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for publication and is not binding precedent of the Board.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. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte TONY RAY LAITURI et al.

Appeal No. 2003-1648
Application No. 09/648,359

ON BRIEF

Before ABRAMS, NASE, and BAHR, Administrative Patent Judges.

NASE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 1, 2, 5 to 7, 9, 11, 13, 14 and 16 to 21, which are all of the claims pending in this application.[1]

We REVERSE.

[1] Claims 5, 6, 13, 14 and 16 were amended subsequent to the final rejection and claims 3, 4, 8, 10, 12 and 15 were canceled subsequent to the final rejection. While the examiner has approved entry of the amendment after final rejection (Paper No. 10, filed July 31, 2002), we note that this amendment has not been clerically entered.

BACKGROUND

The appellants' invention relates generally to restraints for motor vehicles (specification, p. 1). A copy of the claims under appeal is set forth in the appendix to the appellants' brief.

The applied prior art relied upon by the examiner in rejecting the appealed claims is:

Moroto et al. (Moroto)	5,389,824	Feb. 14, 1995
Steffens, Jr. et al. (Steffens)	5,413,378	May 9, 1995
Adolph et al. (Adolph)	5,785,347	July 28, 1998
Foo et al. (Foo)	6,036,225	Mar. 14, 2000
Fayyad et al. (Fayyad)	6,088,639	July 11, 2000

Claims 1, 2, 5 to 7, 9, 11, 13, 14, 17 and 21 stand rejected under 35 U.S.C. § 103 as being unpatentable over Steffens in view of Fayyad and Moroto.

Claim 16 stands rejected under 35 U.S.C. § 103 as being unpatentable over Steffens in view of Fayyad and Moroto as applied to claim 11 above, and further in view of Adolph.

Claims 18 to 20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Steffens in view of Fayyad and Moroto as applied to claim 11 above, and further in view of Foo.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the final rejection (Paper No. 7, mailed April 24, 2002) and the answer (Paper No. 15, mailed February 11, 2003) for the examiner's complete reasoning in support of the rejections, and to the brief (Paper No. 14, filed December 2, 2002) and reply brief (Paper No. 16, filed March 19, 2003) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. Upon evaluation of all the evidence before us, it is our conclusion that the evidence adduced by the examiner is insufficient to establish a prima facie case of obviousness with respect to the claims under appeal. Accordingly, we will not sustain the examiner's rejection of claims 1, 2, 5 to 7, 9, 11, 13, 14 and 16 to 21 under 35 U.S.C. § 103. Our reasoning for this determination follows.

In rejecting claims under 35 U.S.C. § 103, the examiner bears the initial burden of presenting a prima facie case of obviousness. See In re Rijckaert, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993). A prima facie case of obviousness is established by presenting evidence that would have led one of ordinary skill in the art to combine the relevant teachings of the references to arrive at the claimed invention. See In re Fine, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988) and In re Lintner, 458 F.2d 1013, 1016, 173 USPQ 560, 562 (CCPA 1972).

Claims 1, 11 and 21, the only independent claims on appeal, read as follows:

1. A restraint system for a motor vehicle comprising:

a plurality of sensors for sensing vehicle conditions of restraint deployment thresholds, said sensors including a first sensor for sensing deceleration from a first location and a second sensor for sensing the deceleration from a second location;

an electronic controller electrically connected to said first sensor and said second sensor for determining whether said first sensor and said second sensor experience sufficient deceleration;

a driver side air bag and a passenger side air bag operatively connected to said electronic controller for deployment thereby in a first stage if the deceleration warrants a first stage deployment and in a second stage if the deceleration warrants a second stage deployment;

a seat position sensor electrically connected to said electronic controller for sensing whether a driver side seat is rearward of a predetermined proximity and allowing said electronic controller to deploy the second stage of the driver side air bag if the driver side seat is rearward of the predetermined proximity; and

a weight sensor electrically connected to said electronic controller for sensing whether an occupant is above a weight deployment threshold and allowing said electronic controller to deploy the first stage of the passenger side air bag if the weight of the occupant is above the weight deployment threshold.

11. A method of deploying a driver side inflatable restraint and a passenger side inflatable restraint of a restraint system for a vehicle, said method comprising:

sensing a position of a driver side seat;

sensing weight in a passenger side seat;

determining whether a first sensor experiences sufficient deceleration to warrant either a first stage deployment or a second stage deployment of the driver side inflatable restraint and the passenger side inflatable restraint;

verifying the deceleration from a separate second sensor;

determining whether the position of the driver side seat is rearward of a predetermined proximity;

deploying a first stage of the driver side inflatable restraint if the deceleration warrants a first stage deployment and deploying a second stage of the driver side inflatable restraint if the deceleration warrants a second stage of deployment and the position of the driver side seat is rearward of the predetermined proximity;

determining whether the weight of the passenger side seat is above a predetermined threshold; and

deploying a first stage of the passenger side inflatable restraint if the deceleration warrants a first stage deployment and the weight of the passenger side seat is above a predetermined threshold and deploying a second stage of the passenger side seat if the deceleration warrants a second stage of deployment.

21. A restraint system for a motor vehicle comprising:

a first sensor for sensing deceleration;

a second sensor for verifying the sensed deceleration;

a seat position sensor for sensing whether a driver side seat is rearward of a predetermined proximity;

a weight sensor for sensing whether an occupant in a passenger side seat is above a weight deployment threshold;

a driver side air bag;

a passenger side air bag; and

an electronic controller electrically connected to said first sensor and said second sensor for determining whether said first sensor and said second sensor experience sufficient deceleration and operatively connected to said driver side air bag and said passenger side air bag for deployment thereby in a first stage if the deceleration warrants a first stage deployment and in a second stage if the deceleration warrants a second stage deployment and electrically connected to said seat position sensor to allow deployment of the second stage of the driver

> side air bag if the driver side seat is rearward of the predetermined proximity and electrically connected to said weight sensor to allow deployment of the first stage of the passenger side air bag if the weight of the occupant is above the weight deployment threshold.[2]

In the rejection of claims 1, 11 and 21 under 35 U.S.C. § 103 (final rejection, pp. 3-5), the examiner (1) set forth the pertinent teachings of Steffens, Fayyad and Moroto; (2) ascertained[3] that Steffens does not teach "driver and passenger side air bags connected to the controller and first and second sensors sensing deceleration from separate locations;" (3) concluded that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Steffens to include a controller controlling passenger and driver air bags as taught by Fayyad in order to allow an operator to disable selected air bags and to include spaced sensors measuring deceleration as taught by Moroto in order to confirm or verify a collision.

The appellants argue throughout both briefs that the examiner has failed to present a prima facie case of obviousness. We agree. While we agree with the examiner that the applied prior art is suggestive of providing Steffens' occupant restraint

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[2] We understand the appellants' phrase "first stage deployment" to mean actuating the air bag at a first low pressure and the appellants' phrase "second stage deployment" to mean actuating the air bag at a second higher pressure.

[3] After the scope and content of the prior art are determined, the differences between the prior art and the claims at issue are to be ascertained. Graham v. John Deere Co., 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966).

system to both the driver's air bag and the front passenger's air bag and to have included spaced sensors measuring deceleration in order to confirm or verify a collision, it is our determination that these changes do not arrive at the claimed invention. In that regard, Steffens does not disclose deploying a first stage of the inflatable restraint if the deceleration warrants a first stage deployment and the weight of the occupant is above a predetermined threshold[4] and deploying a second stage of the inflatable restraint if the deceleration warrants a second stage of deployment. Thus, the subject matter of independent claims 1, 11 and 21 is not suggested by the combined teachings of Steffens, Fayyad and Moroto.

For the reasons set forth above, the decision of the examiner to reject independent claims 1, 11 and 21, and claims 2, 5 to 7, 9, 13, 14 and 17 dependent thereon, under 35 U.S.C. § 103 as being unpatentable over Steffens in view of Fayyad and Moroto is reversed.

We have also reviewed the Adolph reference additionally applied in the rejection of claim 16 (dependent on claim 11) and the Foo reference applied in the rejection of claims 18 to 20 (indirectly or directly dependent on claim 11) but find nothing therein

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[4] As shown in Figure 3 of Steffens, the first stage of the inflatable restraint (i.e., low control zone 150) is deployed when the crash sensor 90 warrants deployment regardless of the weight of the occupant.

which makes up for the deficiencies of Steffens, Fayyad and Moroto discussed above regarding claim 11. Accordingly, the decision of the examiner to reject claims 16 and 18 to 20 under 35 U.S.C. § 103 is also reversed.

CONCLUSION

To summarize, the decision of the examiner to reject claims 1, 2, 5 to 7, 9, 11, 13, 14 and 16 to 21 under 35 U.S.C. § 103 is reversed.

REVERSED

NEAL E. ABRAMS Administrative Patent Judge	)
JEFFREY V. NASE Administrative Patent Judge	) BOARD OF PATENT APPEALS AND INTERFERENCES
JENNIFER D. BAHR Administrative Patent Judge	)

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