

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. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte HIROYOSHI YAMAGUCHI and HAJIME SHONO

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Appeal No. 2004-1441  
Application No. 09/526,405

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ON BRIEF

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Before STAAB, MCQUADE and NASE, Administrative Patent Judges.  
Per Curiam.

DECISION ON APPEAL

Hiroyoshi Yamaguchi et al. appeal from the final rejection of claims 1 through 6, 8 through 10 and 13 through 15. Claims 7, 11 and 12, the only other claims pending in the application, stand allowed.<sup>1</sup>

THE INVENTION

The invention relates to an anti-submarine vehicle seat device "which can . . . prevent a vehicle occupant from slipping forward under the seat belt in case of an impact situation such

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<sup>1</sup> Claims 3, 7, 11 and 12 have been amended subsequent to final rejection.

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as a vehicle crash" (specification, page 1). Representative claims 1 and 5 read as follows:

1. A subassembly for a vehicle seat device for raising a front part of a seat to prevent a vehicle occupant from slipping forward under a seat belt in an impact situation such as a vehicle crash, comprising:

a casing adapted to be attached to a seat frame, said casing including a longitudinally elongated hollow member;

a power actuator fixedly secured in said hollow member; and

an arm pivotally supported by said casing, and adapted to be actuated by said power actuator.

5. A vehicle seat device for raising a front part of a seat to prevent a vehicle occupant from slipping forward under a seat belt in an impact situation such as a vehicle crash, comprising:

at least one subassembly including a casing adapted to be attached to a seat frame, said casing including a longitudinally elongated hollow member, a power actuator fixedly secured in said hollow member, and an arm pivotally supported by said casing and adapted to be actuated by said power actuator; and

a restraint member fixedly attached to a free end of said arm so as to be moveable jointly with said arm between a retracted position and a deployed position.

#### THE REJECTIONS

Claims 1 through 6, 8 through 10 and 15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,050,635 to Pajon et al. (Pajon).

Claims 13 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Pajon.

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Attention is directed to the main and reply briefs (Paper Nos. 14 and 16) and to the final rejection and answer (Papers No. 10 and 15) for the respective positions of the appellants and the examiner regarding the merits of these rejections.

#### DISCUSSION

##### I. The 35 U.S.C. § 102(e) rejection of claims 1 through 6, 8 through 10 and 15

Anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention. RCA Corp. v. Applied Digital Data Sys., Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984). It is not necessary that the reference teach what the subject application teaches, but only that the claim read on something disclosed in the reference, i.e., that all of the limitations in the claim be found in or fully met by the reference. Kalman v. Kimberly Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

Pajon discloses an anti-submarining device for a vehicle seat 1, which seat includes a backrest framework 2, a seat pan framework 3 and a pair of slides 4. In general, the anti-submarining device includes a cross-member 5 extending

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transversely between side flanges 30 of the seat pan framework 3 and cylindrical journals 51 on the ends of the cross-member connected by a cable 7 to a seat belt pyrotechnical pretensioner 6 installed on the side flanges 30. The Figure 5 embodiment focused on by the examiner also includes a pair of links 9 pivotally mounted on the side flanges 30, stops 10 on the side flanges for limiting the angular movement of the links, and secondary grooves 91 in the links for receiving the cylindrical journals 51. Pajon describes the operation of the device as follows:

In relation to FIGS. 5 and 6, when a shock on the vehicle tends to throw the seat user forwards, the links 9 are then driven by the pretensioner and the cross-member 5 extends upwards and towards the rear of the seat, along a trajectory shown by arrow F3, from its rest position to the extended position.

As soon as the links 9 are secured by the stops 10, as shown on FIG. 8, the cross-member can then gradually retract towards the inside of the seat, along the direction shown by arrow F4, in the link longitudinal direction, under the thrust exerted by the user's pelvis. The edges of the secondary groove[s] 91 are then deformed by the journals 51, from a predetermined threshold, to hold the cross-member in contact with the user's thighs [column 5, lines 16 through 29].

In applying Pajon against independent claims 1 and 5 (see page 2 in the final rejection), the examiner reads the claim limitations relating to the casing (claims 1 and 5), the power actuator (claims 1 and 5), the arm (claims 1 and 5) and the

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restraint member (claim 5) on Pajon's side flanges 30, pretensioner 6, links 9 and cross-member 5, respectively.

As framed and argued by the appellants (see page 4 in the main brief and pages 3 and 4 in the reply brief), the dispositive issue with respect to the rejection of claim 1 is whether Pajon meets the limitation in the claim requiring the casing with the arm pivotally supported thereby to be "adapted to be attached to a seat frame." The appellants contend that Pajon's side flanges 30 with arms or links 9 pivotally supported thereby do not meet this limitation because the side flanges 30 are part of the seat frame. This argument is not persuasive, however, because the side flanges 30, which are part of the seat pan framework 3, are attached to the backrest framework 2 which itself constitutes "a seat frame" to the extent broadly recited in claim 1.

Hence, the appellants' position that the subject matter recited in claim 1 distinguishes over that disclosed by Pajon is not well taken. We shall therefore sustain the standing 35 U.S.C. § 102(e) rejection of claim 1 as being anticipated by Pajon.

Claims 3 and 10 depend indirectly from claim 1 and further define the power actuator as comprising a cylinder/piston assembly. The appellants contention (see page 5 in the main

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brief) that Pajon does not meet these limitations is also unpersuasive. Although Pajon does not expressly describe the pretensioner 6 as a cylinder/piston assembly, a person of ordinary skill in the art would have readily recognized it as such from the illustration thereof in Pajon's drawings.

Consequently, we shall sustain the standing 35 U.S.C. § 102(e) rejection of claims 3 and 10 as being anticipated by Pajon.

We also shall sustain the standing 35 U.S.C. § 102(e) rejection of dependent claims 2, 4, 8 and 9 as being anticipated by Pajon since the appellants have not challenged such with any reasonable specificity, thereby allowing these claims to stand or fall with parent claim 1 (see In re Nielson, 816 F.2d 1567, 1572, 2 USPQ2d 1525, 1528 (Fed. Cir. 1987)).

We shall not sustain, however, the standing 35 U.S.C. § 102(e) rejection of independent claim 5 and its dependent claims 6 and 15.

As indicated above, claim 5 requires the restraint member to be "fixedly attached" to the free end of the arm. Since Pajon's restraint member (cross-member 5) is movably attached to the free end of the Pajon's arm (link 9) via the secondary groove 91 in the arm and the cylindrical journal 51 on the restraint member,

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it does not meet this limitation. The examiner's determination to the contrary rests on an unreasonable interpretation of the claim language at issue (see page 4 in the answer).

II. The 35 U.S.C. § 103(a) rejection of claims 13 and 14

As Pajon does not teach, and would not have suggested, a vehicle seat device responding to the limitation in parent claim 5 requiring the restraint member to be "fixedly attached" to the free end of the arm, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of dependent claims 13 and 14 as being unpatentable over Pajon.

SUMMARY

The decision of the examiner to reject claims 1 through 6, 8 through 10 and 13 through 15 is affirmed with respect to claims 1 through 4 and 8 through 10 and reversed with respect to claims 5, 6 and 13 through 15.

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AFFIRMED-IN-PART

LAWRENCE J. STAAB	)	
Administrative Patent Judge	)	
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	)	BOARD OF PATENT
JOHN P. MCQUADE	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
JEFFREY V. NASE	)	
Administrative Patent Judge	)	

JPM/gjh

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