

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. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOSEPH J. DAVIS, JR.
and JOHN J. H. FAARUP, SR.

Appeal No. 2003-1638
Application 09/511,741

ON BRIEF

Before WARREN, TIMM and DELMENDO, *Administrative Patent Judges*.

WARREN, *Administrative Patent Judge*.

Decision on Appeal and Opinion

We have carefully considered the record in this appeal under 35 U.S.C. § 134, including the opposing views of the examiner, in the answer, and appellants, in the brief and reply brief, and based on our review, find that we cannot sustain any of the grounds of rejection advanced on appeal: claims 1, 2 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bowers et al. (Bowers) taken in view of Gallagher et al. (Gallagher); claim 3 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bowers taken in view of Hagen et al. (Hagen); claims 6, 7 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bowers taken in view of Hagen; and claim 11 stands rejected under 35 U.S.C. § 103(a) as being

unpatentable over Bowers taken in view of Gallagher.^{1,2}

We refer to the examiner's answer and to appellants' brief and reply brief for a complete exposition of the opposing positions advanced on appeal.

It is well settled that in order to establish a *prima facie* case of obviousness under § 103(a), the examiner must show that some objective teaching, suggestion or motivation in the applied prior art taken as a whole and/or knowledge generally available to one of ordinary skill in this art would have led that person to the claimed invention as a whole, including each and every limitation of the claims arranged as required by the claims, without recourse to the teachings in appellants' disclosure. *See generally, In re Rouffet*, 149 F.3d 1350, 1358, 47 USPQ2d 1453, 1458 (Fed. Cir. 1998); *Pro-Mold and Tool Co. v. Great Lakes Plastics, Inc.*, 75 F.3d 1568, 1573, 37 USPQ2d 1626, 1629-30 (Fed. Cir. 1996); *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Laskowski*, 871 F.2d 115, 10 USPQ2d 1397 (Fed. Cir. 1989); *In re Fine*, 837 F.2d 1071, 1074-76, 5 USPQ2d 1596, 1598-1600 (Fed. Cir. 1988).

The dispositive issue in this appeal as framed by the examiner and appellants is whether one of ordinary skill in this art would have drawn from the teachings of Bowers the reasonable inference from the disclosure that deployment door **14a** molded as one piece with cover **40a**, wherein deployment door **14a** is shown as a single molded piece with second cover **44a** in Bowers **FIG. 5**, and disclosed to have a connection location **130**, and a rupturable portion or tear seam **46a** to releasably disconnect first cover part **42a**, and wherein first and second covers parts **42a** and **44a** are *flexible* to some extent (col. 5, lines 41-50), that the *flexible* tether **16b** attached to deployment door **14b** as shown in Bowers **FIG. 6** is an integrally molded unit (col. 5, line 56, to col. 6, line 5; see also col. 6, lines 6-20). It is well settled that a reference stands for all of the specific teachings thereof as well as the inferences one of ordinary skill in this art would have reasonably been expected to draw therefrom, see *In re Fritch*, 972 F.2d 1260, 1264-65, 23 USPQ2d 1780, 1782-83 (Fed. Cir. 1992); *In re Preda*, 401 F.2d 825, 826, 159 USPQ 342, 344

¹ Appealed claims 1 through 3, 6, 7, 9, 11 and 17 are all of the claims in the application. *See* the appendix to the brief.

² The examiner states in the answer (pages 3-4) that the rejections are set forth in the Office action of July 24, 2002 (Paper No. 13).

(CCPA 1968), presuming skill on the part of this person. *In re Sovish*, 769 F.2d 738, 743, 226 USPQ 771, 774 (Fed. Cir. 1985).

The examiner contends that the vehicle instrument panel assembly disclosed in **FIG. 6** thereof has “airbag cover” **14b** that is “free from tear seams,” is connected to tether **16b**, and “[t]he airbag cover and tether are integrally molded (col. 5 line 42, see Fig. 5, col. 3 line 5)” (Paper No. 13, page 2). In response to appellants’ arguments in the brief, the examiner further contends that

Bowers shows an airbag cover (14a, Fig. 5) with an integrally molded tether (130, 40a) and another embodiment of the airbag cover (14b, Fig. 6) that is free from tear seams. The detailed structure of the tether (16b) in Fig. 6 is not clearly shown, however, it can be assumed that it is also integrally molded as is the tether in Fig. 5. Furthermore, integral molding is common practice in the art and it would be obvious to one skilled in the art to make the tether integrally molded for a variety of reasons. [Answer, page 4.]

We note here that we do not find an express statement of any other reliance on the disclosure of the integral tether/deployment door formed by the single molded piece consisting of second cover part **44a** and deployment door **14a** in **FIG. 5** in Paper No. 13 or in the answer.

Appellants point to the disclosure that “tether 16 is connected to deployment door 14 in a known manner such as by insert molding” at col. 4, lines 47-49, of Bowers, and submit that “there is no suggestion that any of the tether embodiments (tether 16, 16b, 16c) describe or suggest that the air bag cover includes an integrally molded tether,” with reference to Bowers **FIGs. 4, 6 and 7** (brief, page 6; *see also* reply brief, pages 1-2). With respect to Bowers **FIG. 5**, appellants point out that “Figure 5 fails to describe or suggest that the air bag cover is free from having any tear seams (note tear seam 46a)” (brief, page 6), and that the reference does not disclose “different embodiments . . . to be simultaneously useable, and there is no disclosure of combining the deployment door 14b of Figure 6 and the one piece cover 40a of Figure 5” (brief, page 7; *see also* reply brief, page 2). Appellants further point out that in Gallagher **FIG. 9**, “the panel and tether are molded separately and then united by welding as opposed to being integrally formed as recited by independent claim 1” (brief, page 6; *see also* reply brief, page 2). With respect to the examiner’s contention that integral molding is commonly practiced in the art,

appellants point out that the examiner provides no reasoning in support of his contention with respect to the disclosure in Bowers (reply brief, page 3).

The disclosure at col. 4, lines 45-50 of Bowers reads as follows (italicized emphasis supplied):

The tether **16** is a *flexible* member which connects the deployment door **14** with the module **12**. The tether **16** may be made from a *fabric material*, such as the nylon material of the air bag. A first end portion **110** of the tether **16** is connected with the deployment door **14** in a known manner (not shown) such as by *insert molding*.

Bowers discloses that tether **16b** is *flexible* (col. 6, line 1), and the tethers **16**, **16b** and **16c** are depicted by a wavy line in the respective Bowers **FIGs. 4, 6 and 7**.

Based on this substantial evidence, we cannot agree with the examiner's position. We are of the opinion that one of ordinary skill in this art would have viewed the wavy tether lines in Bowers **FIGs. 4, 6 and 7** as indicating a flexible fabric material attached to the deployment door by insert molding in light of the disclosure of Bowers with respect to tether material and its attachment that we quoted above. Indeed, such depiction of a tether coupled with the disclosure thereof is in clear contrast to the integral tether/deployment door formed by the single molded piece consisting of second cover part **44a** and deployment door **14a** in **FIG. 5**.

Accordingly, because the examiner has not carried the burden of reestablishing a *prima facie* case of obviousness in light of appellants' arguments with respect to the teachings that one of ordinary skill in this art would have found in Bowers, we reverse all of the grounds of rejection advanced on appeal.

The examiner's decision is reversed.

Reversed

CHARLES F. WARREN
Administrative Patent Judge

CATHERINE TIMM
Administrative Patent Judge

ROMULO H. DELMENDO
Administrative Patent Judge

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1000 Town Center Twenty-Second Floor
Southfield, MI 48075