

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WARNER NITSCHKE, OTTO KARL, JOACHIM BAUER,
MICHAEL BISCHOFF, GUNTER FENDT, JOHANNES RINKENS,
STEFAN SCHAFFER and RICHARD BAUR

Appeal No. 2003-1747
Application 09/647,296

ON BRIEF

Before COHEN, FRANKFORT, and BAHR, Administrative Patent Judges.
FRANKFORT, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 8 through 17, all of the claims remaining in this application. On page 6 of the answer, the examiner indicates that claims 13 through 15 and 17 are now "objected to as being dependent upon a rejected base claim, but would be

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allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims." Accordingly, the appeal as to claims 13 through 15 and 17 is dismissed, and only the examiner's rejections of claims 8 through 12 and 16 remain for our consideration on appeal.

Appellants' invention relates to a device for controlling restraint devices in a motor vehicle and seeks to guarantee reliable real-time operation of the restraint devices and to provide each occupant of the vehicle individually with the greatest possible protection in a wide variety of accident situations. The essential aspects and objectives of appellants' invention are set forth on pages 2 through 6 of the specification, wherein an exemplary one of the plurality of data processing units and its manner of operation are described. Independent claim 8 is representative of the subject matter on appeal and a copy of that claim can be found in the Appendix to appellants' brief.

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The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Scholz et al. (Scholz) 4,243,248 Jan. 6, 1981

Joachim Bauer et al., Bus System for Wiring Actuators of Restraint Systems, SAE Paper No 971053, February 24-27, 1997. (hereinafter, Bauer)

Claims 8 through 10, 12 and 16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Bauer.

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bauer in view of Scholz.

Rather than attempt to reiterate the examiner's commentary with respect to the above-noted rejections and the conflicting viewpoints advanced by the examiner and appellants regarding those rejections, we make reference to the examiner's answer (Paper No. 14, mailed December 17, 2002) for the reasoning in support of the rejections, and to appellants' brief (Paper No. 12, filed September 30, 2002) and reply brief (Paper No. 15, filed February 20, 2003) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we have made the determinations which follow.

Turning first to the examiner's rejection of claims 8 through 10, 12 and 16 under 35 U.S.C. § 102(b) as being anticipated by Bauer, for the reasons aptly set forth by appellants in their brief and reply brief, we agree that Bauer does not identically disclose each and every limitation of independent claim 8 on appeal. More particularly, while each IPOS or slave in the system of Bauer (Figs. 11-12) is apparently associated with a squib actuator for a particular restraint device and includes a unique address so as to be triggered from a central control unit (ECU) according to an appropriate firing sequence, and in that sense is independent of each of the other IPOS/slave devices associated with other specific restraint

devices, we are in full agreement with appellants that there is no disclosure in Bauer that each IPOS/slave in Bauer "**decides...** whether at least one of the restraint devices assigned thereto is to be deployed" (emphasis added), as required in claim 8 on appeal. In Bauer, it is the central control unit (ECU), not the IPOS/slave device, that **decides** whether an associated restraint device will be deployed or not.

Although each IPOS/slave in Bauer is disclosed as including a state-machine which contains "all logic functions for the control of the internal operations, the diagnostic and the firing operation after addressing" (page 77), we agree with appellants that, when firing an associated squib actuator to deploy a restraint device, there is no indication in Bauer that the state-machine logic performs any decision making function. Instead, it is apparent that the state-machine merely decodes the firing order generated and sent by the central control unit (ECU) so as to implement that order if the respective squib actuator and restraint device associated with that IPOS/slave has been ordered

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to be deployed. Thus, the state-machine logic in each IPOS/slave in Bauer does not **decide** whether to deploy an associated restraint device, but rather only passively carries out the firing decision already made by the central control unit (ECU).

In light of the foregoing, we will not sustain the examiner's rejection of claims 8 through 10, 12 and 16 under 35 U.S.C. § 102(b) as being anticipated by Bauer.

Dependent claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bauer in view of Scholz. After considering the collective teachings of the applied prior art, we agree with appellants that the teachings of Scholz fail to makeup for or cure the critical deficiencies of Bauer as noted above. Thus, it follows that the examiner's rejection of dependent claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Bauer in view of Scholz will likewise not be sustained.

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In summary, we have determined that each of the examiner's rejections before us on appeal will not be sustained. Thus, the decision of the examiner rejecting claims 8 through 12 and 16 of the present application is reversed.

REVERSED

IRWIN CHARLES COHEN)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
CHARLES E. FRANKFORT)	
Administrative Patent Judge)	APPEALS AND
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JENNIFER D. BAHR)	
Administrative Patent Judge)	

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