exclusive “smart” cylinders provide simple push-button steering setup on the GT-3400.

the “smart” cylinders to set a desired degree of leg rotation, so that the tracks do not strike any object in minimum-clearance or zero-clearance requirements.



Ex. 1181, 2, 4-5.

2002

2006

2007

2011



All new GT-3600s are equipped with Commander III style legs with “smart” cylinders. The “smart” cylinders will give Tru-Form an advantage because, with the G21 controller, their operator can teach the cylinders the desired degree of leg rotation and keep the tracks from hitting any objects on their minimum-clearance projects.

Ex. 1183, 2, 10.

G&Z launches
S600



Reply at 21-22.

No Industry Praise

HEAVY EQUIPMENT GUIDE

CONCRETE CONSTRUCTION

New S600 Slipform Paver

The Multi-Tool Every Paving Contractor Needs

November 22, 2010



Guntert & Zimmerman (G&Z) has announced the release of the S600 Multi-Purpose Slipform Paver. The G&Z S600 Slipform Paver is designed around a multi-purpose tractor frame that makes it ideal for city street, secondary roads, highway and airport paving as well as a wide range of other applications such as barrier walls, off-set paving and zero or minimum clearance paving. The S600's design has redefined what mobility means for a small paver without sacrificing the same performance advantages contractors have come to expect from G&Z's large and mid-size paver. Utilizing G&Z's time tested and rugged paving kit design, the S600 is capable of achieving excellent ride numbers on the toughest IRI and zero blanking band projects.

The S600 features a double telescopic tractor frame, access walkway, and hose hinge system for a nominal working range of 6'-0" to 22'-0" (2.44 m to 6.66 m) the widest range in the industry. With the use of both tractor frame extensions, the S600 tractor can be used to pave out to 29'-0" (9 m) and up to 26' (8 m) with a dowel bar inserter (DBI).

The versatility of the S600 tractor allows the contractor to quickly switch between applications and paving widths. The tractor components including center module, bolsters, and jacking columns are designed with universal bolting patterns offering a wide range of three and four track tractor configurations with or without swing legs. The S600 is the narrowest profile machine on the market. In standard paving mode there is less than 2' (610 mm) from edge of pavement to widest point on the paver with sensor support arms removed. The paving kit, front tie bar inserter and many of the other optional attachments on the S600 are interchangeable with other G&Z paver models, giving the contractor a more versatile fleet of paving equipment.

The optional and patented TeleEnds: Telescopic Paving Kit End Sections provide the contractor the ability to perform paving kit width changes rapidly, without the use of cranes, and with only a one or two-person crew. Each Telescopic End Section gives the contractor 3' (915mm) (or 6' [1.83m] for both sides) of quick width change capability. A width change which could typically take a three to four person crew 6 to 10 hours can now be performed by a one or two person crew in less than two hours and for a width change involving a single spacer less than one hour.

The S600 is equipped with G&Z's new and patented AccuSteer: Slew Drive Track Control. The AccuSteer slew drives are mounted on top of the track yokes and are used to steer the tracks. The AccuSteer drives are powered with hourglass worm technology to give long life, high accuracy and extremely high maneuverability. The hourglass worm engages multiple teeth on the pitch line of the ring gear from the hourglass thread. This engagement gives enormous strength and power to the gearbox. The AccuSteer system allows the operator to independently rotate the tracks almost a full circle, providing exceptional maneuverability on site and rapid swing leg reposition for paving and transport without the need to re-pin steering cylinders.

The S600 is also available with G&Z's new and patented SmartLeg: Swing Leg System takes on the fly track line adjustments to the next level. Working in tandem with the AccuSteer system, The SmartLeg System allows the operator to adjust the swing leg angle on the fly while automatically keeping the track straight ahead. This offers a

<https://www.heavyequipmentguide.com/article/15235/new-s600-slipform-paver>

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Patent Owner, Guntert & Zimmerman - Ex. 2014, p. 1

Board's Prior Findings

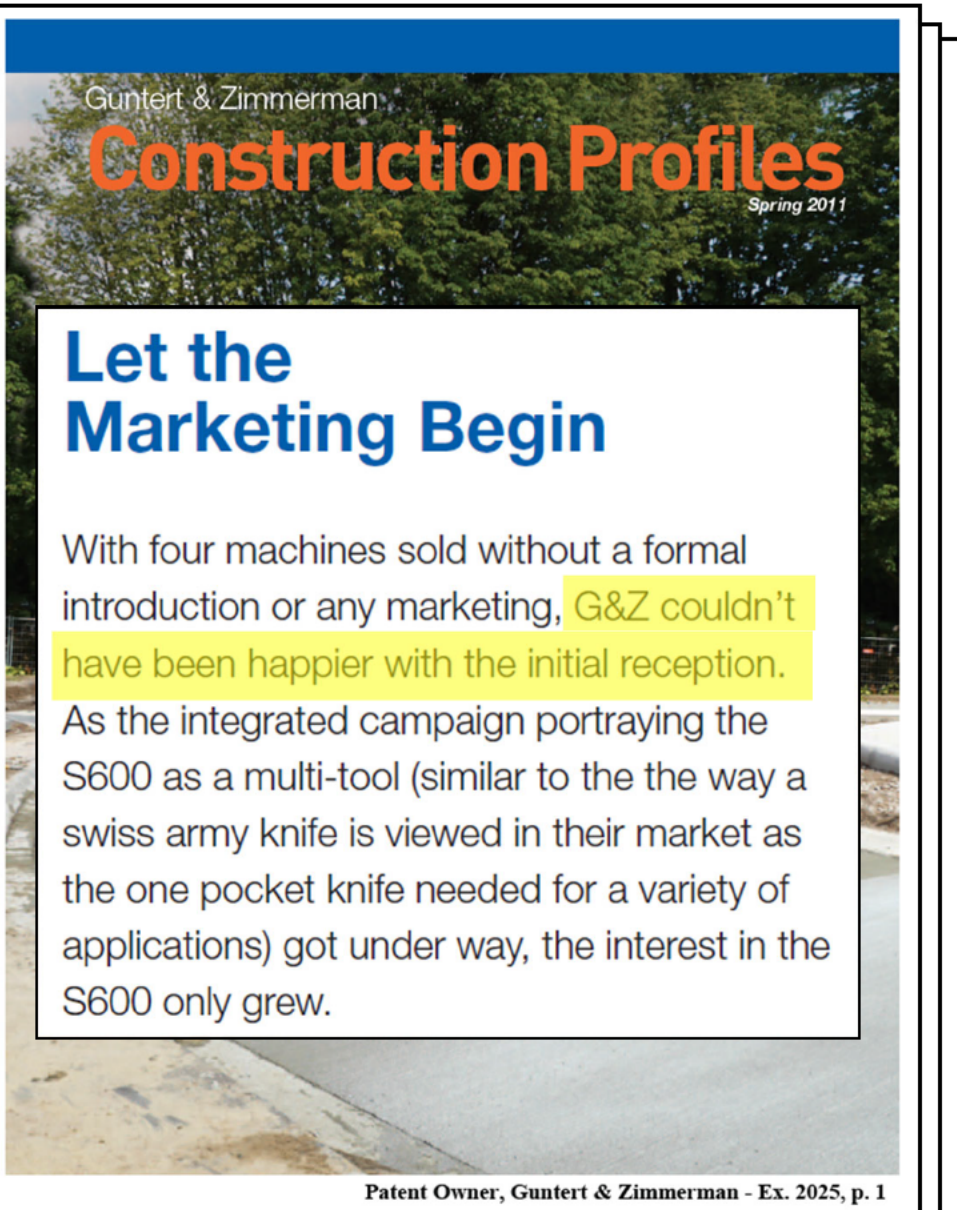
- This article “falls short of praising the technologies”
- The article’s discussion of other features “somewhat limit[s] the nexus to the claimed invention, and consequently, the weight of the evidence”

Ex. 1036 at 87.



Reply at 23.

No Industry Praise



Guntert & Zimmerman
Construction Profiles
Spring 2011

Let the Marketing Begin

With four machines sold without a formal introduction or any marketing, G&Z couldn't have been happier with the initial reception. As the integrated campaign portraying the S600 as a multi-tool (similar to the the way a swiss army knife is viewed in their market as the one pocket knife needed for a variety of applications) got under way, the interest in the S600 only grew.

Patent Owner, Guntert & Zimmerman - Ex. 2025, p. 1

G&Z's self-serving statements in its own marketing literature are entitled to no weight

- “Patent Owner’s *own* laudatory comments in marketing materials for the Achieve3000 Literacy product are not praise *from the industry*.”
- Self-serving statements from researchers about their own work do not demonstrate industry praise

Beable Educ., Inc. v. Achieve3000, Inc., IPR2021-01169, Paper 34 at 77 (PTAB Jan. 3, 2023).

In re Cree, Inc., 818 F.3d 694, 702 (Fed. Cir. 2016).

Ex. 2025, 1, 5.

Reply at 23-24.

No Industry Praise

- The Board rejected G&Z's similar industry praise argument in the '749 IPR
 - “[T]he totality of the evidence . . . does not provide persuasive evidence of industry praise, given the sources of the evidence, the tone of the language, and, importantly, the positive discussions of other technologies associated with the pavers.”



Ex. 1036 at 87-88.

Reply at 24.

No Commercial Success

- The Board rejected G&Z's almost identical commercial success arguments in the '749 IPR
 - “Patent Owner's commercial success evidence is entitled to very little weight”



Ex. 1036, 93; *Compare* POR, 82-84, with '749 POR, 81-83

Reply at 24.

No Commercial Success

- Aside from perjury attestations, the entirety of Mr. Van Broekhoven's testimony regarding information in Exhibits 2035 and 2036 is:

1. I am the author of the documents marked Exhibits 2035 and 2036.

These documents represent concrete paver market share reports. I prepared the reports based upon my personal knowledge and belief.

Ex. 2035 at 14; Ex. 2036 at 17.

- No information regarding where he obtained the information or his qualifications to provide or evaluate it
- No declaration of Mr. Van Broekhoven in this case.

Reply at 24-25.

**BEGIN G&Z CONFIDENTIAL –
PROTECTIVE ORDER MATERIAL
FOLLOWS**

No Commercial Success

CONFIDENTIAL – PROTECTIVE ORDER MATERIAL

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- No declaration of Ms. Ismaylova in this case
- No explanation of where she obtained this information or her qualifications to provide it.

Ex. 2031 at 8, 11-12.

Reply at 25.

GOMACO Did Not Cause G&Z's Sales Decline

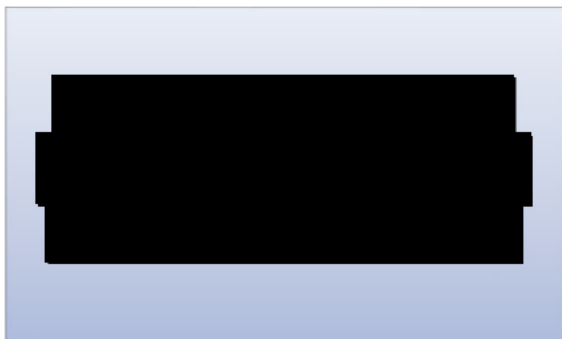
CONFIDENTIAL – PROTECTIVE ORDER MATERIAL

- G&Z argues that its sales declined due to GOMACO entering the market
- But the evidence shows other reasons why G&Z lost sales

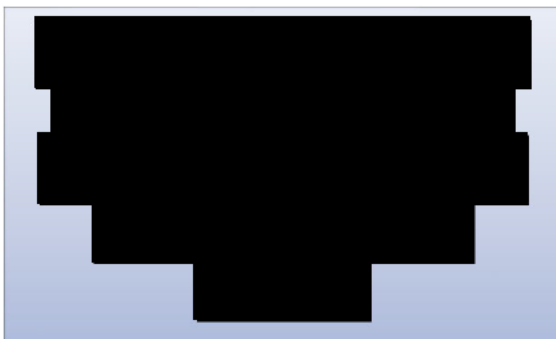
Reply at 25-26.

Reasons for G&Z's Sales Decline

CONFIDENTIAL – PROTECTIVE ORDER MATERIAL



Ex. 1166, 16, 23; Ex. 2036, 10.



Ex. 1166, 24.



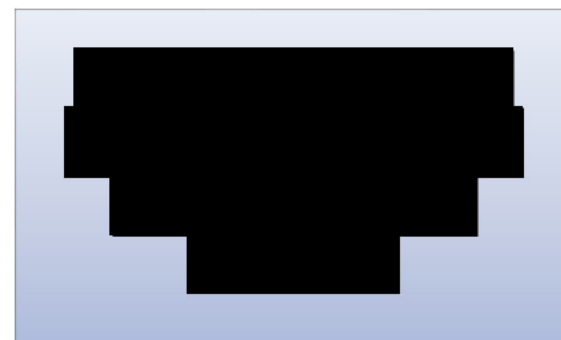
Ex. 1166, 21.



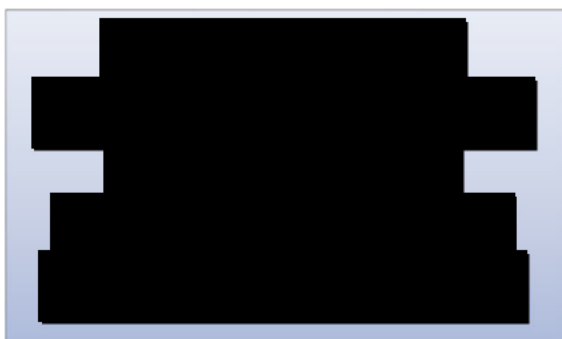
Ex. 1166, 32, 36; *see also* Ex. 1167, 3.



Ex. 1166, 32, 36; *see also* Ex. 1167, 3.



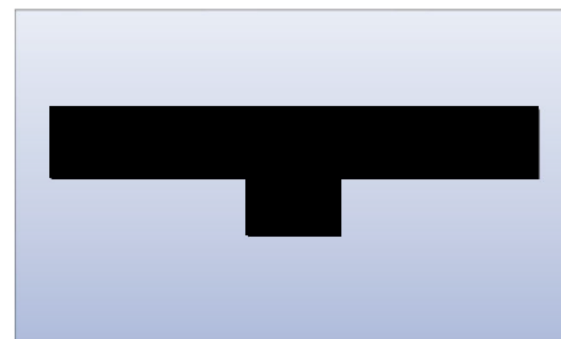
Exs. 1168-1170; Ex. 1162, 121:21-122:11, 124:7-126:14



Exs. 1186, 1194-1208.



Ex. 1186, 46:14-57:12.



Ex. 1186, 46:14-57:12.

Reply at 25-26.

**END G&Z CONFIDENTIAL –
PUBLIC MATERIAL FOLLOWS**