

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 29

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SUGURU YOSHIDA

Appeal No. 2004-0332
Application No. 09/725,447

HEARD: May 18, 2004

Before COHEN, ABRAMS, and MCQUADE, Administrative Patent Judges.
MCQUADE, Administrative Patent Judge.

DECISION ON APPEAL

Suguru Yoshida originally took this appeal from the final rejection (Paper No. 12) of claims 1, 3, 6 through 8 and 10 through 13. Subsequent to final rejection, the appellant amended claims 1 and 10 through 12 and submitted new claim 14 (see Paper No. 14) which the examiner initially indicated to be allowed (see Paper No. 16). Upon consideration of the appellant's main brief (Paper No. 19), the examiner issued an Office action (Paper No. 20) reopening prosecution and rejecting new claim 14 along with claims 1, 3, 6 through 8 and 10 through 13. Pursuant to 37 CFR § 1.193(b)(2)(ii), the appellant then filed a supplemental brief and a request that the appeal be reinstated (Paper No. 21).

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Implicitly granting the request, the examiner entered an answer (Paper No. 22) and forwarded the application to this Board for review of the rejection of claims 1, 3, 6 through 8 and 10 through 14, all of the claims currently pending in the application.

THE INVENTION

The invention relates to a front pillar construction for an automotive vehicle body. Representative claim 1 reads as follows:

1. A vehicle front pillar of a substantial tubular shape comprising:

a fore half portion oriented toward a front of the vehicle and having at least one bent portion formed thereon so as to serve as a shock absorbing section of said vehicle front pillar; and

a rear half portion oriented toward a back of the vehicle and having a reinforcing member of a closed sectional structure attached thereto so as to serve as a high-rigidity section of said vehicle front pillar,

wherein said at least one bent portion is spaced forward from said reinforcing member in a longitudinal direction of the vehicle, and during collision, said fore half portion is deformed and said at least one bent portion is further bent by an impact force of the collision to thereby absorb the impact force.

THE REJECTION

Claims 1, 3, 6 through 8 and 10 through 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,941,597 to Horiuchi et al. (Horiuchi).

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Attention is directed to the main and supplemental briefs (Paper Nos. 19 and 21) and to the last Office action and answer (Paper Nos. 20 and 22) for the respective positions of the appellant and the examiner regarding the merits of this rejection.

DISCUSSION

I. Grouping of claims

The appellant states that for purposes of this appeal "claims 1, 3, 6-8 and 10-14 stand or fall together" (supplemental brief, page 5). In accordance with this statement, and pursuant to 37 CFR § 1.192(c)(7), we shall decide the appeal as to the examiner's rejection on the basis of representative claim 1 alone, with claims 3, 6 through 8 and 10 through 14 standing or falling with claim 1.

II. The merits

Horiuchi discloses several examples of a vehicle front pillar 1. The Figure 5 embodiment focused on by the examiner, which is a variant of the basic embodiment shown in Figure 2, comprises an outer panel 11, a pillar stiffener 12, an inner pillar 13, and a reinforcing member 16, all made of a light alloy. The pillar stiffener 12 and inner pillar 13 include curved medial portions 12c and 13c, and rear and front flanges

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12a, 13a, 12b and 13b which are respectively welded together so as to form a closed section portion 14 containing and connected to the reinforcing member 16.

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). It is not necessary that the reference teach what the subject application teaches, but only that the claim read on something disclosed in the reference, i.e., that all of the limitations in the claim be found in or fully met by the reference. Kalman v. Kimberly Clark Corp., 713 F.2d 760, 772, 218 USPQ 781, 789 (Fed. Cir. 1983), cert. denied, 465 U.S. 1026 (1984).

In finding that the subject matter recited in independent claim 1 is anticipated by Horiuchi, the examiner reads the limitations in this claim on Horiuchi's Figure 5 embodiment in the manner depicted in the marked-up copy of this drawing figure appended to the last Office action. Of particular interest is the examiner's determination that the curved portions of the pillar stiffener 12 and inner pillar 13 adjacent the front

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flanges 12b and 13b constitute bent portions which are inherently capable of deforming in the manner specified in claim 1.

The appellant counters that Horiuchi is not anticipatory because:

[s]ince the reinforcing member 16 is in contact with a fore portion of the inner pillar 13 forming one part of a fore half portion, the pillar stiffener 12 of the front pillar 1 does not undergo shock absorbing deformation when subjected to a colliding impact force acting from the front of the vehicle. . . . Therefore, Horiuchi does not disclose or suggest that the rear half portion is oriented toward a back of the vehicle, nor does the reference disclose a reinforcing member attached thereto so as to serve as a high rigidity section of the vehicle front pillar. Further, Horiuchi does not disclose that at least one bent portion is spaced forward from the reinforcing member in a longitudinal direction of the vehicle. In addition, Horiuchi fails to disclose or suggest that during collision, the fore half portion is deformed and the at least one bent portion is further bent by a colliding impact force to thereby absorb the colliding impact force, as recited in claim 1 [supplemental brief, pages 6 and 7].

The appellant also submits that the so-called bent portions highlighted by the examiner in the marked-up copy of Horiuchi's Figure 5 are merely joint portions between the front and rear flanges of the pillar (see pages 7 and 8 in the supplemental brief) and that the examiner has failed to provide any objective evidence or cogent technical reasoning to support a conclusion that these bent portions will inherently deform as set forth in claim 1 (see page 8 in supplemental brief).

Tracking the terminology employed in appealed claim 1, and notwithstanding the appellant's arguments to the contrary, the vehicle front pillar 1 illustrated in Horiuchi's Figure 5 clearly constitutes a vehicle front pillar of a substantial tubular shape comprising a fore half portion (the upper half of structure as shown in Figure 5) oriented toward a front of the vehicle, a rear half portion (the lower half of the structure as shown in Figure 5) oriented toward a back of the vehicle, and a reinforcing member of a closed sectional structure (reinforcing member 16) attached to the rear half portion so as to serve as a high-rigidity section of the vehicle front pillar.¹ The curved portions of the pillar stiffener 12 and inner pillar 13 adjacent the front flanges 12b and 13b clearly embody a number of bent portions on the fore half portion of the pillar, each of which is spaced forward from the reinforcing member in a longitudinal direction of the vehicle. Although Horiuchi does not expressly teach that the fore half portion of the pillar, and more particularly the bent portions thereof, serve as a shock absorbing section of the vehicle front pillar or that during collision the fore half portion is deformed and the bent portions

¹ Claim 1 does not, as implied by the appellant, exclude the reinforcing member from contacting or extending into the fore half portion of the pillar.

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are further bent by an impact force of the collision to thereby absorb the impact force, the examiner's determination that these prior art elements will inherently function in this manner is, on the record before us, well taken. The light alloy composition of the pillar stiffener 12 and inner pillar 13 and the spatial relationship of their bent portions relative to the reinforcing member 16 and the pillar structure as a whole provide reasonable factual support for the examiner's position in this regard. Under these circumstances, the burden shifts to the appellant to prove that the prior art does not possess the claimed characteristics in question. See In re King, 801 F.2d 1324, 1327, 231 USPQ 136, 138 (Fed. Cir. 1986). The appellant, however, has not proffered any evidence to this effect.

Thus, the appellant's position that the vehicle front pillar recited in claim 1 distinguishes over that disclosed by Horiuchi is not persuasive. We shall therefore sustain the standing 35 U.S.C. § 102(b) rejection of claim 1, and claims 3, 6 through 8 and 10 through 14 which stand or fall therewith, as being anticipated by Horiuchi.

SUMMARY

The decision of the examiner to reject claims 1, 3, 6 through 8 and 10 through 14 is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

IRWIN CHARLES COHEN)	
Administrative Patent Judge)	
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)	APPEALS AND
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Administrative Patent Judge)	INTERFERENCES
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JOHN P. MCQUADE)	
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