

1 The opinion in support of the decision being entered today was *not* written
2 for publication and is *not* binding precedent of the Board
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4 UNITED STATES PATENT AND TRADEMARK OFFICE
5

6

7 BEFORE THE BOARD OF PATENT APPEALS
8 AND INTERFERENCES
9

10

11 *Ex parte* ADRIAN B. CHERNOFF and
12 TOMMY E. WHITE
13

14 Appeal 2006-3057
15 Application 10/426,905¹
16 Technology Center 3600
17

18 Decided: March 30, 2007
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21 *Before:* ANITA PELLMAN GROSS, STUART S. LEVY, and ANTON W.
22 FETTING, *Administrative Patent Judges.*
23

24 LEVY, *Administrative Patent Judge.*
25

26

27 DECISION ON APPEAL
28

29 STATEMENT OF CASE
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31 Appellants appeal under 35 U.S.C. § 134 (2002) from a final rejection
32 of claims 1-17 and 31. Claims 18-30 have been withdrawn from
33 consideration (Br. 2). We have jurisdiction under 35 U.S.C. § 6(b) (2002).

34 Appellants invented a vehicle door having a unitary inner and outer
panel (Specification 1). The vehicle door comprises a unitary, one-piece

¹ Application filed April 29, 2003. The real party in interest is General Motors Corporation.

1 panel, which is folded or bent so that an inner panel portion and an outer
2 panel portion at least partially define a cavity therebetween. (*id.*).

3 Claim 1 is representative of the invention and reads as follows:

4 1. A vehicle door comprising:

5 a unitary, one-piece panel having an outer panel portion and an inner
6 panel portion; wherein the panel is sufficiently bent between the inner panel
7 portion and the outer panel portion such that the inner panel portion and the
8 outer portion at least partially define a cavity therebetween.

9 The Examiner rejected claims 1 to 16 and 31 under 35 U.S.C.
10 § 102(b) as being anticipated by Rashid, and rejected claim 17 under 35
11 U.S.C. § 103(a) as being unpatentable over Rashid in view of Salmonowicz.

12 The prior art relied upon by the Examiner in rejecting the claims on
13 appeal is:

14 Rashid US 5,536,060 Jul. 16, 1996
15 Salmonowicz US 5,762,394 Jun. 9, 1998
16

17 Appellants contend (Br. 6 and 11) that Rashid does not disclose a
18 "unitary, one-piece panel" that is sufficiently bent between the inner panel
19 portion and the outer panel portion to at least partially define a cavity
20 therebetween, as recited in claims 1 and 8. Appellants contend (Br. 8) that
21 the door of Rashid is not "one-piece" and that this would be understood by
22 an artisan. Appellants additionally contend (Br. 8-9) that the Specification is
23 clear that "one-piece" does not encompass multiple pieces attached together.
24 With regard to claim 17, Appellants rely upon their arguments for
25 independent claims 1 and 8.

1 The Examiner contends (Final Rejection 2) that when attached, the
2 panels of Rashid are unitary and one-piece. The Examiner identifies bottom
3 edge 26 of outer panel 12 of Rashid as meeting the claimed crease or bend.
4 With regard to claim 17, the Examiner relies upon Salmonowicz for a
5 suggestion of making the panels out of plastic.

6

7 We reverse.

8

ISSUE

9 Have Appellants shown that the Examiner erred in holding that
10 Rashid anticipates claims 1-16 and 31? The issue turns on whether Rashid's
11 panels, once attached, can be considered to be a "unitary, one-piece"
12 structure, and whether bottom edge 26 of Rashid meets the claimed bent or
13 creased portion. With respect to claim 17, the issue is whether Salmonowicz
14 makes up for the deficiencies of Rashid.

15

16

FINDINGS OF FACT

- 17 1. Appellant invented a vehicle door characterized by a unitary, one-
18 piece panel that forms an inner panel and an outer panel.
19 (Specification 1).
- 20 2. The panel is folded or bent so that the inner panel portion and the
21 outer panel portion at least partially define a cavity therebetween.
22 (*id.*).
- 23 3. Inner panel portion 14 and outer panel portion 18 are separated by
24 a crease 16. (Specification 9).
- 25 4. Rashid describes a vehicle door 10 including an outer panel 12, a
26 reinforcement panel 14, an inner panel 16, an inner cover 18 as

1 well as hinge plate 20, which are joined together to form an
2 assembly. (col. 3, ll. 38-40).

3 5. Salmonowicz discloses a vehicle door assembly having an inner
4 panel 12 and an outer panel 26. (col. 2, ll. 17-20).

5 6. The crosshatching of figure 2 of Salmonowicz shows panels 12
6 and 26 to be made of plastic.

7 7. Appellants do not dispute that Salmonowicz discloses plastic door
8 panels for a vehicle.

9
10 PRINCIPLES OF LAW

11 A claim is anticipated only if each and every element as set forth in
12 the claim is found, either expressly or inherently described, in a single prior
13 art reference. *Verdegaal Bros. Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2
14 USPQ2d 1051, 1053 (Fed. Cir. 1987). The inquiry as to whether a reference
15 anticipates a claim must focus on what subject matter is encompassed by the
16 claim and what subject matter is described by the reference.

17
18 ANALYSIS

19 We turn first to the rejection of claims 1-16 and 31 under 35 U.S.C.
20 § 102(b) as being anticipated by Rashid. From our review of Appellants'
21 Specification, we agree with Appellants (Br. 8) that there is nothing in the
22 Specification that would suggest that a "one-piece panel" was intended to
23 have anything more than its plain and ordinary meaning, and that the
24 Specification distinguishes a one-piece construction from a multiple piece
25 construction. As stated in *Sentry Protection products Inc. v. Eagle*

1 *Manufacturing Company*, 400 F.3d 910, 915, 73 USPQ2d 1929, 1933, (Fed.
2 Cir. 2005), the Court, in dealing with similar language, stated:

3 The district court's analysis of the prosecution history disclaimer is
4 sound. Pease has an impact protection component made of multiple
5 parts: a soft inner tube and a protective outer shell, as shown below in
6 Figures 2 and 3. Both of these parts are involved in impact protection;
7 together, they form the impact protection component. By amending
8 their claims to include the limitation "*single unitary part*" and arguing
9 that this amendment "distinguishes the present invention from the
10 multi-component impact protection assembly disclosed by Pease[,"]
11 the patentees gave up coverage of multipart impact protection
12 components. For this reason, we affirm the district court's
13 interpretation of this term as meaning "that the impact protection
14 component is a *single part*, which is complete by itself *without*
15 *additional pieces.*" [italics added].
16

17 From our construction of the claims, we find that the language of the
18 claims excludes multiple parts connected together. Accordingly, we do not
19 agree with the Examiner (Final Rejection 2) that "when attached, the panel is
20 unitary and one piece." Nor do we agree with the Examiner (*id.*) that bottom
21 member 26 of Rashid meets the claimed bent portion or crease because the
22 bottom of one panel that is bolted to a second panel is not a one-piece panel
23 that is bent between the inner panel portion and the outer panel portion, as
24 recited in claim 1, and similarly recited in independent claims 8 and 31.

25 We turn next to the rejection of claim 17 under 35 U.S.C. § 103(a) as
26 being unpatentable over Rashid in view of Salmonowicz. We will not
27 sustain the rejection of claim 17 because Salmonowicz fails to make up for
28 the basic deficiencies of Rashid.
29

1 CONCLUSION OF LAW

2 On the record before us, Appellants have shown that the Examiner has
3 erred in rejecting claims 1-16 and 31 under 35 U.S.C. § 102(b) as being
4 anticipated by Rashid, and has erred in rejecting claim 17 under 35 U.S.C.
5 § 103(a) as being unpatentable over Rashid in view of Salmonowicz.

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7 DECISION

8 The Examiner's rejection of claims 1-17 and 31 is reversed.

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10 REVERSED

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