

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opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.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. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte MARK F. GRAY

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Appeal No. 97-1023  
Application 08/262,461<sup>1</sup>

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ON BRIEF

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Before COHEN, MEISTER and FRANKFORT, Administrative Patent Judges.

COHEN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 5, 6 and 13 through 15. In the answer (Paper No. 14), the examiner withdrew the final rejection of claim 13 indicating that the

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<sup>1</sup>Application for patent filed June 20, 1994.

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claim now stands allowed. Claims 3 and 4, the only other claims remaining in the application, stand withdrawn from consideration by the examiner as being drawn to a non-elected species pursuant to 37 CFR 1.142(b). In light of the above, only claims 5, 6, 14, and 15 are before us for review.

Appellant's invention pertains to a vehicle child seat and seat belt system therefor. An understanding of the invention can be derived from a reading of exemplary claim 14, a copy of which appears in the "APPENDIX" to appellant's amended appeal brief (Paper No. 13).

As evidence of obviousness, the examiner has applied the documents listed below:

Mathis	3,620,569	Nov. 16, 1971
Dukatz et al. (Dukatz)	5,135,285	Aug. 04, 1992
Harmon	5,161,855	Nov. 10, 1992

The following rejections are before us for review.

Claims 14, 15, and 5 stand rejected under 35 U.S.C. § 103 as being unpatentable over Harmon in view of Mathis.

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Claim 6 stands rejected under 35 U.S.C. § 103 as being unpatentable over Harmon in view of Mathis, as applied to claim 14 and 5 above, further in view of Dukatz.

The text of the examiner's rejections and response to the argument presented by appellant appears in the answer (Paper No. 14), while the statement of appellant's argument can be found in the amended appeal brief (Paper No. 13)<sup>2</sup>.

In the amended appeal brief (page 4), appellant expressly indicates that dependent claims 15, 5, and 6 stand or fall with claim 14. Therefore, we focus our attention, *infra*, exclusively upon the content of claim 14.

#### OPINION

In reaching our conclusion on the obviousness issue raised in this appeal, this panel of the board has carefully considered appellant's specification and claim 14, the applied

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<sup>2</sup> A "SUPPLEMENT TO THE APPEAL BRIEF" (Paper No. 16), filed in response to an order for compliance (Paper No. 15), provided information omitted from the earlier filed brief.

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patents,<sup>3</sup> and

the respective viewpoints of appellant and the examiner. As a consequence of our review, we make the determination which follows.

We reverse the examiner's rejection of claim 14 under 35 U.S.C. § 103, as well as the rejection of claims 15, 5, and 6 which stand or fall therewith. Our reasoning in support of this determination appears below.

Claim 14 requires, inter alia, a child seat including a seat back and a seat cushion, seat belt webbing having a plurality of sections including first and second shoulder belt sections, with each shoulder belt section having an upper end and a lower end, anchor means permanently attaching the upper ends of the shoulder belt sections immovably to the seat back,

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<sup>3</sup> In our evaluation of the applied patents, we have considered all of the disclosure thereof for what it would have fairly taught one of ordinary skill in the art. See In re Boe, 355 F.2d 961, 965, 148 USPQ 507, 510 (CCPA 1966). Additionally, this panel of the board has taken into account not only the specific teachings, but also the inferences which one skilled in the art would reasonably have been expected to draw from the disclosure. See In re Preda 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968).

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retractor means for pulling the lower ends of the shoulder belt sections downward toward the seat cushion, and mounting means for mounting the retractor means on the seat cushion.

The applied Harmon patent teaches a restraint system for a child safety seat (frame 38, seat support 30, and back support

32) having the upper end (tip 63) of shoulder strap 62 connected by a fastener 54 to cross brace 20 of the back support frame 18 of the vehicle seat 10. As indicated, Harmon teaches the attaching of an upper end of a shoulder belt to a component of a vehicle seat, not to a seat back of a child seat as presently claimed. The lower end of the shoulder strap 62 (metal tip 63) is connected by fastener 65 to linkage 24, the linkage that pivotally interconnects vehicle seat support frame 22 and back support frame 18.

The Mathis patent discloses (Figures 1 and 3) a seat safety harness wherein each of a pair of shoulder-lap straps

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23 includes lower ends, with one lower end attached to a first retraction reel means 17 at the rear of a seat portion 11 and with the opposite lower end connected to a retraction reel means 21 at a side of the seat portion 11. The patentee also reveals (column 1, lines 23 through 27) that previously the end of a shoulder strap was fixed at an anchorage point on the side of a seat (the opposite end being attached to a harness reel at the back or base of the seat).

We understand the examiner's position on the asserted obviousness of claim 14 as expressed in the answer. However, a review of the above evidence of obviousness reveals to us that the claimed invention would not have been suggested thereby when what appellant has informed us of in the present application is set aside. Simply stated, it is our opinion that a collective assessment of the teachings of Harmon and Mathis by one having ordinary skill in the art would not have suggested the invention of claim 14, i.e., a child seat with

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the upper ends of shoulder belt sections connected to the seat back of the child seat and with the lower ends of the shoulder belt sections being pulled down by a retractor means mounted on the seat cushion of the child seat. As a concluding point, we simply note that the child restraint system disclosed in the Dukatz patent does not overcome the noted deficiencies of the Harmon and Mathis teachings.

In summary, this panel of the board has:

reversed the rejection of claims 14, 15, and 5 under 35 U.S.C. § 103 as being unpatentable over Harmon in view of Mathis; and

reversed the rejection of claim 6 under 35 U.S.C. § 103 as being unpatentable over Harmon in view of Mathis and Dukatz.

The decision of the examiner is reversed.

REVERSED

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IRWIN CHARLES COHEN	)	)
Administrative Patent Judge	)	
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	)	BOARD OF PATENT
JAMES M. MEISTER	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
CHARLES E. FRANKFORT	)	
Administrative Patent Judge	)	

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