

**THIS OPINION WAS NOT WRITTEN FOR PUBLICATION**

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 16

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JOAN COHEN

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Appeal No. 96-1873  
Application 08/062,274<sup>1</sup>

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ON BRIEF

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

**DECISION ON APPEAL**

This is an appeal from the final rejection of claims 1 to 16, all the claims pending in the application.

The three independent claims on appeal, claims 1, 8 and 13, are illustrative of the subject matter in issue and are reproduced in the appendix hereto.

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<sup>1</sup> Application for patent filed May 17, 1993.

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The references applied by the examiner in the final rejection are:

Nanna	2,415,146	Feb. 4, 1947
Fiore	5,090,724	Feb. 25, 1992
Manuszak	5,125,674	Jun. 30, 1992

The claims stand finally rejected on the following grounds:

1. Claims 1, 2 and 5 to 15, anticipated by Nanna, under 35 U.S.C. § 102(b);
2. Claims 1, 2, 4, 5, 8 and 11 to 15, anticipated by Fiore, under 35 U.S.C. § 102(b);
3. Claims 1 to 5, 8 and 11 to 16, anticipated by Manuszak, under 35 U.S.C. § 102(e).

After fully considering the record in light of the arguments presented by appellant in her brief and reply brief, and by the examiner in his answer, we conclude that none of these rejections can be sustained.

"To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently." In re Schreiber, --F.3d ---, ---, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). In the present case, we find that each of the independent claims recites a limitation which is not disclosed in either of Nanna, Fiore or Manuszak, namely:

"wherein in said sitting condition said seat is disposed so as to

preclude a child from standing on said step" (claim 1); "moving the seat from a position where it precludes a child from standing on the step" (claim 8); and "the seat being moveable from a position where it precludes a child from standing on the step" (claim 13).

With regard to the Nanna patent, the examiner refers to column 3, lines 39 to 51, wherein it is disclosed that the foot board (step) 37 may be placed on the seat 33 to cover the leg openings 34. However, such an arrangement would not meet the above-quoted limitations, because once the step 37 is removed from its location below the seat 33, the seat can no longer preclude a child from standing on the step. In other words, the step cannot be in a position to be stood upon by a child, while at the same time precluding a child from standing on it.

The above-quoted limitations are also not met by either of the Fiore or Manuszak patents, because in both of these references, even when the seat is in the horizontal position, there is still a space within which a child may stand on the step. Thus, in Fiore there is a space between the front of seat 22 and front frame 12, which would allow a child to stand on step 16, and in Manuszak (Fig. 2) there is a space between the front of seat 64 and wall 20 wherein a child could stand on step 12.

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Accordingly, the seats in these references do not have a position or location in which they preclude a child from standing on the step. We find no basis in these references for the examiner's argument that the height of the Fiore seat would preclude a child from standing on the floor, or that the positioning of Manuszak's seat "prevents the seated child of the correct size from standing on the floor" (answer, page 4). Moreover, even assuming that a child seated in the seat of either Fiore or Manuszak could not get out of the seat to stand on the floor (step), the seats would still not be disposed, located or positioned so as to preclude (another) child from standing on the step, as called for by the claims.

Accordingly, the claims are not anticipated by Nanna, Fiore or Manuszak.

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The examiner's decision to reject claims 1 to 16 is  
reversed.

**REVERSED**

IAN A. CALVERT	)	
Administrative Patent Judge)	)	
	)	
	)	
IRWIN CHARLES COHEN	)	BOARD OF PATENT
Administrative Patent Judge)	)	APPEALS AND
	)	INTERFERENCES
	)	
JOHN P. McQUADE	)	
Administrative Patent Judge)	)	

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**APPENDIX**

1. A child stroller which is convertible between a sitting condition, in which it is adapted to carry a child in a normal sitting position, and a standing condition, in which it is adapted to carry a child in a standing position, comprising:

a frame;

a plurality of wheels rotatably mounted to the frame, the wheels supporting the frame above the ground when they are in contact with the ground;

a seat which in the stroller's sitting condition is secured to the frame generally horizontally at a height above the ground sufficient to enable a child to sit upon the seat in a normal sitting position; and

a step which in the stroller's standing condition is secured to the frame generally horizontally at a height above the ground which is lower than the height of the seat in the stroller's sitting condition,

wherein in said sitting condition said seat is disposed so as to preclude a child from standing on said step.

8. A method of converting a wheeled child stroller, which is adapted to carry a child in a normal sitting position upon a generally horizontal seat of the stroller, to a condition adapted to carry a child in a standing position, comprising the steps of:

providing a generally horizontal step below the location occupied by the seat; and

moving the seat from a location where it precludes a child from standing on the step to a location where it does not impede a child from standing upon the step.

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13. A child stroller having a seat and a step below the seat, the seat being moveable from a position where it precludes a child from standing on the step to a position in which a child may stand upon the step without interference by the seat.