

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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THE TORO COMPANY,  
Petitioner,

v.

MTD PRODUCTS INC.,  
Patent Owner.

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Case IPR2016-00219  
Patent 8,136,613

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Before WILLIAM V. SAINDON, RICHARD E. RICE, and  
TIMOTHY J. GOODSON, *Administrative Patent Judges*.

SAINDON, *Administrative Patent Judge*.

DECISION  
Institution of *Inter Partes* Review  
*37 C.F.R. § 42.108*

## I. INTRODUCTION

Petitioner requests an *inter partes* review of claim 28 of U.S. Patent No. 8,136,613 (Ex. 1001, “the ’613 patent”). Paper 1 (“Pet.”). Patent Owner filed a Preliminary Response to the Petition. Paper 7 (“Prelim. Resp.”).

We have jurisdiction under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted “unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” Upon consideration of the Petition and Patent Owner’s Preliminary Response, we institute an *inter partes* review of claim 28 of the ’613 patent.

Our factual findings and conclusions at this stage of the proceeding are based on the evidentiary record developed thus far. This is not a final decision as to the patentability of claims for which *inter partes* review is instituted. Our final decision will be based on the record as fully developed during trial.

### A. *Related Matters*

The parties represent that the ’613 Patent is asserted in *MTD Products Inc. v. Toro Company et al.*, 1:15-cv-00766-PAG (N.D. Ohio). Pet. 1; Paper 6, 2. Petitioner also has filed a petition challenging Patent Owner’s U.S. Patent No. 8,011,458 (IPR2016-00194). Patent Owner identifies U.S. Patent No. 8,944,191 as a related patent and U.S. Patent App. No. 14/613,102 as a related application. Paper 6, 2.

*B. The '613 Patent*

The '613 patent is directed to a steering and driving system. Ex. 1001, Abstract. In particular, the patent is directed to the steering systems of Zero Turn Radius (ZTR) lawn mowers. *Id.* at 1:6–14; 4:39–40. Figure 5 of the '613 patent, reproduced below with color added and extraneous labeling removed by the Board, depicts this steering system:

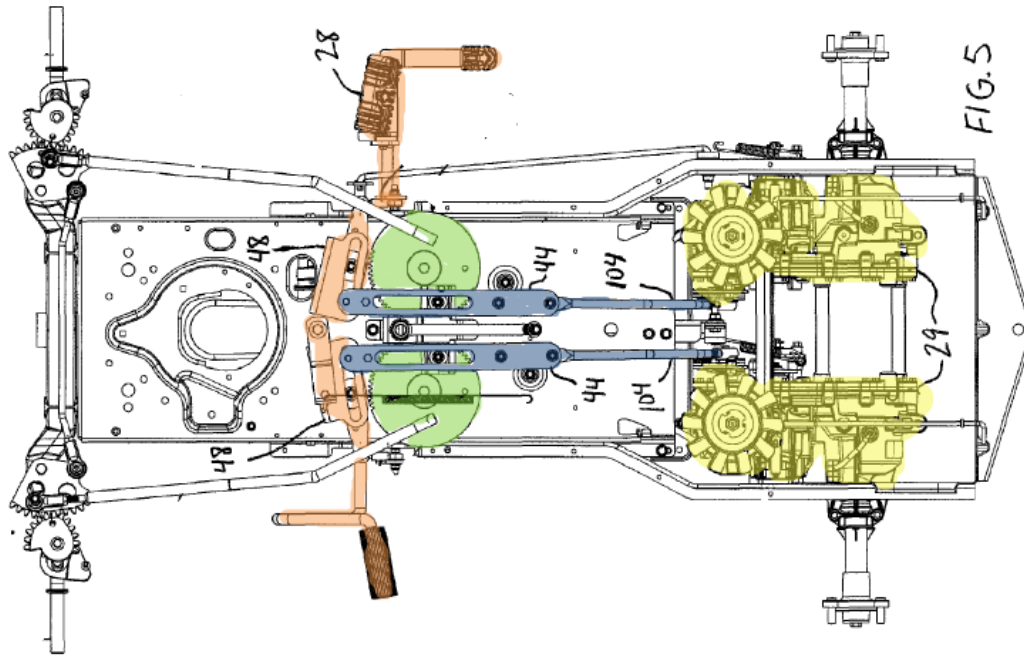


Figure 5 of the '613 patent shows speed control device 28 (in orange), left and right speed input members 48 (in orange), left and right control members 36 (item numbers not shown, colored in green), left and right integration links 44 and control rods 104 (in blue), and left and right drive units 29 (in yellow). Control rods 104 are connected to drive units 29 in a manner such that the distance of the rod fore or aft of a neutral position causes the output of the corresponding drive unit to spin the wheel forward or backward with increasing speed. *See* Ex. 1001, 9:32–44; Fig. 14. Integration links 44 serve to integrate both speed control as well as steering control. *See, e.g., id.* at 9:57–10:21 (explaining how the linkages work as

the vehicle is operated from straight forward movement to left forward movement). Although the vehicle may include steerable wheels, turning can also be facilitated by spinning the outside wheel faster than the inside wheel (relative to the radius of the turn). *See, e.g., id.* at 10:8–21. To do this, integration links 44 are connected in a manner such as to respond to forward and reverse speed inputs from speed input members 48 as well as steering inputs from control members 36. *See, e.g., id.* at 10:22–35 (providing an example of how the various components interact to make a full forward left turn), Fig. 9 (cited in this example); *see also* Figs. 5–13 (showing how the various components interact to make each forward/reverse/neutral and left/right/straight permutation).

### *C. Challenged Claim*

Petitioner challenges claim 28, which is reproduced below.

28. A vehicle control system comprising:  
a pair of integration links, each integration link having a slot that is straight over substantially all of the length of the slot, and each integration link being movable in response to a speed input and configured to:  
lie in a plane parallel to any flat surface on which a vehicle that incorporates the steering control system is used; and  
transmit a drive signal that is a product of any received steering input and any received speed input.

*D. Prior Art and Asserted Grounds*

Petitioner asserts that claim 28 of the '613 patent is unpatentable as anticipated by Seaberg<sup>1</sup> or obvious in view of Engel.<sup>2</sup> Pet. 2. Petitioner also relies on the declaration of Fred P. Smith, a Professional Engineer with a background in mechanical engineering. Ex. 1004 ¶ 4.

II. ANALYSIS

*A. Claim Construction*

We interpret the claims of an unexpired patent using the broadest reasonable interpretation in light of the specification of the patent. 37 C.F.R. § 42.100(b). Petitioner proposes a construction of the term “moveable.” Pet. 14–17. Patent Owner disputes this construction and offers an alternative construction, focusing on the “configured to” language. Prelim. Resp. 10–26. Although these constructions talk about different terms in the claim, both involve a determination of which structures are included in the claimed integration link.

Petitioner’s position is that, where the claim says, “each integration link being movable in response to a speed input,” the claim does not preclude any particular type of movement. Pet. 14–15. In particular, Petitioner asserts that “moveable” includes movement parallel to the ground (horizontal movement) as well as movement relative to the ground (vertical movement). *See* Pet. 15–16. Petitioner points out that movement of the integration link shown in Figure 14 of the '613 patent includes some amount

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<sup>1</sup> U.S. Patent No. 4,100,738, issued July 18, 1978 (Ex. 1002).

<sup>2</sup> U.S. Patent No. 3,927,527, issued Dec. 23, 1975 (Ex. 1003).

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