

The opinion in support of the decision being entered today was not written for publication is not binding precedent of the Board.

Paper No. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte YUKO ITO, TOMIO ITO,
TOSHIJI AKAGI and MASAYUKI SUDA

Appeal No. 2000-1469
Application 08/808,789

ON BRIEF

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

DECISION ON APPEAL

Yuko Ito et al. appeal from the final rejection of claims 20 through 29, all of the claims pending in the application. We reverse.

THE INVENTION

The invention relates to "an automotive sunshade panel formed from a hollow panel having a two-dimensional or three-dimensional curved surface conforming to a bent curved surface in

the form of the top of an automobile" (specification, page 1).

Representative claims 20 and 21 read as follows:

20. An automotive sunshade panel comprising a metallic hollow panel having longitudinal edges and flanged portions provided along the longitudinal edges, the metallic hollow panel having a two-dimensionally curved surface formed at a central portion thereof and comprising first and second metal sheet members, said first metal sheet member being provided above said second metal sheet member and directly bonded thereto to form a plurality of segregated, longitudinally extending, parallel passageways therebetween.

21. An automotive sunshade panel comprising a metallic hollow panel having longitudinal edges and flanged portions provided along the longitudinal edges, the metallic hollow panel having a three-dimensionally curved surface formed at a central portion thereof and comprising first and second metal sheet members, said first metal sheet member being provided above said second metal sheet member and directly bonded thereto to form a plurality of segregated, longitudinally extending, parallel passageways therebetween.

THE PRIOR ART

The items relied on by the examiner as evidence of obviousness are:

Trout	1,625,061	Apr. 19, 1927
Molin et al. (Molin)	3,534,463	Oct. 20, 1970
Haraga et al. (Haraga)	4,414,257	Nov. 8, 1983
Mori et al. (Mori)	5,356,695	Oct. 18, 1994

The admission on page 2 of the appellants' specification that fabrics typically are laminated to the curved surfaces of automotive sunshade panels (the admitted prior art).

THE REJECTIONS

Claims 20 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Haraga in view of Mori.

Claims 22 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Haraga in view of Mori and Trout.

Claims 24 through 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Haraga in view of Mori and the admitted prior art.

Claims 28 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Haraga in view of Mori and Molin.

Attention is directed to the appellants' main and reply briefs (Paper Nos. 16 and 18) and to the examiner's final rejection and answer (Paper No. 10 and 17) for the respective positions of the appellants and the examiner with regard to the merits of these rejections.

DISCUSSION

Haraga, the examiner's primary reference, discloses a panel designed to form the wall or door of an elevator. The panel consists of a metal reinforcing plate 1 and a metal surface plate 2 bonded together to form a hollow construction

having flanged portions along its longitudinal edges and a plurality of segregated, longitudinally extending, parallel passageways. As conceded by the examiner (see page 3 in the final rejection), this panel, which has a generally flat or planar configuration, does not meet the limitations in claims 20 and 21 requiring the claimed panel to have a two-dimensionally (claim 20) or three-dimensionally (claim 21) curved surface formed at a central portion thereof.¹ The examiner's reliance on Mori to overcome this deficiency is not well founded.

Mori discloses a panel structure adapted for a variety of uses in a vehicle including as a roof panel. One of Mori's objects is to provide a panel having a substantially uniform stiffness without the need for variations in thickness (see column 1, lines 61 through 64). To this end, and as described by Mori, "[a]t least an intermediate portion 21 of the panel 20 is formed as including a curved surface having a

¹ Read in light of the underlying disclosure (see, for example, specification page 5 and drawing figure 4), the two-dimensionally curved surface is one which is curved in the longitudinal (Y-Y) direction of the panel and the three-dimensionally curved surface is one which is curved in the longitudinal (Y-Y) and transverse (X-X) directions of the panel.

substantially constant sum of the maximum curvature D_{max} and the minimum curvature D_{min} at all points on a surface of the intermediate portion 21" (column 3, lines 28 through 32).

In proposing to combine Haraga and Mori to reject claims 20 and 21, the examiner concludes that it would have been obvious "to utilize two-dimensional and three-dimensional curvatures as taught by Mori et al. on the panel of Haraga et al. because the curvatures would enhance the stiffness of the panel" (final rejection, page 3).

As persuasively argued by the appellants, however, there is nothing in the combined teachings of Haraga and Mori which would have suggested this particular modification. To begin with, neither reference gives any indication that the Haraga panel is in need of additional stiffening. Moreover, the flat or planar configuration of the Haraga panel is entirely consistent with its intended use in the wall or door of an elevator, while the two-dimensional or three-dimensional curvature proposed by the examiner would seem to be at odds with such use. The mere fact that prior art could be modified in the manner proposed by an examiner does not make the modification obvious unless the prior art would have suggested

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the desirability of the modification. In re Gordon, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984). Here, the only suggestion for the proposed modification of the Haraga panel in view of Mori stems from an impermissible hindsight reconstruction of the claimed invention wherein the examiner has used the appellants' claims as a template to piece together the teachings of the prior art.

Accordingly, we shall not sustain the standing 35 U.S.C. § 103(a) rejection of claims 20 and 21 as being unpatentable over Haraga in view of Mori.

Inasmuch as the examiner's application of Trout, the admitted prior art and Molin does not cure the above noted shortcomings of the basic Haraga-Mori combination, we also shall not sustain the standing 35 U.S.C. § 103(a) rejection of claims 22 and 23 as being unpatentable over Haraga in view of Mori and Trout, of claims 24 through 27 as being unpatentable over Haraga in view of Mori and the admitted prior art, or of claims 28 and 29 as being unpatentable over Haraga in view of Mori and Molin.

As a final matter, the examiner might be well advised to obtain a full translation of Japanese Patent Document 8-90080,

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which is of record and discussed on pages 1 and 2 of the appellants' specification, and reconsider the patentability of the subject matter recited in claims 20 through 29 in light of this reference, taken alone or in combination with other prior art references, keeping in mind that claims 20 through 29 are directed to an automotive sunshade panel and not a method of making same.

SUMMARY

The decision of the examiner to reject claims 20 through 29 is reversed.

REVERSED

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

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Administrative Patent Judge) INTERFERENCES
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JEFFREY V. NASE)
Administrative Patent Judge)

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