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NORTHERN DISTRICT OF OHIO  
TOLEDO

**ISSUED TO ATTORNEY**

**ORIGINAL**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

_____	
DURAMAX, INC.,	)
	)
Plaintiff,	)
	)
v.	)
	)
ROPPE CORPORATION,	)
	)
Defendant.	)
_____	

Civil Action No. **3:03CV7571**

**JUDGE DAVID A. KATZ**

**COMPLAINT**

Duramax, Inc. ("Duramax"), for its Complaint of patent infringement against defendant Roppe Corporation ("Roppe"), alleges as follows:

**THE PARTIES**

1. Plaintiff Duramax is a corporation organized under the laws of the State of Ohio, having its principal place of business at 16025 Johnson Street, Middlefield, Ohio 44062.
2. On information and belief, defendant Roppe is a corporation organized under the laws of the State of Ohio, having its principal place of business at 1602 North Union Street, Fostoria, Ohio 44830. Defendant Roppe has, at all times material hereto, been registered to do business and has conducted business in the State of Ohio.

**JURISDICTION AND VENUE**

3. This action arises under the patent laws of the United States, 35 U.S.C. §§ 271, 281, 283-285.

4. On May 14, 2002 United States Letters Patent No. 6,385,923 ("the '923 patent") was issued for an invention entitled "TRANSITION SUPPORT FOR FLOORING MATERIAL," listing Frank Pelosi, Jr. as the inventor. A true and correct copy of the '923 patent is attached hereto as Exhibit "A."

5. The '923 patent is directed to a transition support for supporting flooring material such as tiles, sheet flooring or carpet on a floor having an area at a relatively high height and an area at a relatively low height with a junction between the two floor areas. The transition support is in the form of an elongate wedge in sheet form and has a thick end generally equal to the height of the junction and a thin end. The thick end is placed on the area of the floor at the height at the junction, and the thin end is placed on the low area of the floor away from the junction. The wedge is thin, rendering the junction unnoticeable to persons or wheeled vehicles crossing flooring material supported by the transition support. The transition support has physical characteristics for retaining adhesives on the support and to increase friction on the structure contacting the support. These physical characteristics can be ridges.

6. Prior to issuance, all right, title and interest in and to the '923 patent was assigned by the inventor to Duramax.

7. On information and belief, defendant Roppe has been manufacturing, offering for sale and selling transition supports that it refers to as subfloor leveling products for transitioning floors at different heights, and these products infringe the '923 patent. The subfloor leveling products of Roppe have the same elongate wedge as disclosed and claimed in the '923 patent.

8. The subfloor leveling products of Roppe are copies of the transition support or subfloor leveler system of Duramax as covered by the '923 patent.

**COUNT 1**

**PATENT INFRINGEMENT**

9. Paragraphs 1-8 above, inclusive, are hereby incorporated herein by reference.

10. Defendant Roppe has used, sold or offered to sell, and will continue to use, sell or offer to sell, a transition support that infringes each of the elements of one or more claims of the '923 patent, without license from Duramax, in this judicial district and elsewhere throughout the United States.

11. By using, selling, and/or offering for sale its transition support, defendant Roppe has directly and contributorily infringed, and will continue to directly and contributorily infringe, one or more claims of the '923 patent under 35 U.S.C. § 271(a), (b), (c), and/or (f), literally and/or under the doctrine of equivalents.

12. By making, using, selling, and/or offering for sale its transition supports, defendant Roppe has induced infringement of, and will continue to induce infringement of, one or more claims of the '923 patent under 35 U.S.C. § 271(b), and/or (f), literally and/or under the doctrine of equivalents.

13. On information and belief, Roppe's infringement of the '923 patent has been and continues to be willful and deliberate.

14. As a direct and proximate consequence of the acts and practices of defendant, plaintiff Duramax has been, is being and, unless such acts and practices are enjoined by the Court, will continue to be injured in its business and property rights, and has suffered, is suffering, and will continue to suffer injury and damages for which it is entitled to relief under 35 U.S.C. § 284.

15. As a direct and proximate consequence of the acts and practices of defendant, defendant has also caused, is causing and, unless such acts and practices are enjoined by the Court, will continue to cause irreparable harm to plaintiff Duramax for which there is no adequate remedy at law, and for which plaintiff is entitled to injunctive relief under 35 U.S.C. § 283.

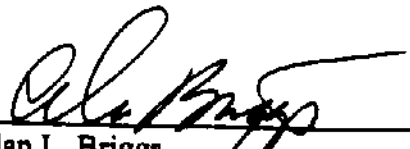
### **PRAYER FOR RELIEF**

WHEREFORE, plaintiff Duramax prays for entry of a judgment from this Court:

- a. Declaring that United States Letters Patent 6,385,923 was duly and legally issued, is valid and is enforceable;
- b. Declaring that defendant Roppe has directly infringed, contributorily infringed, and/or induced infringement of one or more claims of the '923 patent;
- c. Declaring that defendant Roppe has willfully infringed one or more claims of the '923 patent;
- d. Deeming this to be an "exceptional" case within the meaning of 35 U.S.C. § 285, entitling plaintiff to an award of its reasonable attorney fees, expenses and costs in this action; and
- e. Preliminarily and permanently enjoining defendant Roppe and its respective officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, from committing further acts of infringement under 35 U.S.C. § 271 of any one or more claims of the '923 patent pursuant to 35 U.S.C. § 283;
- f. Awarding plaintiff damages in accordance with 35 U.S.C. § 284;
- g. Awarding plaintiff its costs in connection with this action; and

h. Awarding plaintiff such other and further relief as this court may deem to be just and proper.

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(12) **United States Patent**  
Pelosi, Jr.

(10) Patent No.: **US 6,385,923 B1**  
(45) Date of Patent: **May 14, 2002**

(54) **TRANSITION SUPPORT FOR FLOORING MATERIAL**

(75) Inventor: **Frank Pelosi, Jr., Moorestown, NJ (US)**

(73) Assignee: **Duramax, Inc., Middlefield, OH (US)**

(\*) Notice: **Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 650 days.**

(21) Appl. No.: **08/001,010**

(22) Filed: **Feb. 19, 1997**

(51) Int. Cl.<sup>7</sup> ..... **E04F 15/00; E04F 19/00**

(52) U.S. Cl. .... **52/179; 52/177; 52/716.1; 52/717.05**

(58) Field of Search ..... **52/177, 179, 287.1, 52/716.1, 717.03, 717.05**

(56) **References Cited**

**U.S. PATENT DOCUMENTS**

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1,128,061 A 2/1915 Schroeter

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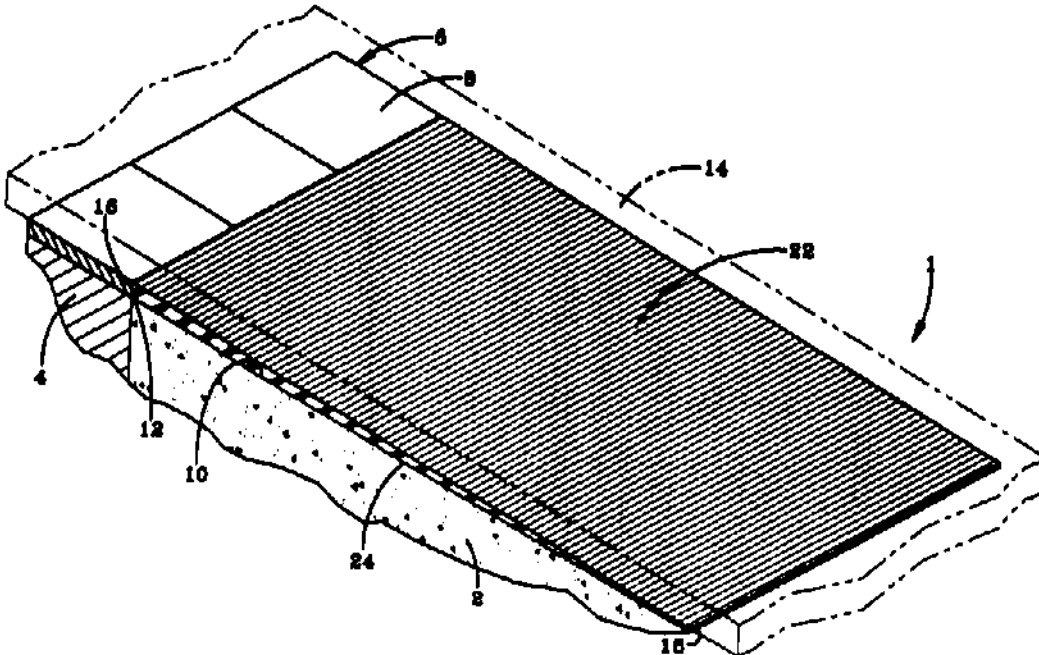
Primary Examiner—**Laura A. Callo**

(74) Attorney, Agent, or Firm—**D. Peter Hochberg; Katherine R. Vierya; William H. Holt**

(57) **ABSTRACT**

A transition support for flooring extending between a floor area of a high height and a floor area of a low height, the support being in the shape of a wedge which is generally unnoticeable by persons walking across the support and which does not jostle wheeled vehicles crossing the support.

**8 Claims, 3 Drawing Sheets**



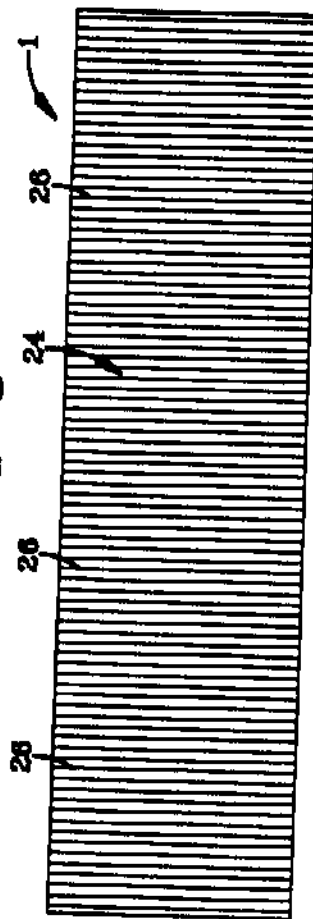
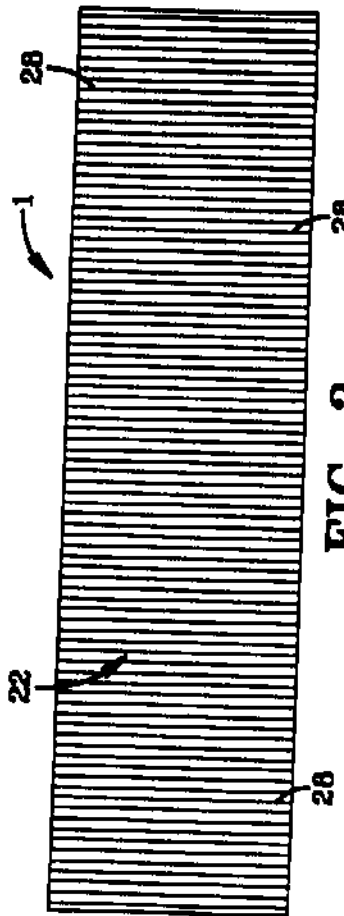
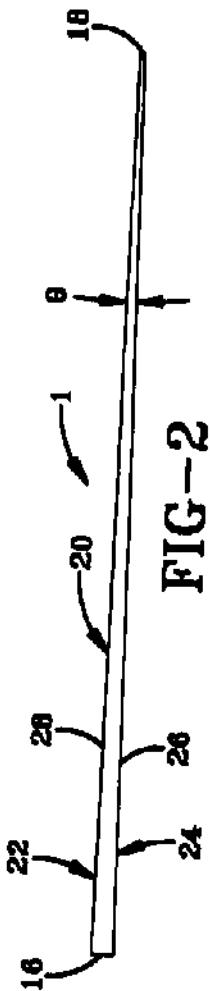


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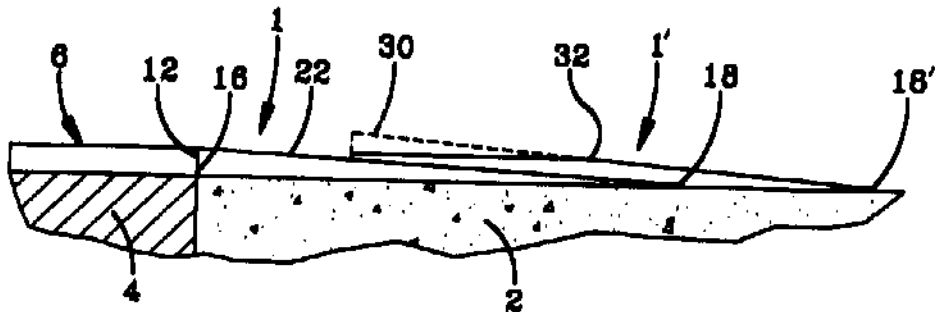


FIG-5

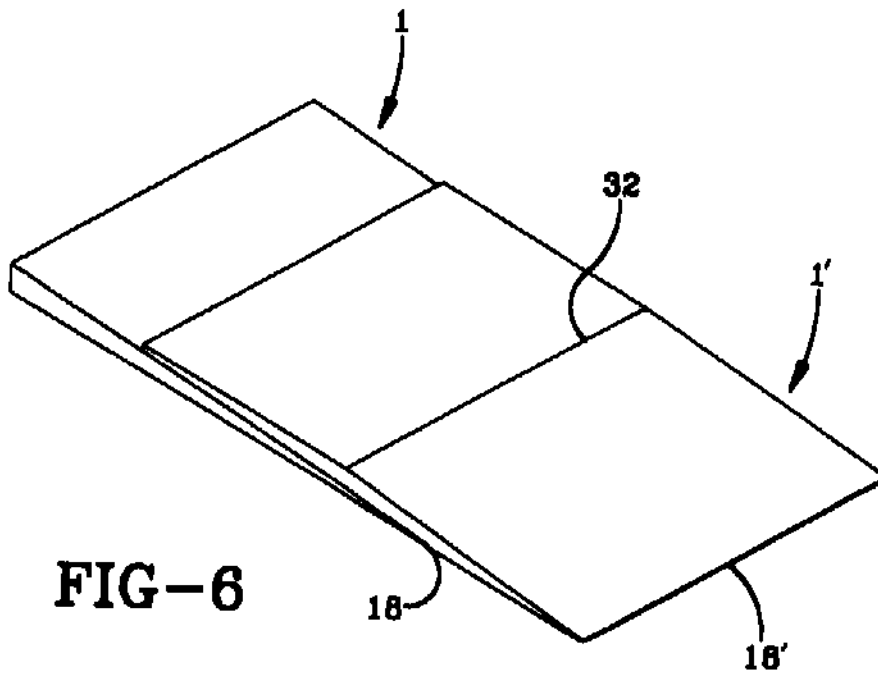


FIG-6

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## TRANSITION SUPPORT FOR FLOORING MATERIAL

### BACKGROUND OF THE INVENTION

#### 1. Field of the Invention

This invention relates to supporting flooring at the juncture of materials of different heights, at the transition at the juncture between the materials, where the transition is generally unnoticeable to people walking on flooring over the juncture or where wheeled vehicles will not be jostled or upset when crossing transition at the juncture.

#### 2. Description of the Prior Art

There is often a juncture in floors made of made of different materials, since the floor often has areas of different heights. In many institutions, factories exhibitions halls, shopping malls and transportation facilities and the like, floors of hard materials such as tile, marble, granite, brick, quarry stone or ceramic are frequently adjacent to floors of concrete or wood. The adjacent floors usually meet at a juncture, and there is an interface between the floor area of the relatively high height and the floor area of a relatively low height. Transition flooring is often put over the floor areas to make it easier and safer to walk across the floor areas and the juncture, and to make it easier for wheeled vehicles to traverse the juncture of the floor areas. It is common to ramp up to the higher floor area made of hard materials.

However, the transition flooring, which can be flexible vinyl or rubber based sheet or tiles, or a carpet material, or a hardened resilient material such as vinyl composition or hard rubber tiles must cross the juncture. If no transition support is provided, there could be a sharp incline in the flooring at the juncture. People could trip or at least be surprised when they step on tile flooring at the juncture, especially if they are unaware that the difference in heights exists. In addition, wheeled vehicles could be jostled, tipped or possibly overturned if they reach an unexpected abrupt change in the heights of the flooring. Moreover, the transition flooring could become frayed, cracked or torn over time, especially if the juncture is in an area of high traffic.

In most instances in commercial buildings where the sharp transition between floor materials of different heights is made more gradual, a worker uses a trowel to lay by hand cementitious material such as a latex underlayment at the juncture between the high and low flooring levels. This is time consuming and expensive, and the time to lay the material depends on the ability and skill of the troweler. Once the troweler has laid the cementitious material, he or she uses adhesive to connect the flooring material to the cementitious material. In other cases, workers stack old tile to reduce the steepness of the juncture between the adjacent flooring areas.

The difference in height between the two areas of the floor as discussed above are often not great, often around 1/4 inch, so the problem has not been previously and seriously addressed. Architects have no standard for addressing the problem. Compensating for the difference in heights between adjacent flooring areas is a real problem.

There are various patents which have been issued relating to the support of carpets near walls, including U.S. Pat. Nos. 530,096 (Eckman 1894), U.S. Pat. No. 1,070,273 (MacLean 1913), U.S. Pat. No. 1,401,490 (Ratljens 1921), U.S. Pat. No. 1,483,941 (Kasson 1924), 1,833,732 (Barrows 1931), 1,988,603 (McIaren et al. 1935), 2,677,145 (Adams 1954), 3,086,262 (Krantz 1963) and 4,187,656 (Lutz 1980).

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However, the foregoing patents are not directed to the support of flooring at the juncture between adjacent floor areas of different heights, U.S. Pat. No. 1,128,061 (Schroeter 1915) is directed to metal edge binding in linoleum, which is also not a problem to which the present invention relates. U.S. Pat. No. 5,475,953 relates to an edge molding strip for protecting the floor covering between first and second floors of different heights, but it relates to the objects of the present invention in only a very general way. U.S. Pat. No. 5,243,798 provides a wedge shaped finishing member for draining water away from a bathtub, and it too is not directed to the problems to which the invention is directed.

### SUMMARY OF THE INVENTION

It is an object of the present invention to provide a support for flooring covering floor areas of different heights.

Another object of the invention is to provide a support for flooring, such as those having vinyl or rubber components or those made of carpeting, which cover the juncture of flooring areas made of different materials and have different heights.

An additional object is, to provide a support for hard flooring, such as hard resilient flooring like vinyl composition or hard rubber tiles, for covering the juncture of flooring areas made of materials having different heights.

A further object of the present invention is to provide a transition support for flexible sheet flooring at the juncture of floors made of ceramic or tile, and floors made of concrete or wood, where there is a difference in heights between the two sections of the floor.

Yet another object of the invention is to provide a transition support for flooring as described above, which is generally unnoticeable to person walking across the support or which does not jostle wheeled vehicles crossing the support.

An object is to provide a transition support for flooring areas of different heights which can be installed by workers who need not be highly skilled in laying transition supports.

A still further object of the invention is to provide a transition support as described above which can be made in large economical quantities, and which can be installed quickly, economically and effectively in large institutional buildings such as schools and hospitals, office buildings, factories, shopping malls and other stores, exhibitions halls transportation facilities and the like.

According to the preferred embodiment of the invention, a transition support (which is also called a patch board or leveler strip) has a wedge shaped construction. It is made of a flexible plastic such as vinyl and has a thick end portion, a parallel thin end portion, and a tapering section which extends from the upper portion of the thick end to the thin end. Alternatively, it can be a hard material such as vinyl composition or hard rubber tiles. (The sections will be described as if the transition support is in place, with an upper section and a lower section). The contour of the tapering section is very slight, so that walkers crossing the transition support, especially when it is covered with a flooring, will not be aware of its presence. Likewise, carts, motor driven carriers, dollies, wheeled stretchers, wheeled carrying cases, and other wheeled vehicles will not be jostled or upset when they cross the transition support for the flooring supported thereby.

These and other objects will become apparent from the following description of a preferred embodiment taken together with the accompanying drawings and the appended claims.

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**BRIEF DESCRIPTION OF THE DRAWINGS**

The invention may take physical form in certain parts and arrangement of parts, a preferred embodiment of which will be described in detail in the specification and illustrated in the accompanying drawings which form a part hereof, and wherein:

FIG. 1 is a perspective view of the transition support according to the preferred embodiment of the invention, installed for supporting a flexible sheet flooring.

FIG. 2 is a side view of the transition support shown in FIG. 1.

FIG. 3 is a plan view of the transition support shown in FIG. 1.

FIG. 4 is a bottom view of the transition support shown in FIG. 1.

FIG. 5 is a side view of transition supports stacked in tandem.

FIG. 6 is a perspective view of the stacked transition supports shown in FIG. 5.

**DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENT**

Referring now to the drawings wherein the showings are for the purpose of illustrating the preferred embodiment of the invention only, and not for the purpose of limiting same, FIG. 1 shows a transition support 1 in perspective. It is located on a concrete floor 2 which is adjacent to another floor 4. A set of tiles 6 are located on floor 4. Tiles 6 could be of vinyl, rubber, ceramic or any other composition. Tiles 6 could be replaced by any other type of floor, provided for the present discussion that their top surface 8 is above or below the top surface 10 of floor 2. Tiles 6 are shown above floor 2. A juncture 12 exists between flooring 2, and the flooring 4 and tiles 6.

A flexible sheet flooring 14, shown in phantom lines, lies on floor 2, on transition support 1, and on and tiles 6. Flooring 14 could be harder, and less flexible or inflexible. Transition support 1 rests on flooring 2, and support 1 has a thick end 16 and a thin end 18. Thick end 16 is generally equal to the difference in height between the lower floor area (area 2 in the present example), and the higher floor area (area 4 and tile 6 in the present example). For this discussion, the heights of floor 2 and floor 4 are the same (and they could be the same floor), so thick end 16 is shown equal to the thickness of tiles 6. The thickness of thick end 16 need not exactly equal the difference in height between the two adjacent floor areas, since support 1 can be flexible and resilient, so the transition between the heights will not be noticeable.

Transition support 1 has a tapering section 20 extending between thick end 16 and thin end 18. Tapering section 20 has a top surface 22 and a bottom surface 24, as shown in FIGS. 2-4. The tapering surface should be of sufficient distance between thick section 16 and thick section 18 so that one crossing support 1 on foot or with a wheeled vehicle would not notice transition support 1, or the vehicle would not be jostled or upset. In the preferred embodiment, thick section 16 was  $\frac{1}{4}$  inch thick and thin section 18 was disposed 12 inches from thick section 16, and the interior angle between top surface 22 and bottom surface 24 was  $3^\circ$ . The thickness at the thick end should not exceed  $\frac{1}{16}$  inches. The maximum angle for other preferred versions of the invention should not exceed  $10^\circ$ , and the minimum angle should be less than  $1^\circ$ . The width, or distance between the thick end 16 and the thin end 18 should generally be between 10 inches

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and 20 inches. The distances between the thick end and the thin end should be at least 30 times the thickness of the thick end.

In order to secure support 1 on a floor such as floor 2, an appropriate adhesive can be used. In order to promote the strength of the adhesive, slight ridges 26 or other physical changes in bottom surface 24 are provided to hold the adhesive as well as to improve the friction between support 1 and the floor. Likewise, ridges 28 are provided on the top surface of support 1. An effective set of ridges has been found to be about 10 ridges per inch and to be less than  $\alpha$ , 1 mm in height. Flooring 14 is preferably secured to support 1 with all appropriate adhesive, and ridges 28 both hold the adhesive in place and increase friction between flooring 14 and support 1. The ridges could be replaced with grooves. Other forms of physical variations in surfaces 22 and 24 are available.

Transition 1 can be flexible sheet flooring prepared in roll form or in long sheets, with the thick and thin end portions being the side surfaces. The appropriate length is cut from the roll, or one or more sheets (or parts of sheets) are selected. The thickness of the thick end 16 should generally equal the difference in height between the two flooring areas. Adhesive is spread in the floor of the lower floor area as far from the juncture as support 1 will extend, on bottom surface 24 of support 1, or in the floor and the bottom surface, and the support 1 is laid in place. Adhesive is then put in top surface 22 of support 1, on the sheet flooring 14 or on both, and flooring 14 is then placed on support 1. The system is ready for use once the adhesive has dried or cured, if necessary.

In some situations, it may be necessary to decrease the slope of the tapered section of the transition support, as where the high floor requires a wider transition support. This can be accomplished by stacking transition support 1 in tandem that is by stacking them like shingles. Referring to FIG. 5, a transition support 1 is placed on floor 2, and by an appropriate adhesive. A second support 1 is adhered to support 1', but located on tapered section 22 of support 1, where it is glued in place. The thin end 18' of support 1' is located further from floor 4 than thin end 18 of support 1. The upper part 30, shown in dotted lines, is severed from support 1'. This can be accomplished by using a blade, cutting part way into support 1' at line 32, and then bending and severing part 30 from support 1'. The final product is shown in perspective in FIG. 6, with the ridges omitted for the sake of clarity.

Transition support 1 is preferably made from vinyl (such as molded vinyl and extruded vinyl) or rubber composite so that it will have the desired flexibility and resilience. Harder materials may work in some situations, including polyethylene, polyester, recycled plastic, vinyl mixed with fillers such as limestone, vinyl composition and plastic-like materials.

The foregoing description is a specific embodiment of the present invention. It should be appreciated that this embodiment is described for purposes of illustration only, and that numerous alterations and modifications may be practiced by those skilled in the art without departing from the spirit and scope of the invention. It is intended that all such modifications and alterations be included insofar as they come within the scope of the invention as claimed or the equivalents thereof.

Having described the invention, the following is claimed:  
1. A transition support for supporting flooring extending over a floor having an area at a relatively high height, an

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adjacent area at a relatively low height, a juncture between the relatively high area and the relatively low area, and a difference in the heights between the height of the high area of the floor and the height of the low area of the floor, said transition support comprising an elongate wedge in sheet form, and including:

- a relatively thick end having an upper portion, a lower portion and a thickness between the upper portion and the lower portion, the thickness being generally equal to said difference in heights between the height of the high area of the floor and the height of the low area of the floor, said thick end being placeable in the juncture adjacent the high area of the floor;
- a relatively thin end opposite said thick end and parallel to said thick end, said thin end being placeable on the low area of the floor remote from the high area of the floor and the juncture; and
- a tapering section having a support surface interconnecting the upper portion of said thick end and said thin end, said tapering section defining the wedge for being covered with the flooring, the distance between said thick end and said thin end being at least 30 times the thickness of said thick end for rendering the junction generally unnoticeable to persons walking across said tapering section and for generally preventing the jostling of wheeled vehicles crossing said tapering section, said tapering section having a surface with physical characteristics for retaining adhesives thereon for adhesively securing said support to the floor and to the sheet

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flooring, and for increasing the friction between said transition support and the floor and the sheet flooring, said physical characteristics comprising at least one surface in said tapered section having ridges parallel to said thick end and said thin end.

- 2. A transition support according to claim 1 wherein the thickness of said thick end is at least  $\frac{3}{16}$  inches and the distance between said thick end and said thin end is at least 12 inches from the thick end.
- 3. A transition support according to claim 1 wherein said support is selected from the group consisting of vinyl, polyester, recycled plastic, vinyl mixed with filler, vinyl composition and plastic-like materials.
- 4. A transition support according to claim 1 wherein said support is selected from the group consisting of molded vinyl and extruded vinyl.
- 5. A transition support according to claim 1 wherein said ridges are less than 0.1 mm in height and there are at least 10 ridges per inch.
- 6. A transition support according to claim 1 wherein said tapering section interconnects the upper portion of said thick end and said thin end at an interior angle of less than 10°, measured at said thin end.
- 7. A transition support according to claim 6 wherein said interior angle is less than 5°.
- 8. A transition support according to claim 6 wherein said interior angle is 3°.

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