

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

IGB AUTOMOTIVE LTD. and I.G. BAUERHIN GmbH,
Petitioner,

v.

GENTHERM GmbH,
Patent Owner.

Case IPR2014-00667
Patent 7,637,573 B2

Before JOSIAH C. COCKS, BENJAMIN D. M. WOOD, and
RICHARD E. RICE, *Administrative Patent Judges*.

COCKS, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

A. Background

IGB Automotive Ltd. and I.G. Bauherhin GmbH (collectively “IGB”), filed a Petition (Paper 1, “Pet.”) requesting *inter partes* review of claims 1–6 of U.S. Patent No. 7,637,573 B2 (“the ’573 patent”). Gentherm GmbH (“Gentherm”), filed a Preliminary Response (Paper 6, “Prelim. Resp.”).¹

We instituted an *inter partes* review based on the grounds that claims 1–5 are unpatentable under 35 U.S.C. § 103(a) as obvious over Larsson², Gendron,³ and Pfahler,⁴ and claim 6 is unpatentable under 35 U.S.C. § 103(a) as obvious over Larsson, Gendron, Pfahler, and Bell.⁵ Paper 7 (“Decision” or “Dec.”). Gentherm subsequently filed a Patent Owner Response (Paper 12, “PO Resp.”), to which IGB replied (Paper 16, “Pet. Reply”). Oral hearing was conducted on June 9, 2015, and a transcript of that hearing has been entered into the record (Paper 24).

For the reasons explained below, and on the record now before us, we determine that IGB has not shown by a preponderance of the evidence that claims 1–5 are unpatentable over Larsson, Gendron, and Pfahler, or that claim 6 is unpatentable over Larsson, Gendron, Pfahler, and Bell.

¹ We understand that W.E.T. Automotive Systems AG, which initially owned the ’573 patent, merged with Gentherm Europe GmbH, which then changed its name to Gentherm GmbH. Mandatory Notice Information (Paper 5, 1).

² US 6,003,950 to Larsson (Dec. 21, 1999) (Ex. 1004).

³ US 6,511,125 B1 to Gendron (Jan. 28, 2003) (Ex. 1005).

⁴ US 6,626,488 B2 to Pfahler (Sept. 30, 2003) (Ex. 1007).

⁵ US 6,700,052 B2 to Bell (Mar. 2, 2004) (Ex. 1010).

B. Related Matters

The parties indicate that the '573 patent is involved in litigation styled *W.E.T. Automotive Systems, Ltd. v. IGB Automotive Ltd.*, Civil Action No. 2:13-CV-11536-AJT-PJK (E.D. Mich.). Pet. 2; Paper 5, 1.

C. The '573 Patent (Ex. 1001)

The '573 patent is titled “Automotive Vehicle Seating Insert” and relates “to an insert for providing heating, cooling, ventilation or a combination thereof to a seat of an automotive vehicle.” Ex. 1001, 1:25–27. Figure 1 of the '573 patent is reproduced below.

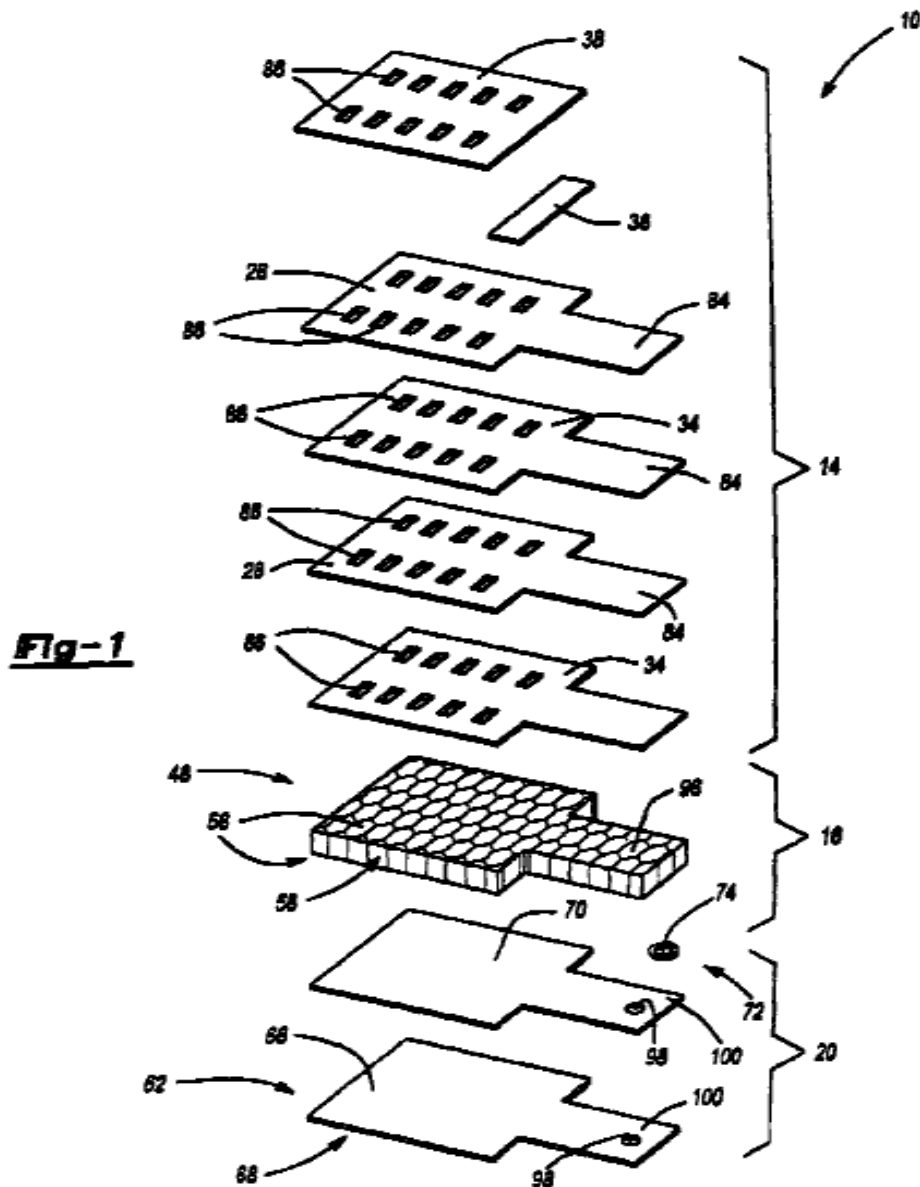


Figure 1 above illustrates a “blown up perspective view of a seat insert” according to the invention. *Id.* at 2:31–33. As shown in Figure 1, “insert 10 includes a first or forward layer 14 (e.g., the layer of the insert configured to be closest [to] an occupant of the seat), a second or middle layer 16 and a third or rearward layer 20 (e.g., the layer of the insert configured to be furthest from the occupant of the seat).” *Id.* at 3:1–5.

The '573 patent further describes that layers 14, 16, and 20 may be composed of a variety of “sub-layers,” including “heater sub-layer 26,” “gas barrier sub-layer 28,” “adhesive sub-layers 34,” buffer sub-layer 38,” and “spacer sub-layer 48.” *Id.* at 3:6–4:30. Spacer sub-layer 48 is formed preferably:

of polymeric (e.g., polyester) strand material that is interwoven to provide opposing honeycomb structures 56 (e.g., fabric panels), which are interconnected by several additional polymeric strand materials to provide open space 58 between the structures 56 while still providing cushion and support.

Id. at 4:37–41. Attachment component 72 may be included in one of layers 14, 16, and 20 (formed in layer 20 in Figure 1), and defines opening or through hole 74. *Id.* at 4:62–63. A blower (not shown in Figure 1), is attached to attachment component 72 such that the blower is “in fluid communication with the through-holes 86 of the first layer 14, the open space 58 of the middle layer 16 and the through-hole 98 of the rearward layer 20.” *Id.* at 7:56–59. Figure 5 of the '573 patent is reproduced below:

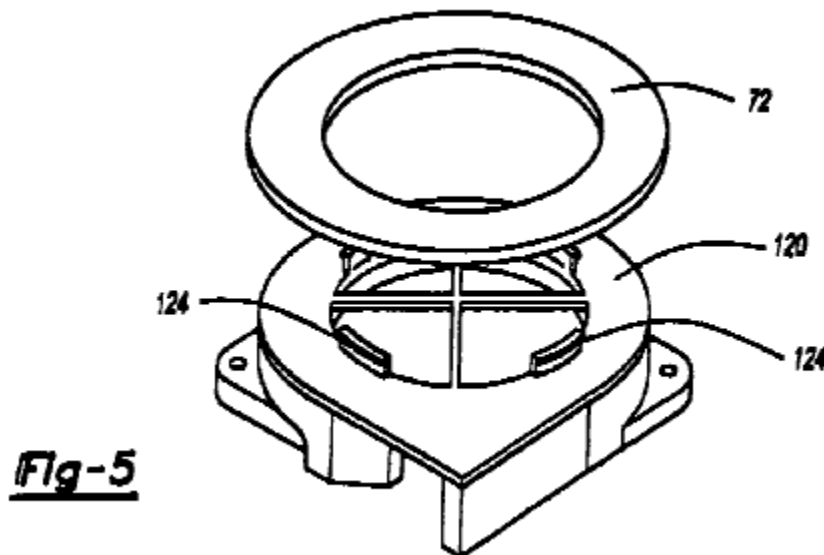


Figure 5 illustrates attachment component 72 and blower housing 120. As shown in Figure 5, blower housing 120 may include flanges 124 for “snap-fitting” housing 120 to attachment component 72, and which facilitates attachment of a blower to insert 10. *Id.* at 7:50–61. The ’573 further explains the following:

[T]he blower can be operated to pull air through the through-holes 86 in the first layer 14 of the insert 10, through the open space 58 of the middle layer 48 of the insert 10 and through the through-hole 98 of the rearward layer 20. Such air preferably flows at least partially past the occupant of the seat and through the seat cover (e.g., a perforated leather seat cover or cloth seat cover) thereby providing ventilation to the occupant and providing convective heat transfer from the occupant to the flowing air.

Id. at 9:17–26. Figure 3 of the ’573 patent is reproduced below

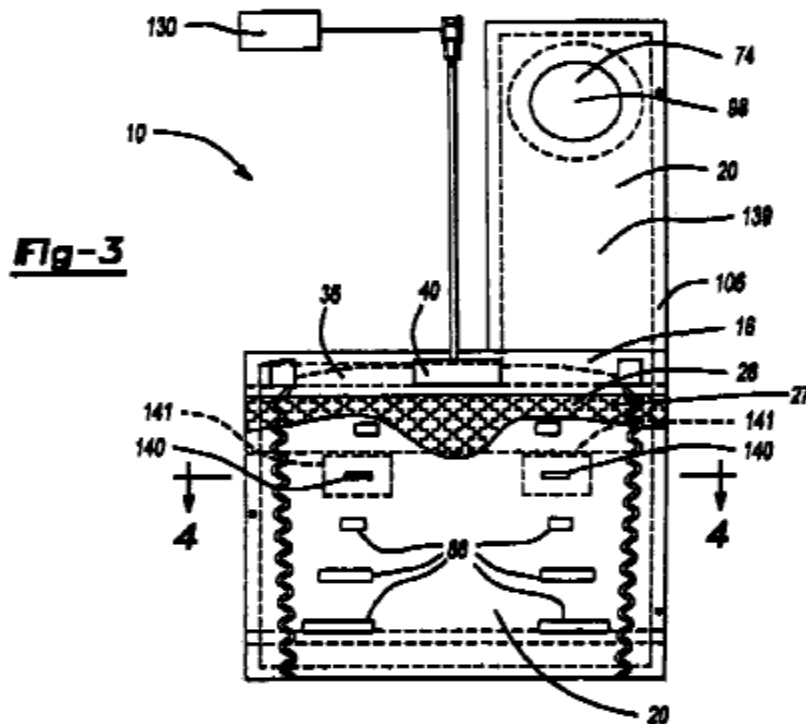


Figure 3 illustrates “a partially cut-away elevational view of the seat insert of FIG. 1 after assembly of the insert.” *Id.* at 2:37–38. As shown in Figure 3, when assembled, forward layer 14 and rearward layer 20 are adhered to one another via outer peripheral strip 106. *Id.* at 6:57–66.

D. Illustrative Claim

Claim 1 is an independent claim, and claims 2–6 ultimately depend therefrom. Claim 1 is reproduced below:

1. A comfort system for a seat, comprising:
 - a seat cushion;
 - a seat cover disposed over the seat cushion;
 - wherein the seat cushion is formed of a foam and the seat cover allows air to flow therethrough;
 - an insert located beneath the seat cover; the insert including:
 - a forward layer;
 - a rearward layer;
 - a middle layer therebetween, the middle layer including an interwoven polymeric strand spacer material with opposing honeycomb structures forming an open space within the insert; and
 - an air impermeable peripheral edge;
 - wherein both the forward layer and the rearward layer including a barrier sub-layer that is substantially impermeable to air, further wherein the barrier sub-layer of the forward layer is adhered to the barrier sub-layer of the rearward layer for creating the air impermeable peripheral edge and an air tight seal about the middle layer, and the insert includes at least one first opening in the rearward layer, the at least one first opening including an attachment component adapted to receive a blower housing, and a plurality of second openings in the forward layer; and
 - an air mover in fluid communication with the first opening, the second openings and the open space.

II. ANALYSIS

A. Claim Construction

The Board construes claims in an unexpired patent using the broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); *see also In re Cuozzo Speed Techs., LLC*, 793 F.3d 1268, 1278 (Fed. Cir. 2015) (“We conclude that Congress implicitly approved the broadest reasonable interpretation standard in enacting the AIA.”). Claim terms also are given their ordinary and customary meaning as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Any special definition for a claim term must be set forth in the specification with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

In the Petition, IGB urged that all of the claim terms of the challenged claims should be given their ordinary and customary meanings as would be understood by one of ordinary skill in the art, as the inventors of the ’573 patent did not provide any special meaning for any claim term. Pet. 11. Nevertheless, IGB made explicit proposed constructions for sixteen claim terms. *Id.* at 11–15. Gentherm did not disagree with IGB that all terms of the claims of the ’573 patent should be given their ordinary and customary meanings, but generally was of the view that the constructions proposed by IGB were inadequate as being “open-ended.” Prelim. Resp. 25–26. In the Decision, we determined that it was unnecessary, at that time, to construe expressly any claim term. Dec. 10.

In its Patent Owner Response, Gentherm proffered a construction of the term “attachment component” that is distinct from the construction that

was advanced by IGB. In that respect, although IGB contends that the term should be construed as “a frame member defining an opening” (Pet. 14), Gentherm contends that the term means “a support structure that can attach a blower housing and support the blower attached to the insert” (PO Resp. 14). We, therefore, construe the term “attachment component,” for purpose of this Decision, so as to reconcile the disagreement between the parties.

In the context of the ’573 patent, an “attachment component” is a structure that accomplishes the attachment or connection of one structure to another. For instance, attachment component 72 constitutes a mechanism for attaching a blower to insert 10. Ex. 1001, 7:59–61. Indeed, the ordinary meaning of “attachment” is “the physical connection by which one thing is attached to another.”⁶ In other words, at its core, the meaning of the term “attachment” conveys that an “attachment component” must be a component that facilitates an act of physical connection. In that respect, we conclude that “attachment component” requires more than “simply a member having an opening therein” as urged by IGB. See Pet. Reply 2.

Accordingly, on the record now before us, and consistent with the Specification of the ’573 and the ordinary meaning of the term “attachment,” an “attachment component” is understood as a component that physically connects structures to one another. Furthermore, in the context of claim 1, the attachment component must be “adapted to receive a blower housing.” Thus, the claim requires that the “attachment component” is a component that is configured so as to physically connect the blower housing to another structure.

⁶ See MERRIAM WEBSTER’S COLLEGIATE DICTIONARY 74 (10th Ed. 1996) (entered in this proceeding as Exhibit 3001).

B. Grounds of Unpatentability

As noted above, there are two grounds of unpatentability involved in this *inter partes* review proceeding: (1) Claims 1–5 are unpatentable as obvious over Larsson, Gendron, and Pfahler; and (2) Claim 6 is unpatentable over Larsson, Gendron, Pfahler, and Bell. In resolving the question of the obviousness of claims 1–6, we consider the following underlying factual determinations: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; and (3) the level of skill in the art. *See Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966).⁷

1. Level of Skill in the Art

In determining the level of skill in the art, various factors may be considered, including the “type of problems encountered in the art; prior art solutions to those problems; rapidity with which innovations are made; sophistication of the technology; and educational level of active workers in the field.” *In re GPAC, Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995) (citing *Custom Accessories, Inc. v. Jeffrey-Allan Indus., Inc.*, 807 F.2d 955, 962 (Fed. Cir. 1986)). There is evidence in the record before us that reflects the knowledge level of a person with ordinary skill in the art. Gentherm’s Declarant, Dr. James G. Rice, attests that a person with ordinary skill in the art would have the following background or experience:

⁷ The court in *Graham* further noted “[s]uch secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented.” 383 U.S. at 18. In this proceeding, however, evidence of “secondary considerations” has not been offered for evaluation by the panel.

- Vocational training in mechanical or electrical engineering or related field plus 3-4 years of experience designing consumer heating, cooling, or ventilation systems
- or a B.S. in mechanical or electrical engineering or related field, plus 1-2 years of experience designing consumer heating, cooling, or ventilation systems

Ex. 2001 ¶ 29.

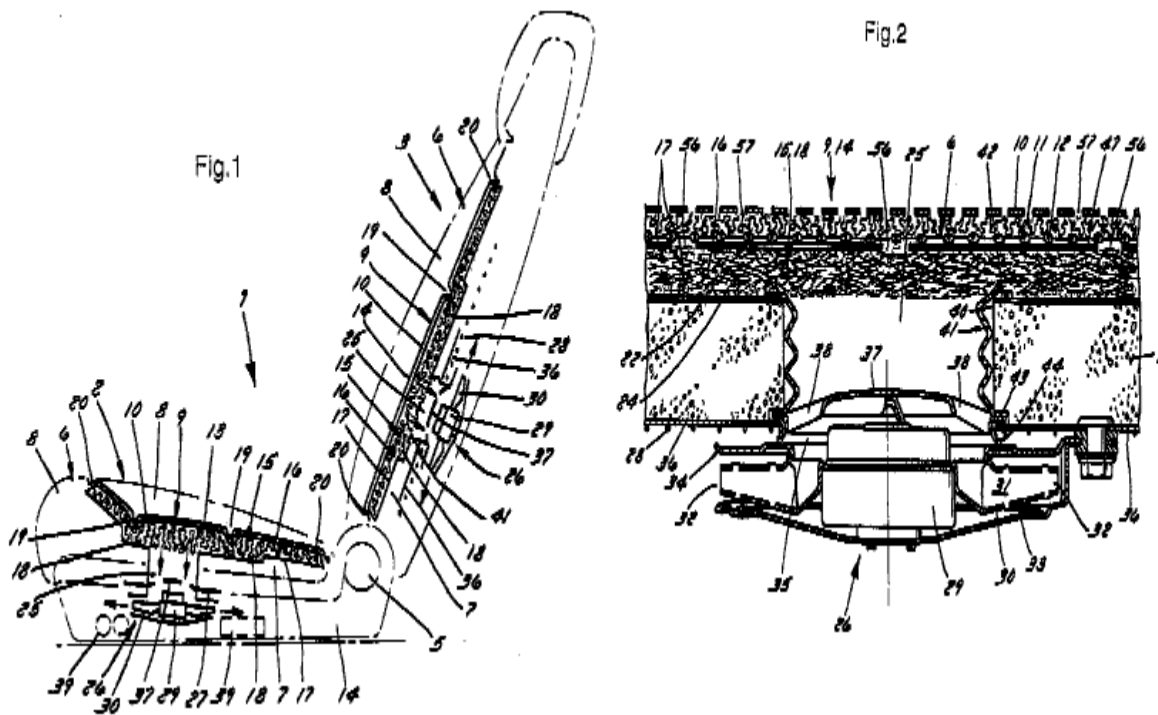
IGB does not dispute Dr. Rice’s assessment of the level of ordinary skill in the art.

2. Larsson

Larsson is titled “Device for Ventilating Vehicle Chairs,” and characterizes its disclosed invention as:

a device for ventilating a chair, which is of the kind comprising a cushion with a shaping filling that carries upon and supports a person sitting in the chair and preferably consists of moulded plastic foam or similar material, a covering which is applied over the filling and over an insert located under the covering, the insert comprising a material which is permeable to air and preferably elastic and fibrous and being limited by a layer of airtight material.

Ex. 1004, 1:6–14. Larsson’s Figures 1 and 2 are reproduced below.



Larsson's Figures 1 and 2 depict views of a ventilated chair, and associated ventilating components, according to an embodiment of the invention. As shown in the figures above, seat ventilated chair 1 includes cushion 6, which includes insert 15. *Id.* at 3:62–4:27. Insert 15 includes layer 17 of an airtight material, such as PVC-coated polyamide, which encloses “air-permeable material 16, which preferably is fibrous and can consist of horsehair, coconut fibres or synthetic material.” *Id.* at 4:15–27. Suction device 26 is positioned against bottom plate 27 and draws air through suction openings 56 within airtight layer 17 and through channel 25. *Id.* at 4:28–58; 6:58–7:62.

Larsson explains that:

This system of suction openings, with the good values on negative pressure and airflow that characterize the device according to this invention, achieves that there is a principally even and good suction effect on said covering surfaces.

Id. at 7:5–9. Air is prevented from leaking into filling material 7 within the seat cushion by operation of bellows 41 which forms a tight wall in channel 25. *Id.* at 5:59–63. Larsson also conveys that its ventilated seat may include electric heater 12. *Id.* at 4:6–7.

3. Gendron

Gendron is titled “Ventilated Seat Pad” and “relates to a ventilated seat pad constructed to be connected to a forced air system of a vehicle.” Ex. 1005, 1:6–8. Gendron’s Figures 1 and 3 are reproduced below:

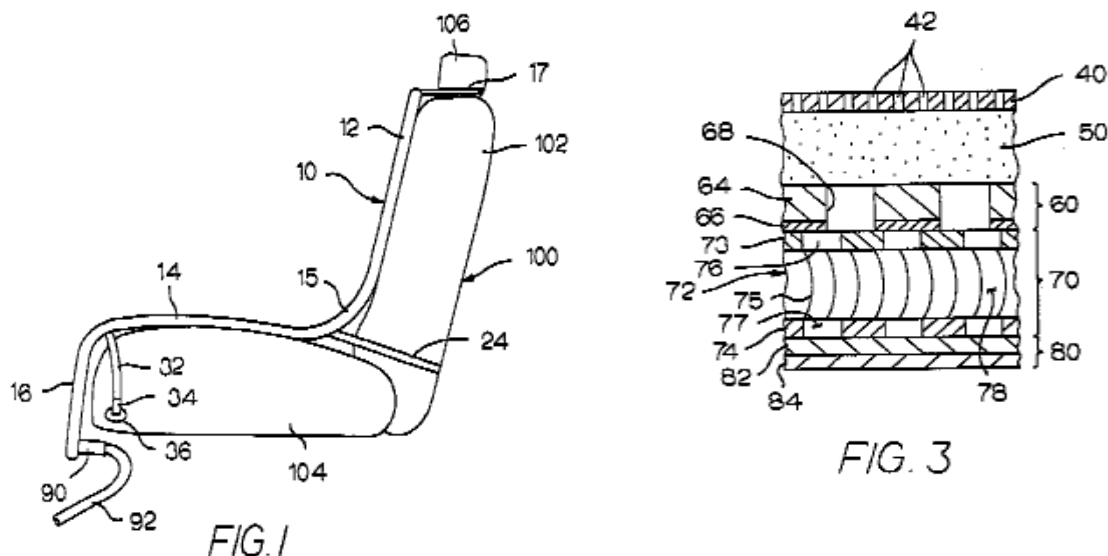
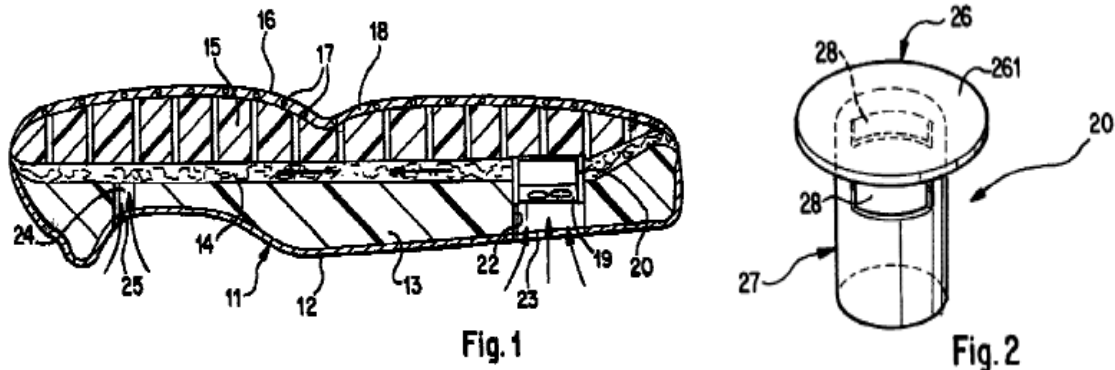


Figure 1 above depicts a side view of a ventilated seat pad, and Figure 3 depicts a sectional view of the pad. *Id.* at 1:50–55. Pad 10 includes back portion 12, bottom portion 14, middle portion 15, and extension 16. *Id.* at 2:9–15. Pad 10 is formed as a plurality of layers 40, 50, 60, 70, and 80. Layer 70 includes both top layer 73 and bottom layer 74, which are each described as being configured in a “honeycomb pattern” with openings. *Id.* at 2:53–65. Furthermore, “spacing webs” 75 are described as being woven into top layer 73 and bottom layer 74, and operate to “provide resistance to

the weight of an occupant so that an air chamber 78 is present in the fourth layer even when an occupant is sitting on pad 10.” *Id.*

4. Pfahler

Pfahler is titled “Cushion Assembly for a Motor Vehicle.” Ex. 1007, Title. Pfahler’s Figures 1 and 2 are reproduced below:



Pfahler’s Figure 1 above illustrates a longitudinal view of a seat element of a motor vehicle seat according to Pfahler’s invention. *Id.* at 2:41–42. Figure 2 above illustrates a perspective view of a sleeve that is intended to be integrated into a cushion of a seat element. *Id.* at 2:44–46. In particular, the seat element includes cushion support 11 and “miniature fans 19” that are each suspended in “plastic cylindrical sleeve 20” within the cushion support. *Id.* at 3:5–10.

5. Bell

Bell is titled “Flexible Thermoelectric Circuit.” Ex. 1010, Title. Bell describes use of a “thermoelectric” component configured to provide heating. *Id.* at 3:43–45.

6. *Obviousness of claims 1–5 over Larsson, Gendron, and Pfahler, and obviousness of claim 6 over those references taken with Bell*

a. *IGB's Contentions*

IGB contends that taking the teachings of Larsson, Gendron, and Pfahler together renders claims 1–5 unpatentable, and that those references taken with Bell render claim 6 unpatentable. In making those contentions, IGB sets forth how it believes the teachings of the prior art account for all the features of those claims. See Pet. 30–34 (also incorporating content of the Petition at pages 16–22), 55–56. In that regard, IGB points primarily to the disclosure of Larsson as conveying the features of claims 1–6, but relies on Gendron and Pfahler for certain limitations of claim 1, and Bell for a limitation added by claim 6.

More specifically, with respect to the requirement in claim 1 of “opposing honeycomb structures forming an open space within the insert,” IGB relies on the disclosure of Gendron. IGB cites to Gendron’s disclosures of ventilated seat pad 10, which includes layer 70 formed from air permeable space material 72. *Id.* at 17. IGB contends that spacer material 72 includes “top layer 73,” which “is formed as a honeycomb pattern having relatively large openings 76,” and “bottom layer 74 “formed as a honeycomb pattern having relatively large openings 77.” *Id.* at 17–18. IGB argues that it would have been obvious to incorporate Gendron’s opposing honeycomb structures into the insert of Larsson, as those structures operate “to prevent the open space of the spacer material from collapsing due to the weight of a seat occupant.” *Id.* at 19.

Claim 1 also requires a rearward layer as a part of an insert that includes a first opening receiving “an attachment component adapted to

receive a blower housing.” IGB’s first approach in accounting for that “attachment component” feature is to rely on Larsson’s “bellows 41.” *Id.* at 19–20. Alternatively, IGB relies on Pfahler. IGB points to Pfahler’s fan 19 and associated sleeve 20. IGB reasons that it would have been obvious to one of ordinary skill in the art to incorporate Pfahler’s fan and sleeve configuration into the vehicle seat of Larsson. *Id.* at 31–32.

With respect to claim 6, IGB turns to Bell as showing the particular heater component required by the claim, namely a “thermoelectric” heater element. *Id.* at 55. IGB reasons that it would have been obvious to substitute Bell’s thermoelectric heater for the electric heater set forth in Larsson in providing heat to a vehicle seat. *Id.* at 55–56.

b. Gentherm’s Contentions

Gentherm does not agree with IGB that the prior art, on which trial was instituted in this proceeding, renders claims 1–6 unpatentable. In expressing that disagreement, Gentherm contends that: (1) Larsson does not disclose the “attachment component” required by claim 1 (PO Resp. 17–22); (2) it would not have been obvious to combine the teachings of Larsson and Pfahler to meet the attachment component requirement (*id.* at 22–27); and (3) the combined area relationships required by claims 4 and 5 are not rendered obvious by the involved prior art (*id.* at 27–36).

c. Discussion

i. Whether Larsson discloses the “attachment component” required by claim 1

As noted above, IGB contends that Larsson’s “bellows 41” constitutes the “attachment component” required by claim 1. Pet. 19–20. Gentherm

disputes that contention. On the record now before us, we agree with Gentherm.

As set forth in section II.A above, we construe “attachment component adapted to receive a blower housing” as requiring a component that physically connects the blower housing to another structure. A partial and enlarged version of Larsson’s Figure 2 is reproduced below:

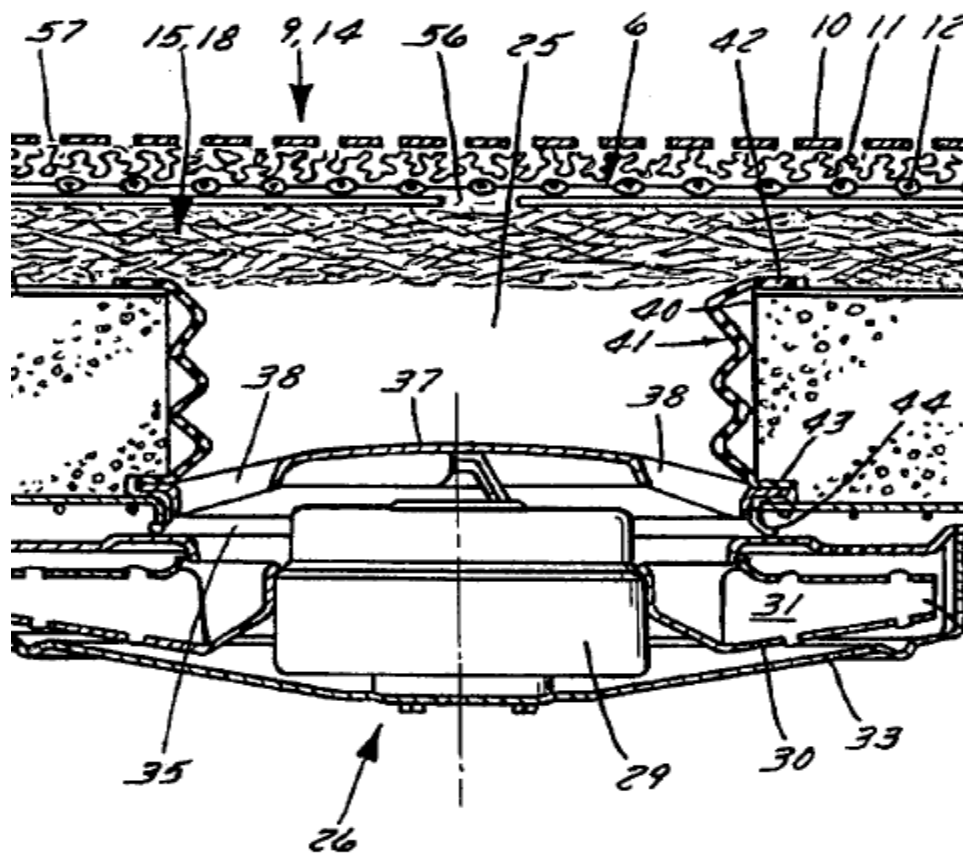


Figure 2 above shows Larsson’s bellows 41 and its configuration in channel 25 above suction device 26. Larsson describes the following with respect to bellows 41 and its function:

To prevent air from leaking to the suction device through pores in the filling material 7, the device in FIG. 2 according to a special characteristic of the invention has a bellows 41 of

rubber of other elastic material which forms a tight wall in the channel 25. The bellows starts at the supporting surface 24 on the filling against which bears the tight layer 17 of the insert so that it overlaps and seals the upper flange 42 of the bellows, and extends down to the inlet 35 of the suction device where the bellows forms partly a double profile 43 extending around an edge on the protection plate 37, which profile seals against the sheet-metal plate 36, partly a downwardly directed lip 44 which prevents air from leaking radially inwards to the inlet.

Ex. 1004, 5:59–6:4.

As set forth above, bellows 41 is made of rubber or elastic material, and has a specific and dedicated purpose in preventing the radially inward leakage of air. In accomplishing that purpose, bellows 41 starts at supporting surface 24 and extends to protection plate 37 culminating in “double profile 43” for sealing against sheet-metal plate 36. Bellows 41, thus, is a component operating to form a seal. It does not serve to physically connect the blower housing to any structure. We note that, as disclosed in Larsson, suction device 26 is attached separately to “carrying means in the frame of the vehicle chair.” *Id.* at 4:35–39; *see* Ex. 2001 ¶ 42. Because bellows 41 does not connect the blower housing to another structure, the bellows cannot be considered credibly as forming the required attachment component.

More specifically, although double profile portion 43 of bellows 41 may touch or contact some structure associated with suction device 26, we are not persuaded that such contact amounts to physically connecting the suction device to some other structure. To that end, we do not discern that bellows 41 forms an “attachment component adapted to receive a blower housing” as is required by claim 1. We note also the testimony of Dr. Rice, that Larsson’s bellows 41 does not amount to the required “attachment

component.” Ex. 2001 ¶¶ 37–43. Although IGB contends that during cross examination of Dr. Rice, he “confirmed that the bellows 41 provides a connection to the air mover of Larsson” (Pet. Reply 3), we do not discern that Dr. Rice’s recognition that Larsson’s bellows 41 may contact some portion of Larsson’s suction device constitutes testimony that the bellows is the required attachment component. We are not persuaded by IGB that Dr. Rice’s testimony in his Declaration that bellows 41 does not form the required “attachment component” should be discounted.

Accordingly, upon review of the present record, we conclude that Larsson’s bellows 41 is not the attachment component set forth in claim 1.

ii. Whether Larsson and Pfahler may be combined to account for the required “attachment component”

Although we conclude that Larsson’s bellows 41 does not form the attachment component required by claim 1, IGB presents an alternate theory that Pfahler discloses an attachment component, and that when Pfahler’s teachings are combined with those of Larsson the required attachment component feature of claim 1 is met. For the reasons below, we are not persuaded that the record before us supports a determination that the combination of Larsson’s teachings and those of Pfahler as presented by IGB satisfies the attachment component feature of claim 1.

In the Petition, IGB argued the following:

It would have been obvious to one of ordinary skill in the art at the time of the invention that resulted in the ‘573 patent to modify the disclosure of Larsson as taught by Pfahler by substituting the sleeve 20 and fan 19 of Pfahler for the bellows 41 and suction device 26 of Larsson, because both references disclose providing an air moving device in a channel connected to the opening in the rearward layer of a ventilated insert, and

Pfahler teaches an improvement in which the fan is suspendedly attached to the attachment component at the opening in the rearward layer in order to dampen vibration (and thus also reducing noise). (Ex. 1007: col. 3, ll. 9-11).

Pet. 31–32.

The portion of Pfahler referenced by IGB describes simply that “[e]ach miniature fan 19 is suspended with its fan housing in a plastic cylindrical sleeve 20 so as to damp the vibration.” Ex. 1007, 3:9–11. Evidently, IGB extrapolates an added noise reduction benefit from that portion of Pfahler, but does not point to content of the record linking vibration dampening with noise reduction.

In any event, even assuming that the configuration of Pfahler’s sleeve 20 and fan 19 does realize some benefit of vibration dampening and noise reduction, careful review of IGB’s proposed substitution of Pfahler’s sleeve 20 and fan 19 for Larsson’s bellows 41 and suction device 26 raises issues tending to undermine IGB’s obviousness position vis-à-vis the claims of the ’573 patent. In that regard, as noted by Gentherm (PO Resp. 18–19, 24), and as testified to by Dr. Rice (Ex. 2001 ¶¶ 39, 52), Larsson places considerable emphasis as a part of its disclosed invention on the sealing benefit provided by bellows 41. Indeed, Larsson makes clear that bellows 41 is a “special characteristic of the invention” and “prevent[s] air from leaking to the suction device through pores in the filling material” that surrounds channel 25. Ex. 1004, 5:59–63. The leakage prevention is described as acting in concert “with the low flow resistance of the insert 15” to demonstrate “improved efficiency” of Larsson’s device. *Id.* at 6:47–54.

The underlying premise of IGB’s combination incorporating Larsson and Pfahler, however, is that one of ordinary skill in the art would have

omitted bellows 41, i.e., the very component in Larsson characterized as a “special characteristic of the invention,” and substituted sleeve 20 therefor. IGB does not offer, as a part of its Petition or Reply, an adequate explanation, or point to record evidence, tending to show that a skilled artisan would have viewed Pfahler’s sleeve 20 as a component interchangeable with Larsson’s bellows 41. Yet, such interchangeability lies at the heart of IGB’s assertion of obviousness stemming from the combination of Larsson and Pfahler. IGB does not point to content of the record demonstrating that Pfahler’s sleeve 20 is understood as also operating as a sealing component. Indeed, we observe that, in contrast with Larsson’s bellows 41, sleeve 20 is configured with a closed upper end and multiple “oblong holes 28” for distributing air in a circumferential direction. Ex. 1004, 3:45–46, 55–65, Fig. 2; see Ex. 2001 ¶ 49. In that respect, due to the particular positioning and configuration of sleeve 20 in Pfahler’s cushion assembly, the sleeve is not understood as providing the type of sealing that is attributed to Larsson’s bellows 41.

It is clear from Larsson’s disclosure that the sealing function provided by bellows 41 in conjunction with the resistance characteristics of insert 15 and the operation of suction device 26 achieves Larsson’s stated goal of improved efficiency through desired “distribution of negative pressure and airflow.” Ex. 1007, 6:46–57. IGB’s proposal to substitute Pfahler’s fan 19 and sleeve 20 for bellows 41 and suction device 26 seemingly would frustrate Larsson’s objectives, in substituting components that are not recognized as providing the same functionality. In that respect, we share Gentherm’s (PO Resp. 22–27) and Dr. Rice’s (Ex. 2001 ¶¶ 53–57) view that

one of ordinary skill would have been discouraged from implementing the combination of Larsson and Pfahler in the manner proposed by IGB.

In considering the totality of the record now before us, we conclude that the combination of Larsson and Pfahler's teachings proposed by IGB amounts not to an evaluation of what the prior art would have suggested to a skilled artisan, but is instead an impermissible exercise of hindsight in an attempt to account for the "attachment component" feature that is required by all of the claims of the '573 patent. *See W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553 (Fed. Cir. 1983) ("To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the inventor taught is used against its teacher.") IGB also does not rely on either Gendron or Bell to make up for the deficiencies of Larsson and Pfahler noted above in connection with the "attachment component" feature.

d. Summary

We have considered carefully the record now before us. For the forgoing reasons, we are not persuaded that IGB has established by a preponderance of evidence that claims 1–5 are unpatentable in light of the teachings of Larsson, Gendron, and Pfahler. IGB adds Bell in connection with its proposed ground of unpatentability for claim 6. We also are not persuaded that IGB has established by a preponderance of evidence that claim 6 is unpatentable in light of the teachings of Larsson, Gendron, Pfahler, and Bell.

III. CONCLUSION

We determine that IGB has not shown by a preponderance of the evidence that claims 1–5 would have been obvious over Larsson, Gendron, and Pfahler, or that claim 6 would have been obvious over Larsson, Gendron, Pfahler, and Bell.

IV. ORDER

After due consideration of the record before us, it is:

ORDERED that claims 1–5 of the '573 patent are not held unpatentable based on Larsson, Gendron, and Pfahler, and claim 6 is not held unpatentable based on Larsson, Gendron, Pfahler, and Bell.

This is a Final Written Decision. Parties to the proceeding seeking judicial review of the decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

IPR2014-00667
Patent 7,637,573 B2

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