

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DENNIS GRYP and RYAN MORRIS

Appeal 2008-2893
Application 10/423,468
Technology Center 3600

Decided: November 26, 2008

Before WILLIAM F. PATE III, JENNIFER D. BAHR, and
LINDA E. HORNER, *Administrative Patent Judges*.

WILLIAM F. PATE III, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

This is an appeal from the final rejection of claims 1, 13, 14, 16 and 17. Claim 15 stands objected to as containing allowable subject matter. These are the only claims remaining in the application.

We have jurisdiction over the appeal pursuant to 35 U.S.C. §§ 6 and 134.

The claimed invention is directed to a vehicle seat support adjustment apparatus wherein the seat is adjustable in a fore and aft direction and the height of the seat also can be adjusted.

Claim 1, reproduced below, is further illustrative of the claimed subject matter.

1. A fore and aft vehicle seat adjustment apparatus comprising:

a base having a plurality of opposingly located tracks disposed thereon;

a fore and aft adjustment mechanism in communication with said base, said adjustment mechanism including first and second plate members, said plate members being horizontally movable relative to the base and relative to one another;

said first plate member being positionable with respect to said base between a first and second position; and

said first plate member including a plurality of locking mechanisms, said locking mechanisms adapted to releasably engage said tracks, so that with said first plate member in said first position, said locking mechanisms engage said tracks and lock said first plate member in fixed location relative to the base, and, in said second position, said locking mechanisms are disengaged from said tracks to permit fore and aft adjustment of said first plate member relative to the base.

REFERENCE

The reference of record relied upon by the Examiner as evidence of lack of novelty is:

Bostrom

5,765,802

Jun. 16, 1998

REJECTION

Claims 1, 13, 14, 16 and 17 stand rejected under 35 U.S.C. § 102(b) as anticipated by Bostrom.

OPINION

We have carefully reviewed the rejection on appeal in light of the arguments of the Appellants and the Examiner. As a result of this review, we have determined that the applied prior art does not establish the lack of novelty of the claimed subject matter. Therefore, the anticipation rejection of claims 1, 13, 14, 16 and 17 is reversed. Our reasons follow.

It is our finding that Bostrom discloses a fore and aft vehicle seat adjustment having a base 26 and tracks 54 attached to plate 48 which are suspended on the base by a scissors mechanism 28. See col. 4, ll. 33-62. The Examiner has identified the claimed first and second plate members as the support platform 124 and the adjustment plate 38 (labeled 138 in Fig. 2), respectively. Plate 124 is connected to adjustment blocks 140, which have locking grooves 142 therein, by the scissors mechanism 28. See col. 5, l. 55- col. 6, l. 7. We note, however, that claim 13 requires the first plate member of Bostrom, identified as support platform 124 by the Examiner, to lock in a fixed location relative to the base which the Examiner has identified as plate 26. We are in agreement with Appellants' argument that this plate 124 is not locked in a fixed location relative to the base, inasmuch as it is part of the scissors linkage and is held in position only by the scissors linkage from movement when the support of Bostrom is installed in the vehicle. Tellingly, plate 124 along with the scissors linkage 28 and the attached seat 12 can be raised and lowered while the seat is locked in any fore and aft position.

Thus, it is our finding that while plate 124 is indeed locked to the seat support plate 48 and the tracks 54, plate 124 is not locked in a fixed location relative to the base 26 as Appellants argue on page 11 of the Brief and page 2 of the Reply Brief.

Inasmuch as we have found that Bostrom does not disclose a first plate element locked in a fixed location relative to the base, as required by the ultimate clause of claim 1, Bostrom does not show all of the elements of claim 1. Accordingly, the Examiner has not made out an anticipation of the subject matter of claim 1, the independent claim, and we are constrained to reverse the rejection of all of the claims on appeal.

CONCLUSION

The rejection of claims 1, 13, 14, 16 and 17 as anticipated by Bostrom is reversed.

REVERSED

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