

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte MASAHIRO ONO and KAZUHIKO KATO

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Appeal No. 2000-1635  
Application 08/987,236

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HEARD: May 22, 2001

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

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 and 7 to 18. The remaining claims in the application, 3 to 6 and 19, have been allowed.

The claims on appeal are drawn to a pedal displacement-control structure for a vehicle, and are reproduced (except

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for claim 12) in the appendix of appellants' brief.<sup>1</sup>

The reference applied in the final rejection is:

Patzelt et al. (Patzelt)	5,778,732	Jul.
14, 1998		
	(filed Jun. 24,	
1996)		

Claims 1 and 7 to 18 stand finally rejected under 35 U.S.C. § 102(e) as anticipated by Patzelt.

"To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently." In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). In the present case, the examiner specifies on pages 3 and 4 of the answer how he considers claims 1 and 7 to 18 to be readable on Patzelt. However, the examiner does not address the limitation, found in both independent claims 1 and 12, that the displacement control means applies a pressing force to the vehicle pedal "at a position between the rotation shaft and the tread of the vehicle pedal." Even assuming that the

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<sup>1</sup>In reviewing the claims, it appears that --and-- should be inserted between "pivot" and "is supported" in line 6 of claim 1.

examiner is correct in his argument that

Patzelt et al. shows the displacement control means 5 applying a pressing force to the brake pedal 10 because the deflecting lance 16, which is pressed against the lateral wall of the displacement control means 5 during a frontal crash, is [an] integral (welded) part of the pedal 10 as described in column 3 lines 54-59 [answer, page 4],

Patzelt does not meet the above-quoted limitation of claims 1 and 12 because lance 16 is located at the rotation shaft 9 (see Fig. 3), rather than between the rotation shaft 9 and the tread at the lower end of the pedal 10. Since Patzelt does not meet this limitation of claims 1 and 12, those claims, and consequently dependent claims 7 to 11 and 13 to 18, are not anticipated.

The examiner's decision to reject claims 1 and 7 to 18 is reversed.

REVERSED

IAN A. CALVERT )  
Administrative Patent Judge )

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IRWIN CHARLES COHEN	)	APPEALS AND
Administrative Patent Judge	)	
	)	INTERFERENCES
	)	
JENNIFER D. BAHR	)	
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