

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTIMIDATOR, INC. and RF PRODUCTS, INC.,
Petitioner,

v.

BAD BOY, INC.,
Patent Owner.

Case IPR2018-01632
Patent 9,730,386 B1

Before FRANCES L. IPPOLITO, KEVIN W. CHERRY, and
PAUL J. KORNICZKY, *Administrative Patent Judges*.

KORNICZKY, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Intimidator, Inc. and RF Products, Inc. (collectively “Petitioner”) filed a Petition (Paper 1, “Pet.”) requesting an *inter partes* review of claims 1–4, 8, and 9 of U.S. Patent No. 9,730,386 B1, issued August 15, 2017 (Ex. 1001, “the ’386 patent”). Bad Boy Inc. (“Patent Owner”) filed a Preliminary Response. Paper 9 (“Prelim. Resp.”). With Board permission (Paper 12), Petitioner filed a Reply to the Preliminary Response (Paper 15, “Reply”), and Patent Owner filed a Sur-Reply (Paper 20, “Sur-Reply”).

Under 35 U.S.C. § 314 and 37 C.F.R. § 42.4(a), an *inter partes* review may be instituted if “the information presented in the petition . . . and any response . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a). After considering the evidence and arguments in the Petition, Preliminary Response, Reply, and Sur-Reply, we conclude that the information presented shows there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of at least one of the challenged claims of the ’386 patent. Accordingly, we grant Petitioner’s request and institute an *inter partes* review of claims 1–4, 8, and 9 of the ’386 patent on all unpatentability grounds asserted in the Petition.

II. BACKGROUND

A. The '386 Patent (Ex. 1001)

The '386 patent is titled "Suspension System for Lawnmower." Ex. 1001, at [54]. The '386 patent is directed to riding mowers and an improved suspension system for motive systems on riding mowers. *Id.* at 1:35–37.

Figure 1 of the '386 patent is reproduced below.

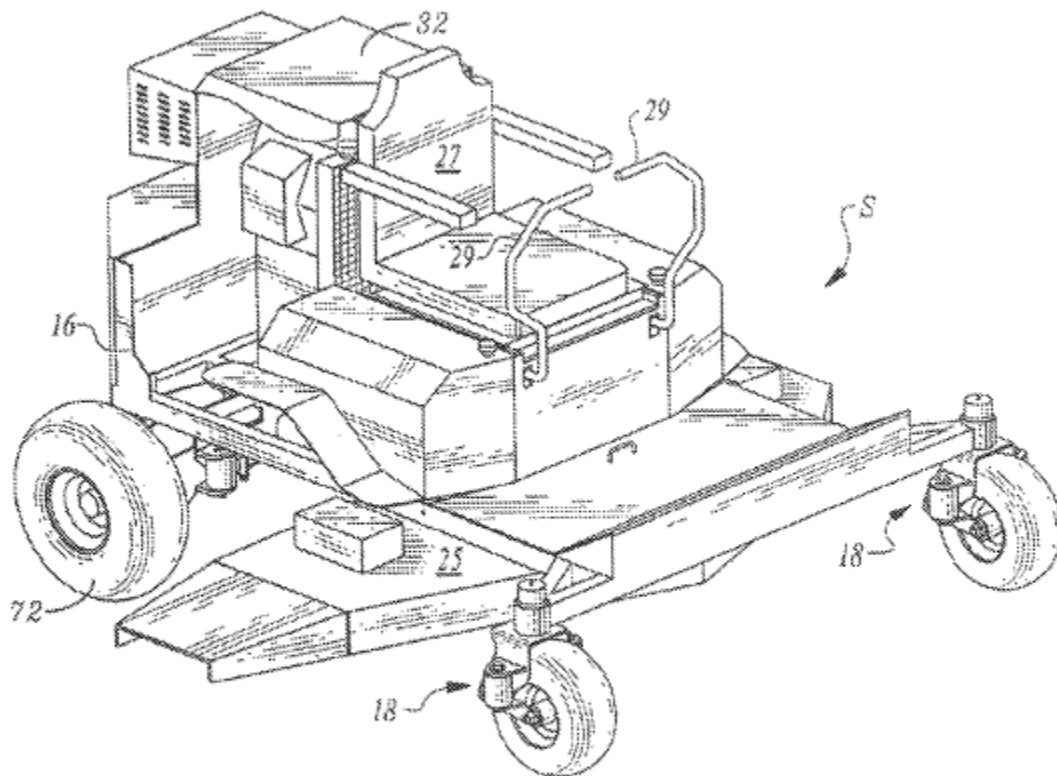


FIG. 1

Figure 1 of the '386 patent illustrates a riding mower S having frame 16, mower deck 25, forward wheels 18, and two rear driven wheels 72. *Id.* at 4:5–8.

The riding mower has two hydraulic transaxles 65 mounted beneath frame 16 to selectively rotate driven wheels 72. *Id.* at 4:10–14. Each hydraulic transaxle 65 is supported by vibration pillow 81. *Id.* at 4:41–43. Pillows 81 define a cushion between wheel 55 and frame 16 of the mower 11, thereby absorbing shock created by the wheel moving over the uneven terrain, and limiting movement of the wheel assemblies 72 and dampening vibration. *Id.* at 4:54–5:2.

Figure 8 of the '386 patent is reproduced below.

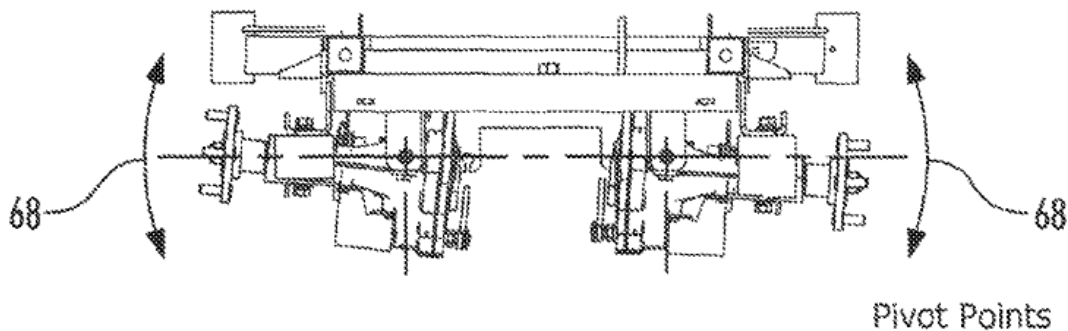


FIG. 8

Figure 8 is an elevational view of frame 15 and related components of the mower. *Id.* at 3:55–57. Each transaxle 65 is pivotally secured to frame 16 by pivot pin 74. *Id.* at 4:32–40. According to the patent, the pivotal movement of each transaxle 65 is shown by arrows 68 (in Fig. 8) with the axes of rotation indicated by lines 70 (in Fig. 9), and transaxle 65 pivots about pivot pin 74 in a plane transverse to the plane of the transaxle housing. *Id.* at 4:32–36, 4:45–48.

B. Illustrative Claims

Independent claims 1 and 8, reproduced below, are illustrative of the challenged claims.

1. A riding mower adapted to traverse the ground and having a frame with a mower deck supported beneath the frame and a chair supported on the frame and a source of motive power also supported on said frame, the mower further comprising:

a pair of forward wheels spaced apart from a pair of rear driven wheels, all of the wheels adapted to support the frame; and,

two hydraulic transaxles mounted beneath the frame to each selectively rotate a driven wheel when supplied motive power,

where each transaxle is supported beneath the frame by at least one vibration pillow and pivotally secured to the frame so that each transaxle may move upwardly or downwardly in response to movement by its driven wheel and

wherein each of the driven wheels can pivot upwardly or downwardly as the mower traverses the ground and wherein upward wheel movement is dampened by the vibration pillows.

8. A riding mower adapted to traverse the ground and having a frame with a mower deck supported beneath the frame and a chair supported on the frame and a source of motive power also supported on said frame, the mower further comprising:

a pair of forward wheels spaced apart from a pair of rear drive wheel assemblies, all of the wheels adapted to support the frame; and,

two hydraulic transaxles mounted beneath the frame to each selectively rotate a drive wheel when supplied motive power;

where each transaxle is supported beneath the frame and pivotally secured thereto by a flange captivating vibration pillows and proximate the driven wheel and an inner pivot rod secured to the frame by apertures in downwardly depending tabs mounted to the frame and

wherein each of the driven wheels can pivot upwardly or downwardly as the mower traverses the ground and wherein upward wheel movement is dampened by the vibration pillows.

Id. at 5:24–41, 6:30–48.

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