

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 25

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte NICK KALARGEROS,  
NIGEL SPURR and VERONIQUE MEJEAN

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Appeal No. 2004-1163  
Application No. 09/815,959

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ON BRIEF

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Before STAAB, MCQUADE, and NASE, Administrative Patent Judges.  
MCQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Nick Kalargeros et al. appeal from the final rejection of claims 1 through 16, all of the claims pending in the application.<sup>1</sup>

THE INVENTION

The invention relates to a latch mechanism for a motor vehicle door. Representative claim 1 reads as follows:

1. A latch mechanism suitable for a vehicle comprising:  
a chassis having an over-travel abutment;  
a latch bolt being movably mounted on said chassis, said latch bolt being moveable between an open position in which said

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<sup>1</sup> Claims 1 and 16 have been amended subsequent to final rejection.

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latch bolt can receive a striker of a vehicle, a closed position in which said striker is capable of being retained by said latch bolt, and an over-travel position in which said striker is in an over-travel position relative to said chassis; and

an overmold disposed on said latch bolt and defining a buffer for contact with the over-travel abutment due to over-travel of said latch bolt, wherein the buffer is a sole buffer of the latch bolt for absorbing over-travel energy.

THE PRIOR ART

The references relied on by the examiner to support the final rejection are:

Fukumoto	5,020,838	Jun. 4, 1991
Mitsui	5,642,636	Jul. 1, 1997

THE REJECTIONS

Claims 1, 11 and 13 through 16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Fukumoto.

Claims 2 through 10 and 12 through 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fukumoto in view of Mitsui.

Attention is directed to the main and reply briefs (Paper Nos. 19 and 21) and to the final rejection and answer (Paper Nos. 11 and 20) for the respective positions of the appellants and the examiner regarding the merits of these rejections.

DISCUSSION

I. The 35 U.S.C. § 102(b) rejection of claims 1, 11 and 13 through 16 as being anticipated by Fukumoto

Fukumoto discloses a lock device for a vehicle luggage door. The door includes a lid 86 pivoted at one end 88 to the body 80 of the vehicle, a base 1 affixed to the lid, a latch 2 rotatably mounted on the base for movement between a first position in hook-like engagement with a striker 90 on the vehicle body and a second position in disengagement with the striker, a swing member 3 rotatably mounted on the base for releasably engaging the latch to hold it in the first position, and a rubber-stopper 22 on the latch for contacting a rubber-stopper 10 on the base to prevent excess rotation of the latch.

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). In other words, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. Scripps Clinic & Research Found. v. Genentech Inc., 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991).

As framed and argued by the appellants (see pages 3 and 4 in

the main brief and pages 1 and 2 in the reply brief), the dispositive issue with respect to the anticipation rejection of independent claims 1 and 16 is whether Fukumoto meets the limitations in these claims requiring the buffer defined by the overmold on the latch bolt to be "a sole buffer of the latch bolt for absorbing over-travel energy." The examiner views Fukumoto's rubber-stopper 22 as meeting these limitations, observing that "the only buffer on *Fukumoto's* latch bolt capable of absorbing over travel energy is rubber-stopper (22) and that there is no other buffer on *Fukumoto's* latch bolt capable of absorbing over-travel energy" (answer, page 5). The claim language at issue, however, does not require a sole buffer on the latch bolt for absorbing over-travel energy; it instead requires a sole buffer of the latch bolt for absorbing over-travel energy. This language is fully consistent with the underlying specification (see page 2) which indicates that the aim of the appellants' invention is to provide a latch mechanism having a simplified over-travel buffer arrangement that eliminates the need for a separate over-travel buffer on the chassis as well as the cost and assembly time associated therewith. Given the overall context in which Fukumoto discusses the rubber-stoppers 22 and 10, a person of ordinary skill in the art would readily

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appreciate both of these elements to be buffers for absorbing over-travel energy of Fukumoto's latch bolt 2. Thus, the rubber-stopper 22 does not constitute "a sole buffer of the latch bolt for absorbing over-travel energy" as recited in claims 1 and 16. Fukumoto's latch mechanism has two buffers to perform this function, rather than a sole buffer.

Thus, the appellants' position that the latch mechanism recited in claims 1 and 16 distinguishes over that disclosed by Fukumoto is well taken. Hence, we shall not sustain the standing 35 U.S.C. § 102(b) rejection of independent claims 1 and 16, and dependent claims 11 and 13 through 15, as being anticipated by Fukumoto.

II. The 35 U.S.C. § 103(a) rejection of claims 2 through 10 and 12 through 14 as being unpatentable over Fukumoto in view of Mitsui

The examiner's application of Mitsui does not cure the above noted deficiency of Fukumoto with respect to the subject matter recited in independent claim 1. Consequently, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of dependent claims 2 through 10 and 12 through 14 as being unpatentable over Fukumoto in view of Mitsui.

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SUMMARY

The decision of the examiner to reject claims 1 through 16  
is reversed.

REVERSED

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

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