

EVENFLO COMPANY, INC.,

Petitioner,

v.

BABY JOGGER II, LLC,

Patent Owner.

IPR2025-01122 (Patent 11,731,682)

IPR2025-01140 (Patent 11,577,771)

Patent Owner's Demonstrative Exhibit

Background

(Slides 3-4)

Priority

(Slides 5-34)

Offord '341 + Offord '797

(Slides 35-41)

Gotting + Britax

(Slides 42-50)

“Either ... or” + Rolicki

(Slides 51-55)

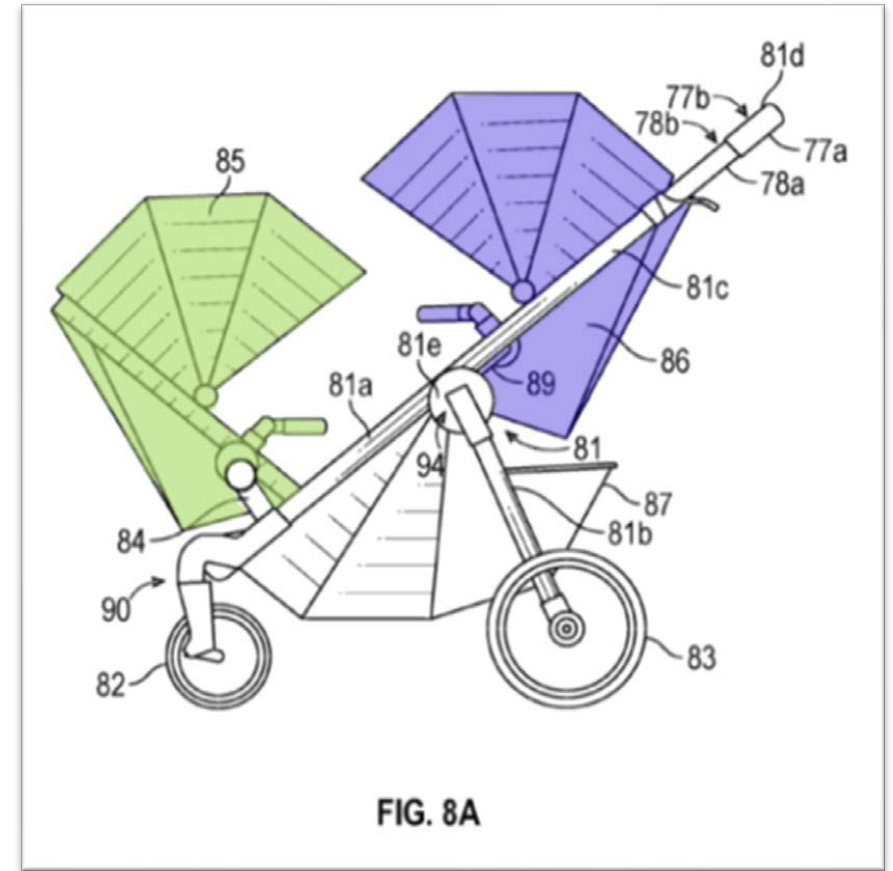
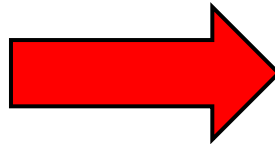
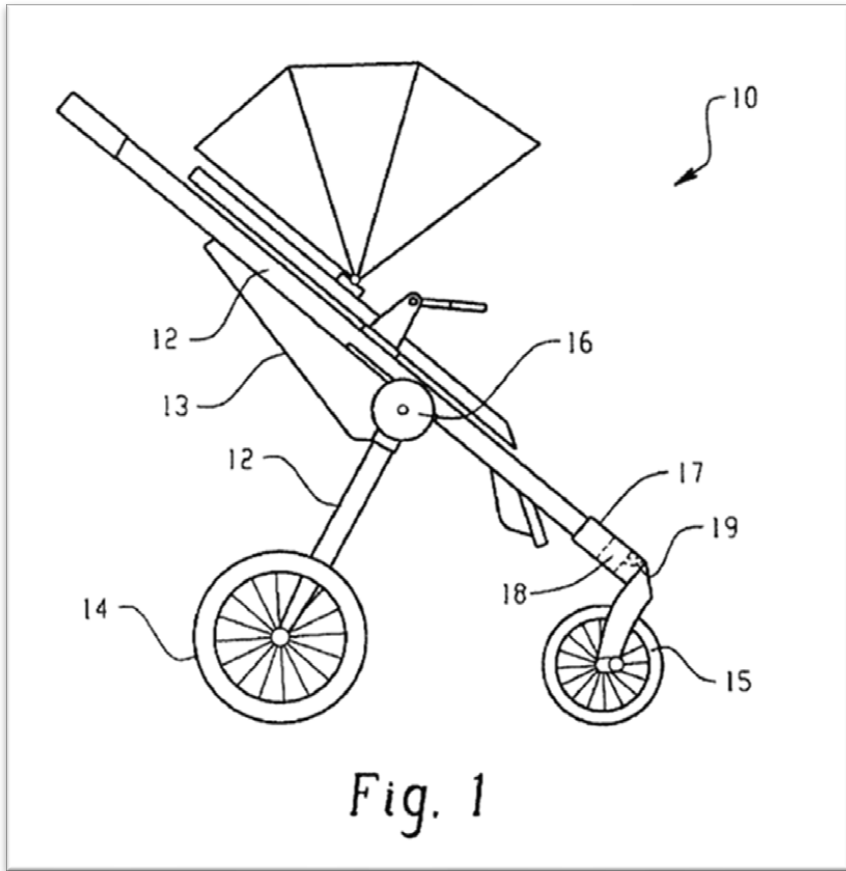
Liao

(Slides 56-66)

Mr. Prairie's Opinions

(Slides 67-79)

Background: Baby Jogger's Patents



Background: The Petitioner's Burden on Priority

1. Burden of persuasion:

Petitioner must prove “unpatentability by a preponderance of the evidence,” and that burden “never shifts to the patentee.

2. Burden of production:

Petitioner

Patent Owner

(i) Evidence of anticipating prior art



(ii) Evidence that claim entitled to the benefit of a filing date prior to the alleged prior art

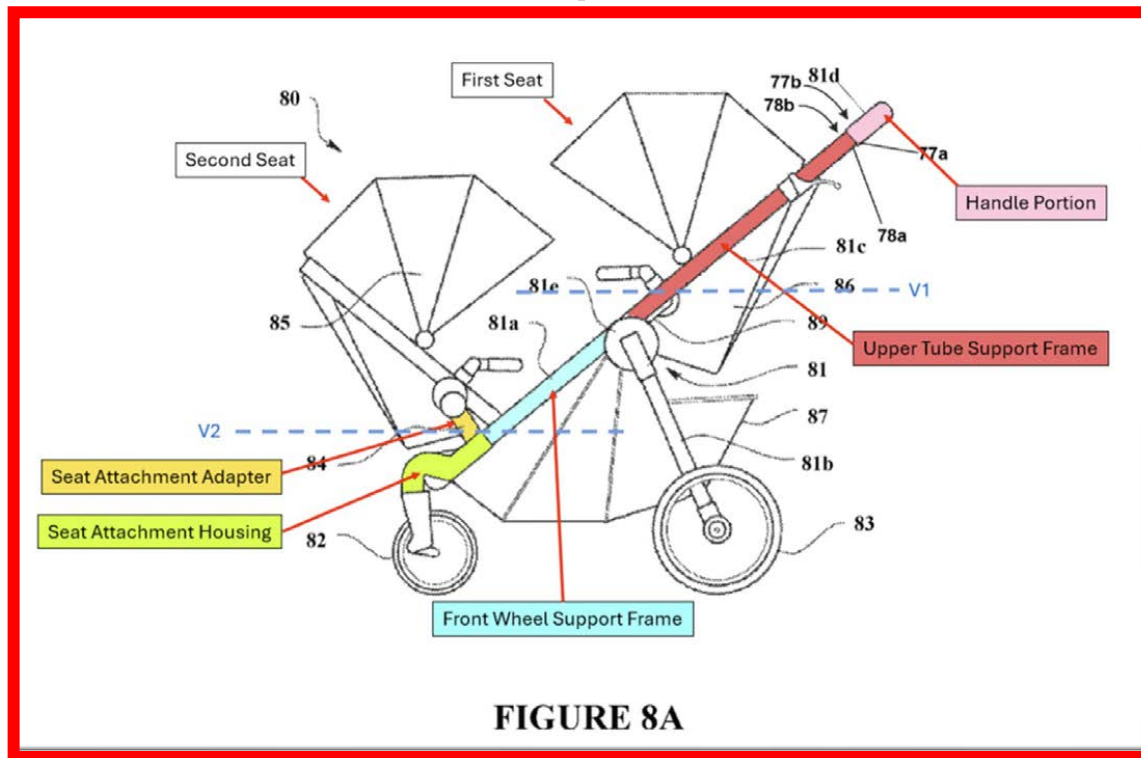
(iii) Prove claim not entitled to benefit



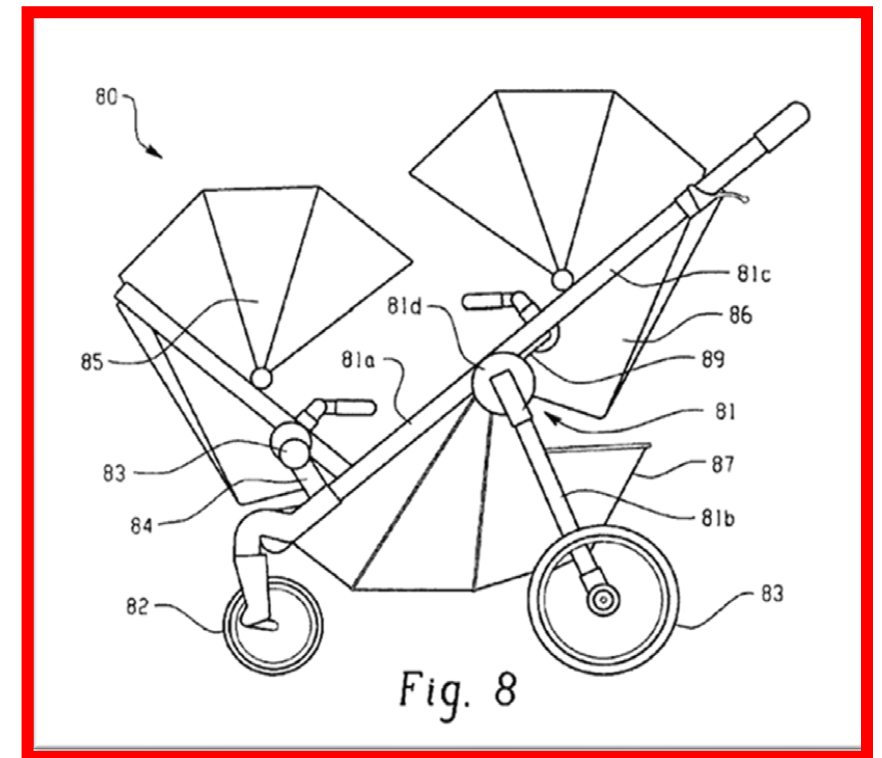
Priority

Priority: The Basic Premise

Petitioner:
Structures are present here



... but not here

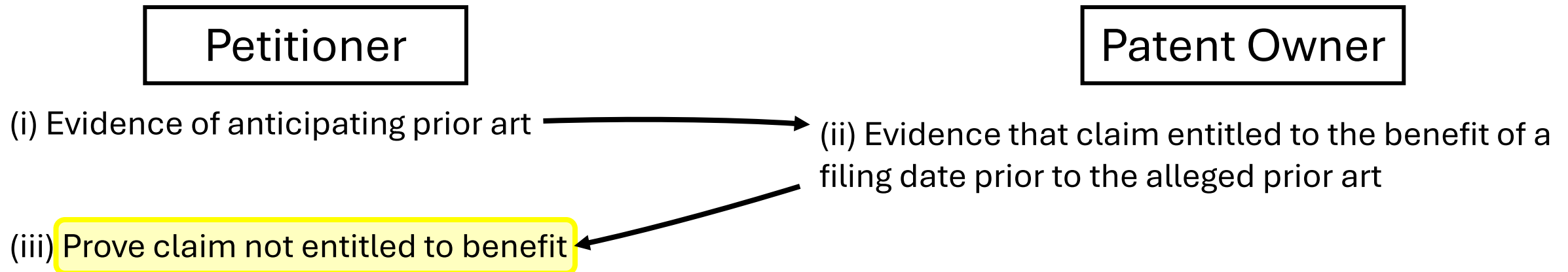


Priority: The Two Distinct Burdens of Proof

1. Burden of persuasion:

Petitioner must prove “unpatentability by a preponderance of the evidence,” and that burden “never shifts to the patentee.

2. Burden of production:



Priority: How Do You Prove Claim Not Entitled to Benefit?

A: Conduct “an objective inquiry into the **four corners** of the specification” to determine whether the disclosure “reasonably conveys to [a POSA] that the inventor had possession of the claimed subject matter.”

Priority: How Do You Prove Claim Not Entitled to Benefit?

Four Corners does not include:

“[A]dditional explanations” or “new embodiments” added to a CIP

Stryker points to the inclusion of a new embodiment in the specification as evidence that the original disclosure would not satisfy the written description requirement. (D.I. 320 at 5; D.I. 359 at 11). However, the test is not whether the claims may also find support in new matter, but whether the original disclosure is sufficient to support the claims. *PowerOasis*, 522 F.3d at 1306. Here, I determine that the original disclosure of the '425 patent provides sufficient written description for the reissue claims.

Zimmer Surgical, Inc. v. Stryker Corp., 365 F. Supp. 3d 466, 482 (D. Del. 2019)

20 Next, Groupon relies on the prosecution history of the '516 patent and notes that the terms “endorsement tag” and “token” were added after the examiner rejected the claims. The amendments to which Groupon points, however, consisted of much more than inserting the words “endorsement tag” and “token”; these words were inserted as part of an extensive re-write of all the claims in the application. As such, this observation has little bearing on our analysis. Finally, Groupon notes that shortly after these terms were added to the claims, the inventor filed a continuation-in-part application that included additional explanations related to tags and tokens. This too has little significance because it provides no insight into the relevant inquiry of whether the four corners of the '516 patent provide written description support for the claim terms at issue. We recognize that these arguments could be relevant if they were argued in the context of a claim construction dispute. However, Groupon agreed to a construction of these terms, and the Board effectively acknowledged that the written description is met under that construction. Groupon cannot now dispute a claim construction to which it previously agreed. See *Abbott Labs. v. Syntro Bioresearch, Inc.*, 334 F.3d 1343, 1352 (Fed.Cir.2003). When considered solely in the context of whether the claim terms are adequately supported by the written description, these arguments fail.

Blue Calypso, LLC v. Groupon, Inc., 815 F.3d 1331, 1347 (Fed. Cir. 2016)

Priority: How Do You Prove Claim Not Entitled to Benefit?

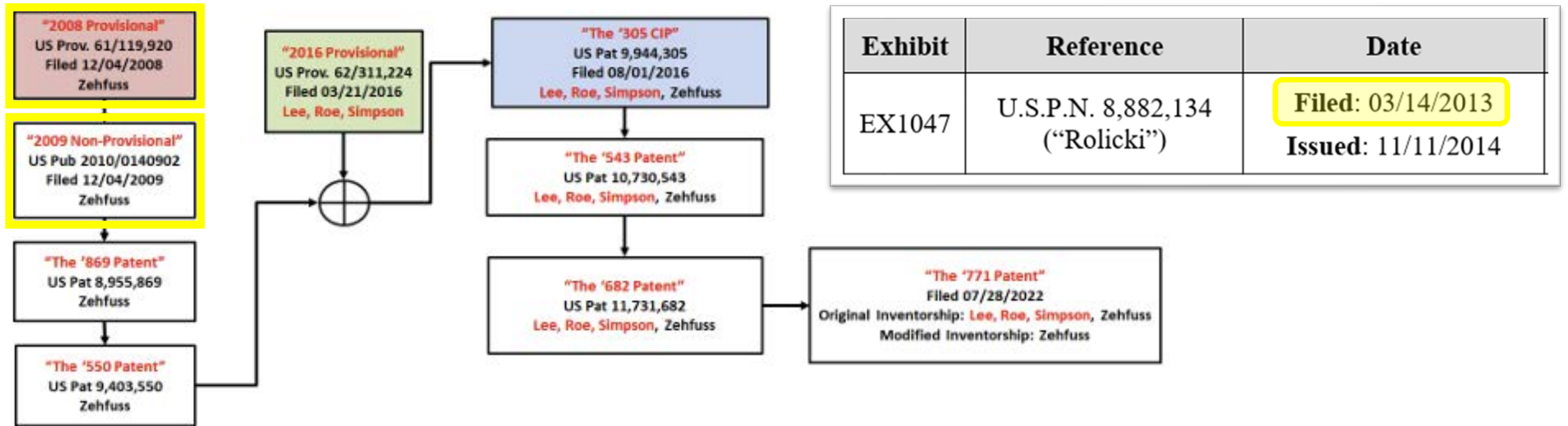
Four Corners does not include:

Prosecution history

DYNA's argument focuses on information from the Inter Partes Review of the  '563 Patent and the prosecution of the patent application that led to the  '563 Patent. Def.'s Mot. at 1. The test for written description requires an "objective inquiry into the four corners of the specification from the perspective of a person of ordinary skill in the art." *Allergan*, 796 F.3d at 1308. DYNA's arguments largely focus on evidence that is outside the four corners of the patent specification, and this evidence "should not form the basis of the written description inquiry." *Id.* at 1309. The Court will not rely on evidence presented relating to the prosecution or Inter Partes Review of the  '563 Patent.²

Priority: How Do You Prove Claim Not Entitled to Benefit?

Four Corners here:



Priority: Petitioner's Evidence is Almost Entirely *Outside* the “Four Corners”

VIII. PRIORITY AND AIA STATUS

A. The Challenged Claims are not entitled to an EFD prior to March 21, 2016

As explained in § V.A. *supra*, the '682 Patent is a continuation application claiming priority to the '305 CIP. (EX1003, 3.) The '305 CIP specification was rewritten to incorporate the disclosure of the 2016 Provisional and bears little resemblance to the originally filed 2009 Non-Provisional specification. (see EX1046.)⁹ The 2016 Provisional lists a new inventive entity (Lee, Roe, Simpson) that is different from the inventive entity of the 2008 Provisional and 2009 Non-Provisional (listing only Zehfuss). No challenge of priority was made by the Examiner during prosecution of the '682 Patent because the “PTO does not make

⁹ EX1046 is a redline comparison between the specification of the 2009 Non-Provisional (EX1003) and the specification of the '305 CIP (EX1007).

VIII. PRIORITY AND AIA STATUS

A. The Challenged Claims are not entitled to an EFD prior to March 21, 2016

As explained in §V.A. *supra*, the '771 Patent is a continuation application claiming priority to the '305 CIP. (EX1011, 1:7-24.) The '305 CIP specification was rewritten to incorporate the disclosure of the 2016 Provisional and bears little resemblance to the originally filed 2009 Non-Provisional specification. (See EX1046.) The 2016 Provisional lists a new inventive entity (Lee, Roe, Simpson) that is different from the inventive entity of the 2008 Provisional and 2009 Non-Provisional (listing only Zehfuss). No challenge of priority was made by the Examiner during prosecution of the '771 Patent because the “PTO does not make such findings as a matter of course in prosecution” unless there is “an interference or rejection which would require the PTO to make a determination of priority.” *PowerOasis, Inc. v. T-Mobile USA, Inc.*, 522 F. 3d 1299, 1305 (Fed. Cir. 2008).

Priority: Petitioner's Evidence is Almost Entirely *Outside* the “Four Corners”

2. The **2016 Provisional** distinctly claims the subject matter belonging to inventors Lee, Roe, and Simpson

1. PO Elected Subject Matter First Disclosed in 2016

1140 Pet. 14

1122 Pet. 19

a. “Seat Attachment Housings/Adapters”

A POSITA would have concluded the PO lacked possession of the recited “seat attachment housings” and “seat attachment adapters,” as nothing prior to the **’305 CIP** informs a POSITA the PO had possession of this claimed subject matter. A POSITA would understand “adapters”/“housings” were added by PO to the **’305 CIP** based on material found only in the **2016 Provisional**. A POSITA would understand “claims” included in the **2016 Provisional** confirm this subject matter was not in the possession of Mr. Zehfuss—the *sole* inventor of the 2008 Provisional. (EX1001, ¶¶190-207.)

1122 Pet. 20

b. The **2016 Provisional** redefines a new “handle portion”

c. The Prosecution History of the **’543 Patent** confirms “handle portion” is not supported by the 2008 Provisional

1122
Reply 8

1122 Reply 11

d. PO’s expert applies the wrong claim construction and **fails to evaluate the written disclosure of the 2016 Provisional**

1122 Reply 13; 1140 Pet. 25

Priority: Petitioner's Evidence is Almost Entirely *Outside* the “Four Corners”

a. The **2016 Provisional** Introduced Substantive New Structures, Not Just “New Labels”

1122 Reply 15

b. The Extensive Revisions in the **'305 CIP** Confirm New Subject Matter

1122 Reply 16

If PO truly possessed housings and adapters in 2008, the 2016 Provisional would not have included a “claim” directed to adapters and housings. And, contrary

1122 Reply 16

c. The **'543 Prosecution History** confirms “handle portion” is not supported by the 2008 Provisional

1140 Reply 23

b. The **2016 Provisional** redefines a new “handle portion”

1140 Reply 21

Priority: Petitioner's Remaining Arguments

Either:

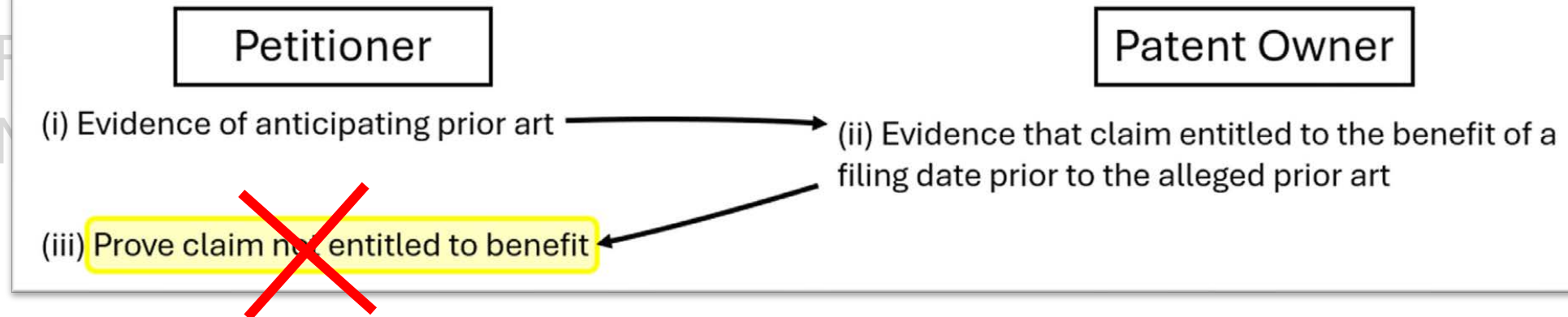
- Rely on word matching;
- Ignore PO's evidence of support;
- Fall back into claim construction; and/or
- Misstate/misapply the law

Priority: Petitioner's Remaining Arguments

Either:

- Poly on word matching:

2. Burden of production:



Relies on word matching:

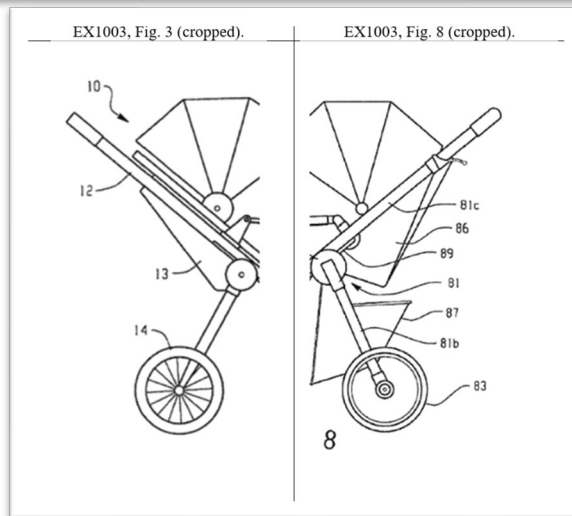
d. Figures 10 and 11 do not cure the deficiency

Figures 10 and 11 of the 2009 Non-Provisional do not provide written description support. (POR, 20-22.) First, the 2008 Provisional did not include these figures. (*See* EX1002.) Second, the written description for these figures was added to the '305 CIP—which became Figures 9 and 10. (See EX1046, 19-20; EX1001, ¶130.) As Mr. Prairie explained, the '305 CIP, in describing Figures 10-11 (i.e., Figures 9-10), **identified them as a “seat support element 84” and “attachment portion 17,” not the claimed “seat attachment adapters” or “seat attachment housings.”** (EX1001, ¶131.) That parallel disclosure, using different reference numerals, confirms the structures are distinct and different. (EX1001, ¶¶132-133.)

Ignores PO's evidence:

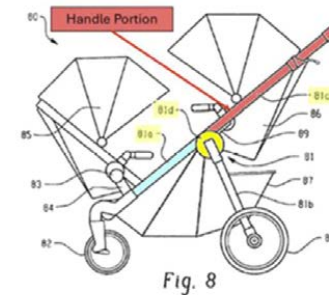
PO

In any case, the 2008 Provisional discloses a “handle portion.” See EX2011 ¶¶ 50-51, 53-57. For example, **Fig. 3** of the 2008 Provisional depicts a stroller 10 having an upper rear structure. See EX1002, **Fig. 3**; see also EX1003, **Fig. 3**; EX2011 ¶ 54. A POSA would recognize that structure as coupled to the left and right upper portions of “frame 12”—satisfying Petitioner’s “redefined definition.”



Petitioner

The pre-2016 specification only disclosed a “folding mechanism 81d” that connected three stroller parts: (1) “front wheel support portion 81a”; (2) “back wheel support portion 81b”; and (3) “handle portion 81c”. (Petition, 21-22; EX1002, 42, ¶33 and **Fig. 8**; EX1003, ¶43; EX1004, 8:49-62.)



ment. Stroller 80 comprises a frame 81 capable of supporting the stroller seat 86. In this embodiment, the frame 81 comprises a front wheel support portion 81a, a back wheel support portion 81b, and a handle portion 81c. The frame 81 of the embodiment of the stroller 80 further comprises a folding mechanism 81d that connects front wheel support portion 81a, a back wheel support portion 81b, and a handle portion 81c. The folding mechanism 81d allows the stroller to be folded in a more compact size for storing or transportation. FIG. 8A shows stroller 80 in a folded configuration.

EX1003 FIG. 8 and ¶0033.

The pre-2016 “handle portion” is more than what a “caregiver...grip[s] [to] push the stroller” (EX2011, ¶50); it is the entire upper bar structure above the “folding mechanism,” used to locate the upper “stroller seat 86” “located adjacent to [the] handle portion 81c.” (EX1002, 42, ¶35 and **Fig. 8**; EX1003, ¶45; EX1004, 9:14-15.)

Falls back into claim construction:

The 2008 Provisional's "connector portions 17" are not "seat attachment housings." The 2008 specification describes them merely as front-mounted features with a "cylindrical recess" into which "[t]he attachment portion 21 may be inserted." (EX1002, 37, 39). As Mr. Prairie testified, a "housing" is an enclosing structural component that "houses something" (EX2100, 94:2-6), entirely absent from the 2008 disclosure. Prior to 2016, there was no adapter, receiving cavity, sliding door, keyed shape, stop flanges, or latching tab, and nothing forming the housing onto the frame. All written-description material for the adapters and housings was introduced in the 2016 Provisional, which not only disclosed these limitations but *claimed adapters and housings* as invented by Lee/Roe/Simpson. (See EX1006, 10-23, Figs. 2-5.)

Ignores PO's evidence + relies on word matching / falls back into claim construction:

PO

Each of the three claimed “vertical position[s]” is shown in Figs. 8 and 9A-9F of the 2008 Provisional. See EX2011 ¶¶ 65-66. In Fig. 8, the stroller seat 86 is positioned at the upper rear of the frame at the “first vertical position.” EX1002 ¶¶ [0035]-[0036]; see also EX1003 ¶ [0045]. Below that position, the seat attachment portion 84 is shown connected to the front wheel support frame 81a—at a lower vertical position. EX1002 ¶ [0036]; see also EX1003 ¶ [0046]. And the connector portions 17 (the housings) are shown at positions along the frame that are below the first seat and closer to the front end of the stroller. See EX1002 ¶ [0020], Figs. 1, 8; see also EX1003 ¶ [0030], Figs. 1, 8.

The 2008 Provisional further describes the relative arrangement: “The seat attachment portion is capable of supporting a second stroller seat in front of the stroller seat 86” and “[t]he front seat may be positioned substantially over the front wheels so the stroller remains stable.” EX1002 ¶ [0036]; see also EX1003 ¶ [0046]. Paragraph [0037] adds: “Preferably, the front seat is located substantially over the front wheels and the back seat is located substantially over the rear wheels.” EX1002 ¶ [0037]; see also EX1003 ¶ [0048].

Petitioner

The passages PO cites describe a front-to-rear arrangement, not the claimed vertical one. (EX1002, ¶37.) They place one seat ahead of the other and say nothing of housings coupled to the frame at successively lower positions. The “vertical position” labels in PO’s annotated Figure 8 are overlaid on the drawing, not the disclosure. The claimed relationship appears for the first time in the 2016 Provisional. (EX1006, 10-11; EX1001, ¶¶188-189.)

Ignores PO's evidence:

PO

was in possession of the claimed invention as a whole.” MPEP § 2163.02. Thus, even in the absence of textual recitation of “substantially within a plane,” the text and figures of the pre-2016 filings can and do independently satisfy the written description requirement for the contested limitations.

A POSA would understand that the frame members on either side of the folding mechanism 81d can be “folded into a more compact size for storing or transportation,” as shown in Fig. 8A. EX1003 ¶ [0043]. The very presence of a folding mechanism means the frame members (and thus the handle portion and the front end portion) are designed to pivot relative to one another—they can be in the plane (as in Fig. 8) or out of the plane (as in Fig. 8A). EX2011 ¶ 68. A POSA would thus recognize that Fig. 8 does not depict a monolithic, rigidly planar structure, but rather an articulable frame whose members extend substantially within a plane when the stroller is in its open, deployed configuration. *See Id.*

Petitioner

(EX2011, ¶68.) That a folding mechanism may tend to introduce slight deviations does not show that Figure 8 necessarily discloses the claimed “substantially within a plane” relationship. The Federal Circuit has rejected such reasoning, holding that “testimony from a skilled artisan as to possibilities or probabilities” cannot supply written description support, “lest such testimony could effectively eliminate the written description requirement.” *Novartis Pharms. Corp. v. Accord Healthcare, Inc.*, 38 F.4th 1013, 1017 (Fed. Cir. 2022).

Ignores PO's evidence:

P

was in possession of the claimed invention even in the absence of textual recitation and figures of the pre-2016 filings. The description requirement for the claim

A POSA would understand that the folding mechanism 81d can be “folded for transportation,” as shown in Fig. 8. The folding mechanism means the frame (the front end portion) are designed to pivot in a plane (as in Fig. 8) or out of the plane. A POSA would thus recognize that Fig. 8 depicts a structure, but rather an articulable structure within a plane when the stroller is

iii. Petitioner leaves the operative testimony unrebutted

Petitioner challenges the legal sufficiency of Dr. Cameron’s opinions but never engages their substance. It does not dispute that:

- “any frame with a folding mechanism ... will not be mathematically perfectly planar” and “there will be deviations” (EX2011 ¶ 68);
- Figure 8 of the 2008 Provisional depicts such a frame (EX2011 ¶ 68);
- a POSA reads the figures as “present[ing] a schematic view,” not a literal, dimensioned embodiment (EX2011 ¶ 69); or
- the technology is of low complexity and high predictability, with “no technical challenges to make a non-strictly planar alignment” (EX2011 ¶ 70).

This unrebutted testimony establishes that a POSA would read Figure 8 as disclosing support members extending substantially—i.e., not perfectly—within a plane. Petitioner’s insistence that the 2008 figures “affirmatively teach strict

tioner

ism may tend to introduce slight deviations. The court discloses the claimed “substantially within” language. The court has rejected such reasoning, holding that “possibilities or probabilities” cannot supply the missing testimony could effectively eliminate the claim. *Artis Pharms. Corp. v. Accord Healthcare, Inc.*, 2022 WL 1122222 (22).

Misstates/misapplies the law:

Petitioner

Moreover, neither Figure 8 nor the disclosure identifies any tolerance, range, or functional basis for assessing out-of-plane deviations, nor does it teach that the frame could not be held in a strict planar relationship. Without any teaching that minor non-planarity is possible or permitted, a POSITA would have no basis to understand the claimed boundary. The Federal Circuit rejects reliance on narrow disclosure to support broader claims where the added scope is undescribed, particularly where the broader claim introduces previously unmentioned variability. *Tronzo v. Biomet, Inc.*, 156 F.3d 1154, 1159-1160 (Fed. Cir. 1998); *LizardTech, Inc. v. Earth Res. Mapping, Inc.*, 424 F.3d 1336, 1344-1345 (Fed. Cir. 2005).

LizardTech

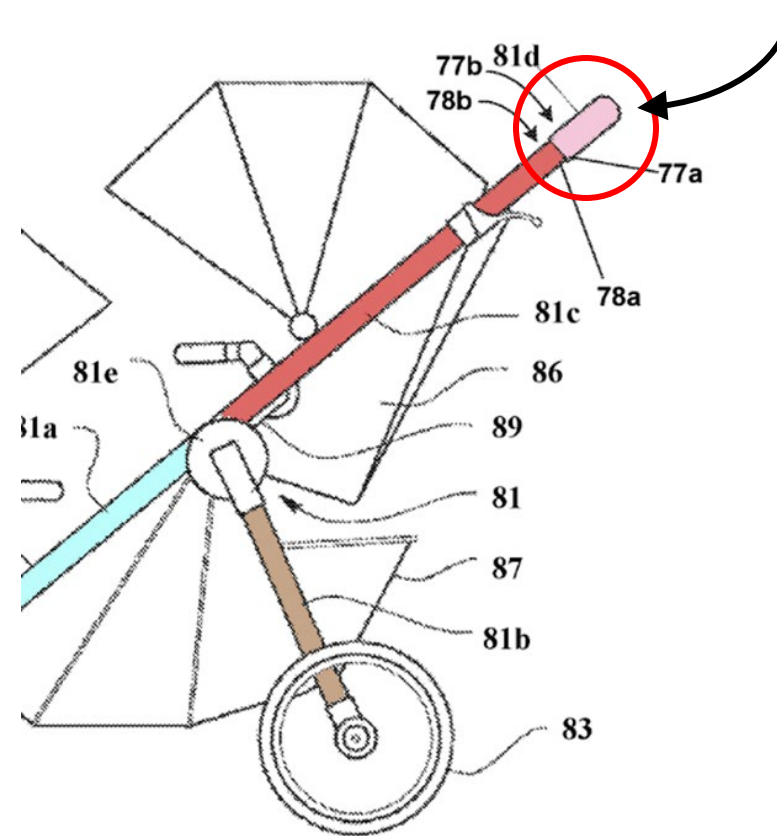
6 Claim 21 is directed to creating a seamless array of DWT coefficients generically. The specification, however, is directed at describing a particular method for creating a seamless DWT, as opposed to using the disfavored, nonseamless prior art, and it teaches only that method of creating a seamless array. While the embodiment in LizardTech's specification covers only one way of creating a seamless DWT, claim 21 is not invalid simply for that reason. A claim will not be invalidated on section 112 grounds simply because the embodiments of the specification do not contain examples explicitly covering the full scope of the claim language. See *Union Oil Co. v. Atl. Richfield Co.*, 208 F.3d 989, 997 (Fed.Cir.2000). That is because the patent specification is written for a person of skill in the art, and such a person comes to the patent with the knowledge of what has come before. *In re GPAC Inc.*, 57 F.3d 1573, 1579 (Fed.Cir.1995). Placed in that context, it is unnecessary to spell out every detail of the invention in the specification; only enough must be included to convince a person of skill in the art that the inventor possessed the invention and to enable such a person to make and use the invention without undue experimentation. In this case, however, LizardTech

LizardTech, Inc. v. Earth Res. Mapping, Inc., 424 F.3d 1336, 1344-1345 (Fed. Cir. 2005)

Every Element is Present in the 2008/2009 Filings

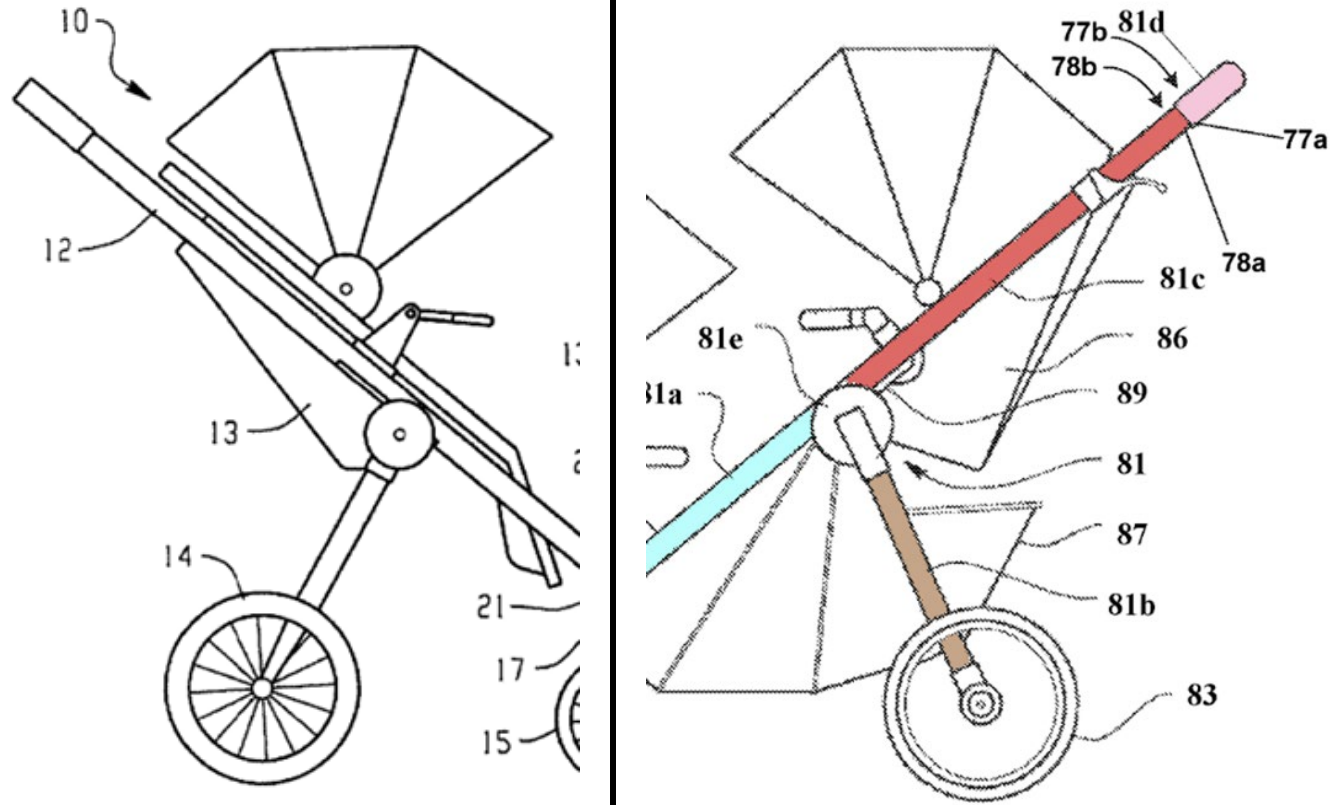
Priority: Handle Portion

Petitioner's mapping



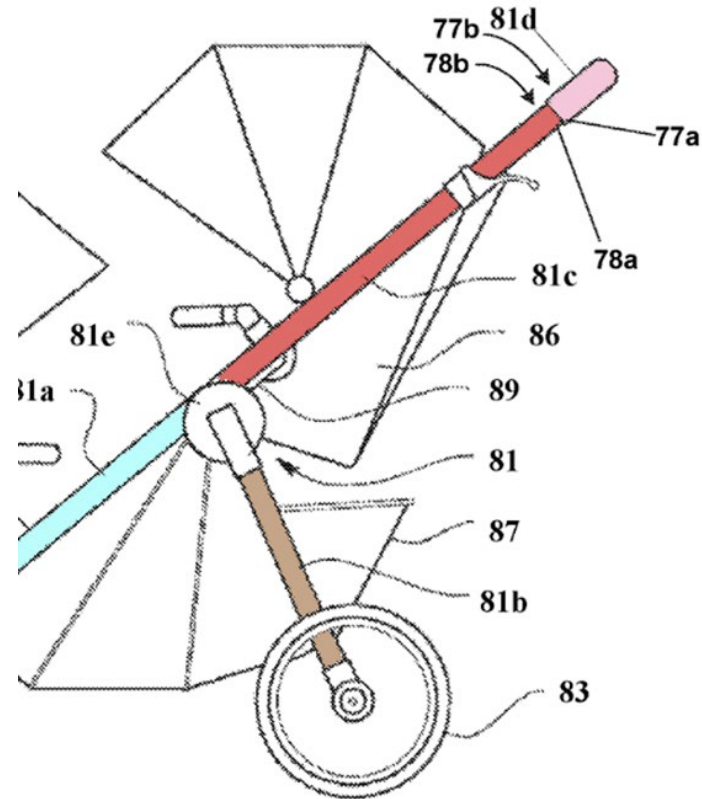
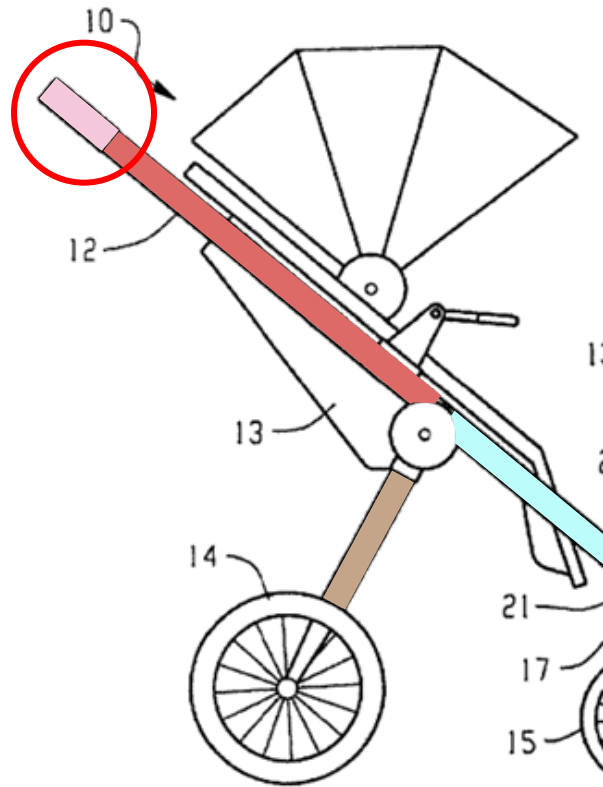
Priority: Handle Portion

‘902 Publication Fig. 3



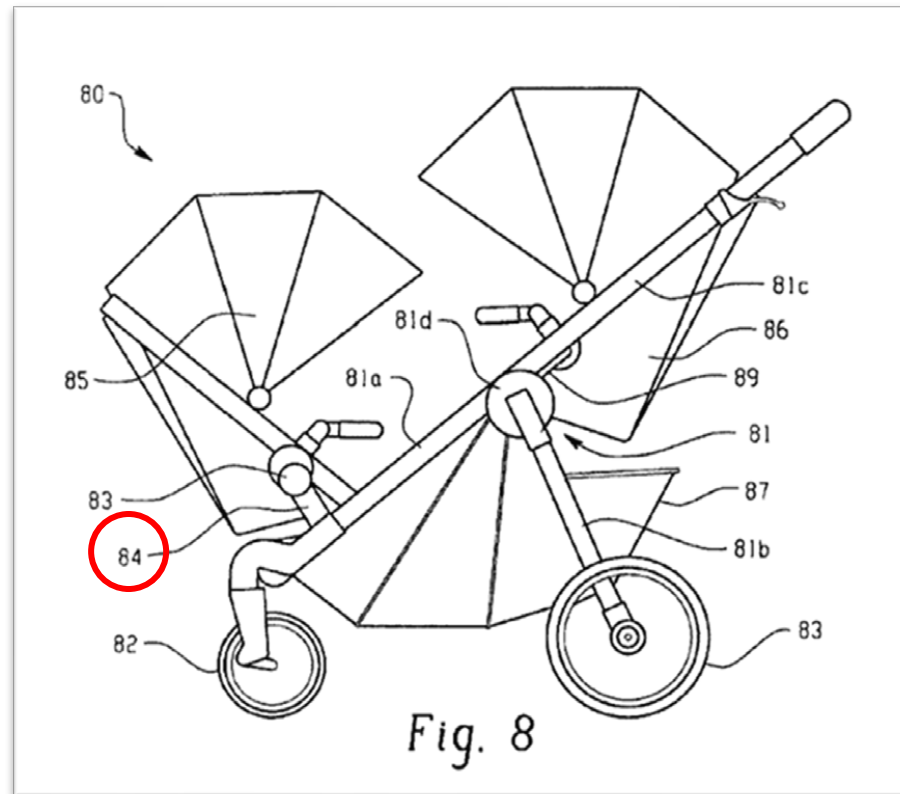
Priority: Handle Portion

'902 Publication Fig. 3

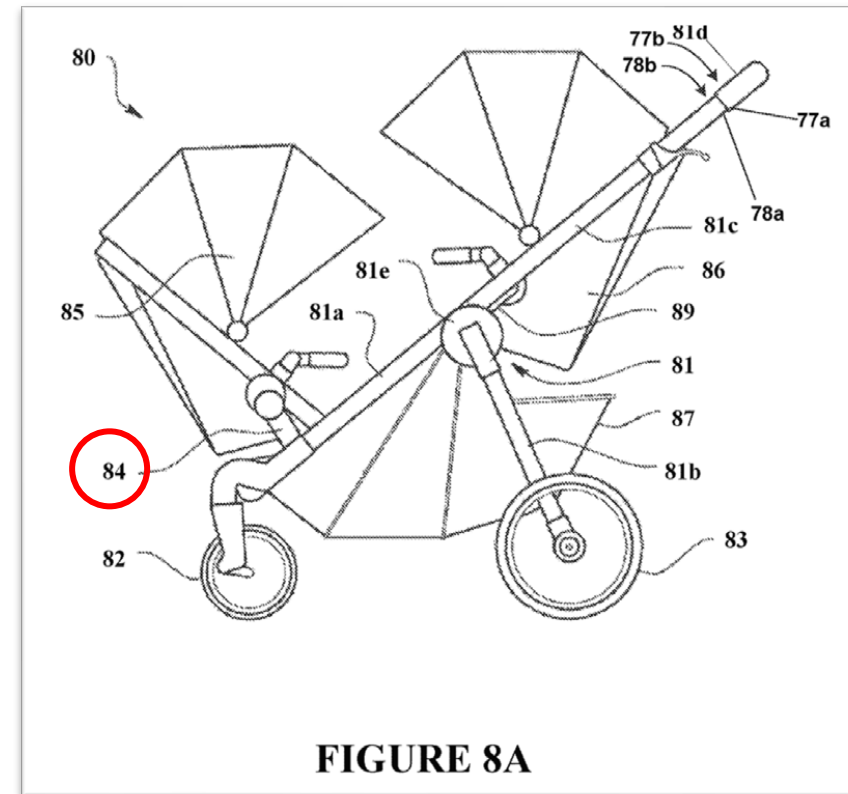


Priority: Seat Attachment Adapters

'902 Publication

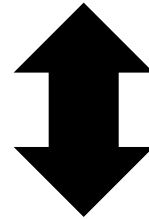


'682 Patent



Priority: Seat Attachment Adapters

Petitioner: using different reference numerals, confirms the structures are distinct and different. (EX1001, ¶¶132-133.)

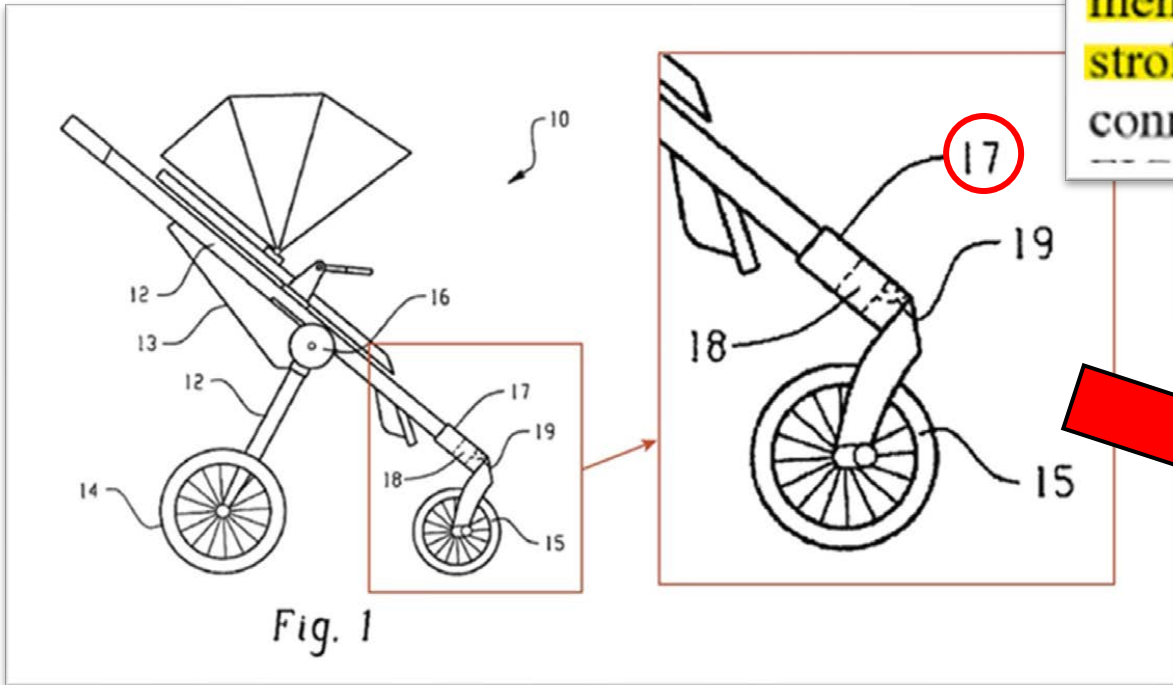


... using the same reference numeral confirms the structures are the same

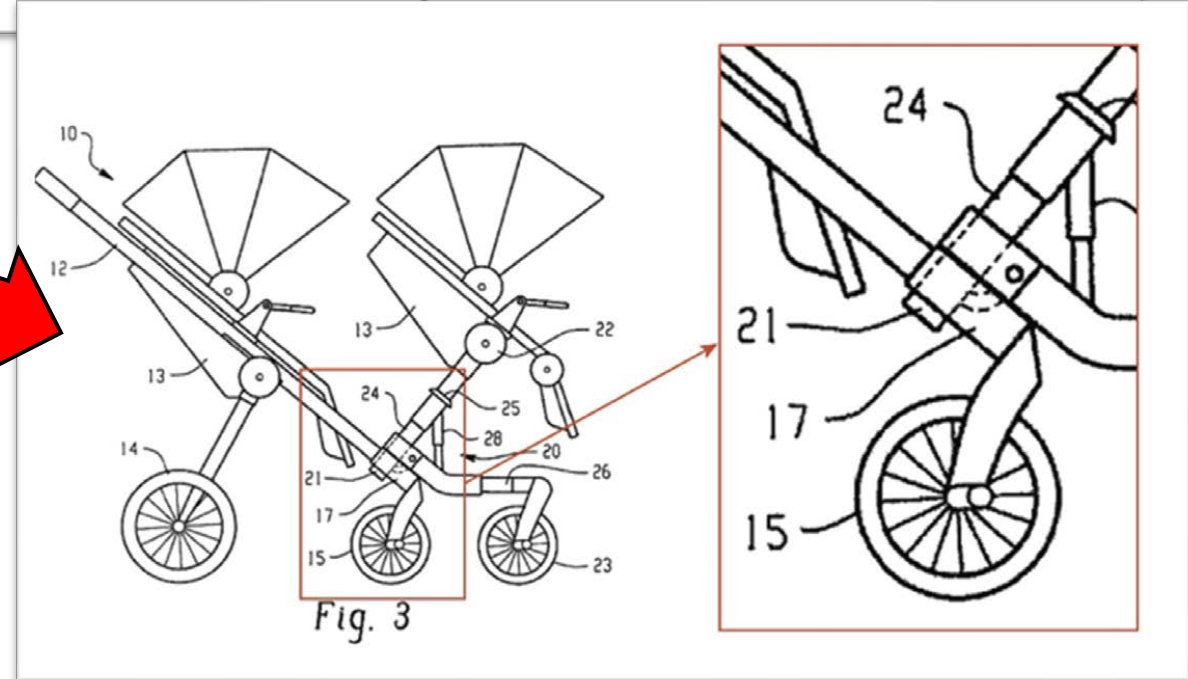
Fig. 8

FIGURE 8A

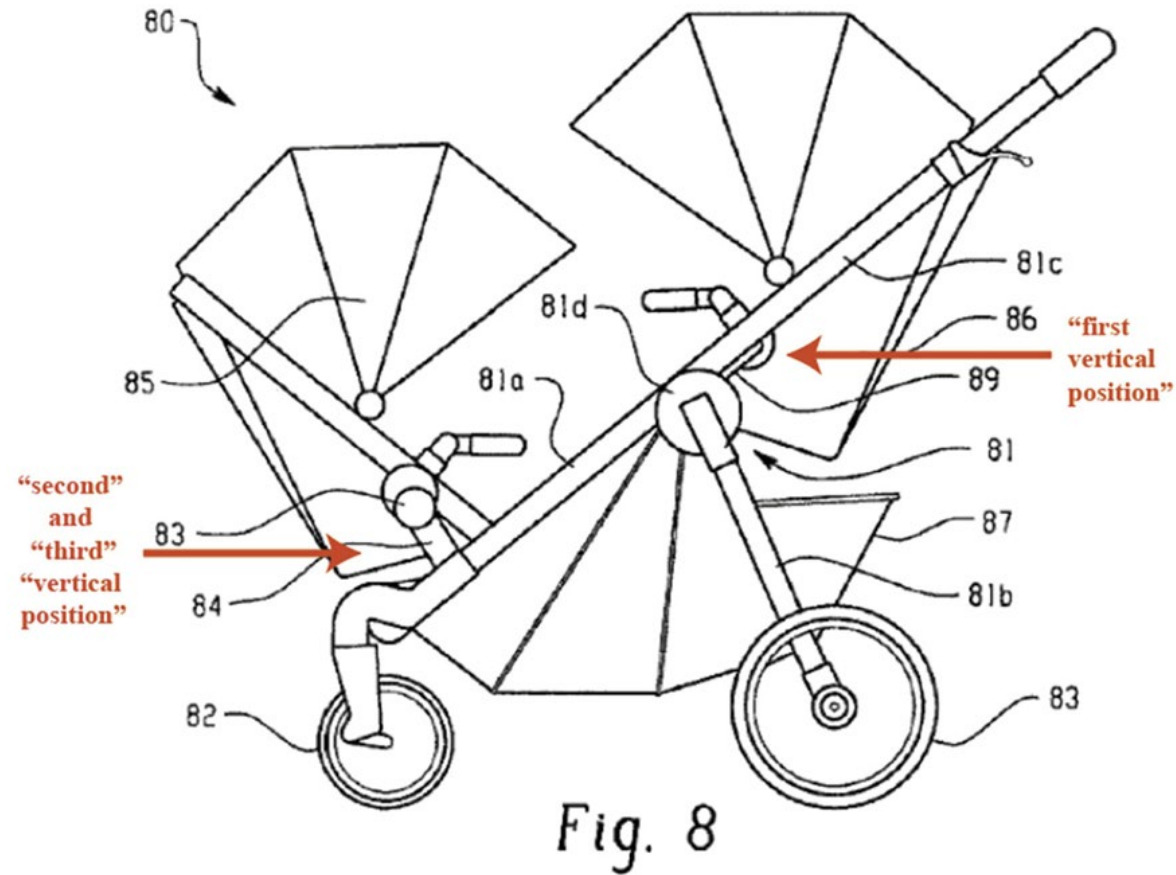
Priority: Seat Attachment Housings



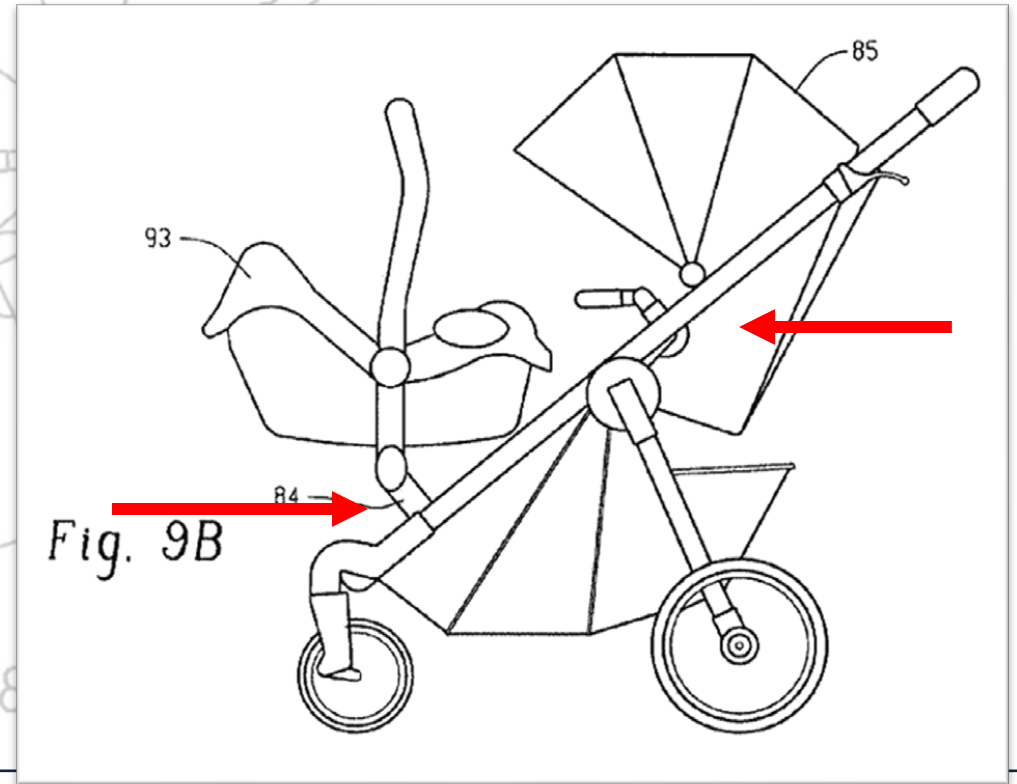
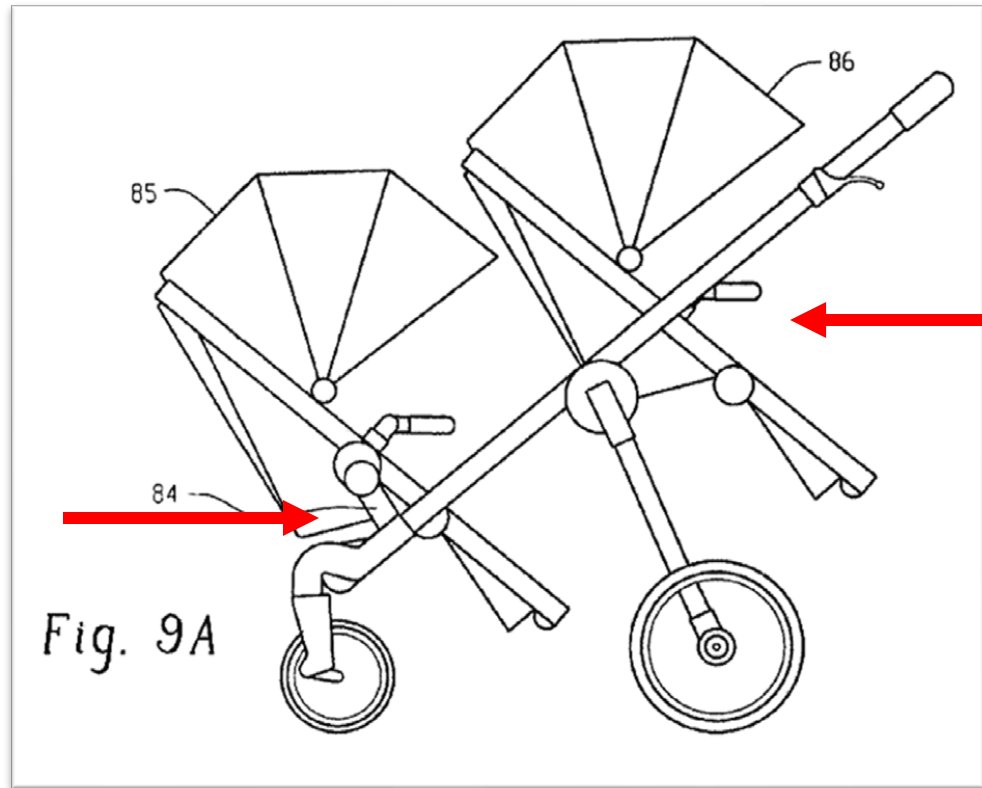
10. The attachment frame members 17 allow a seat attachment such as the seat attachment for converting the single stroller 10 to a double stroller, as shown in FIG. 3, to be connected to the stroller. Only one seat attachment is shown in



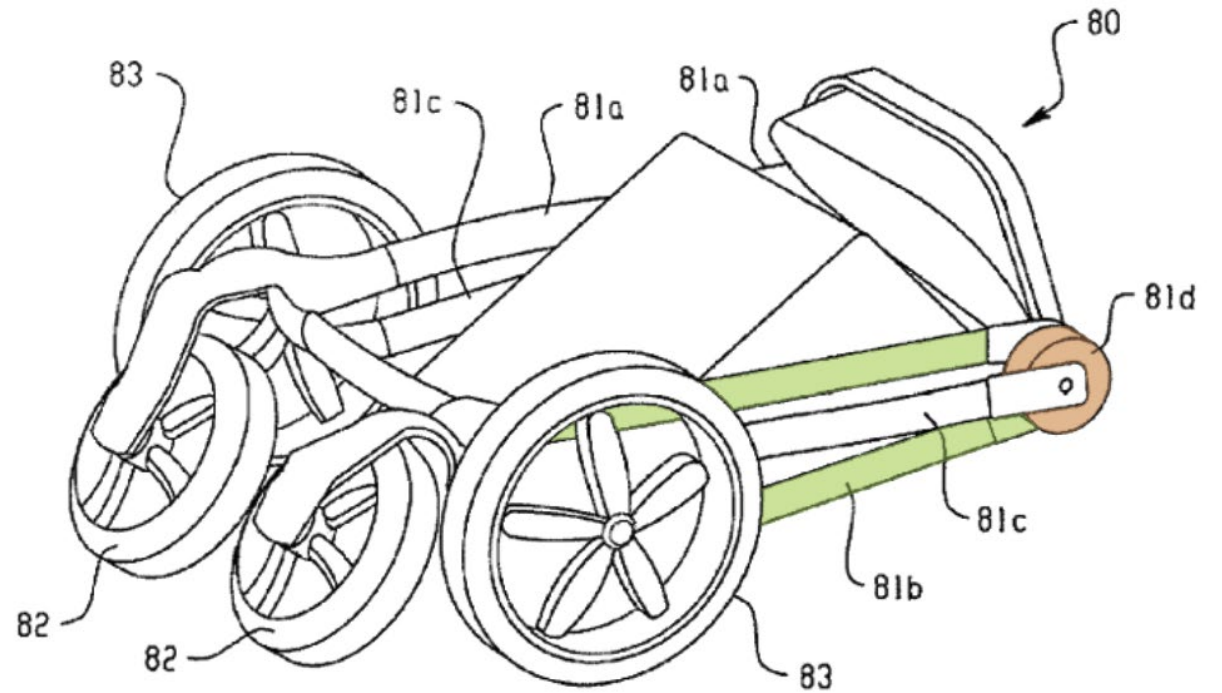
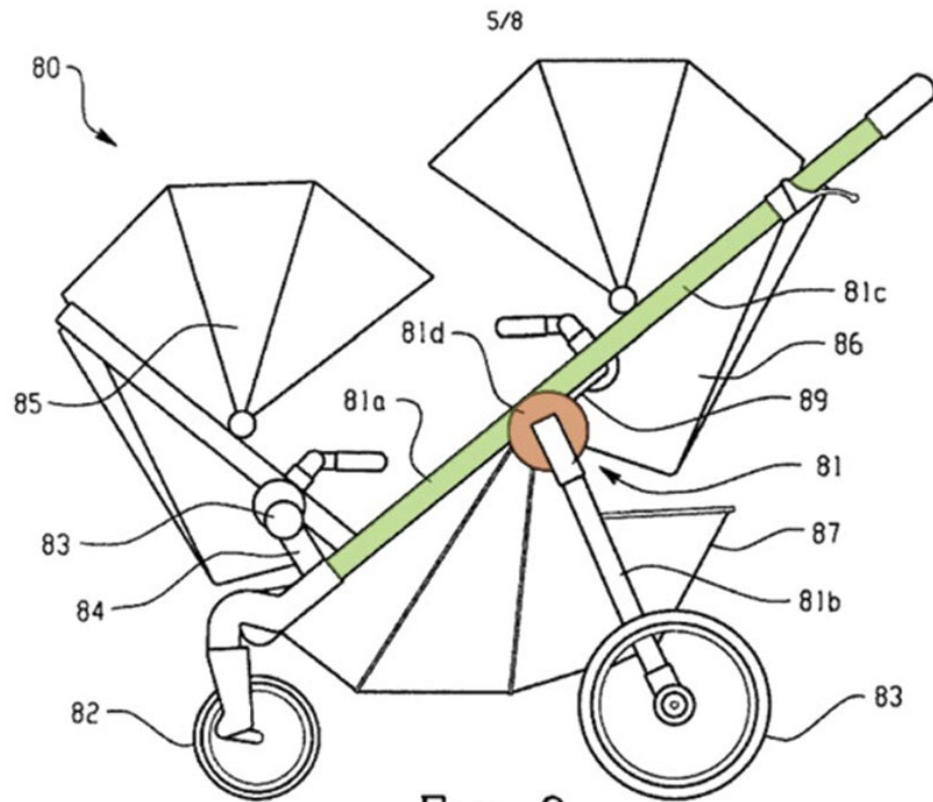
Priority: Vertical Positions



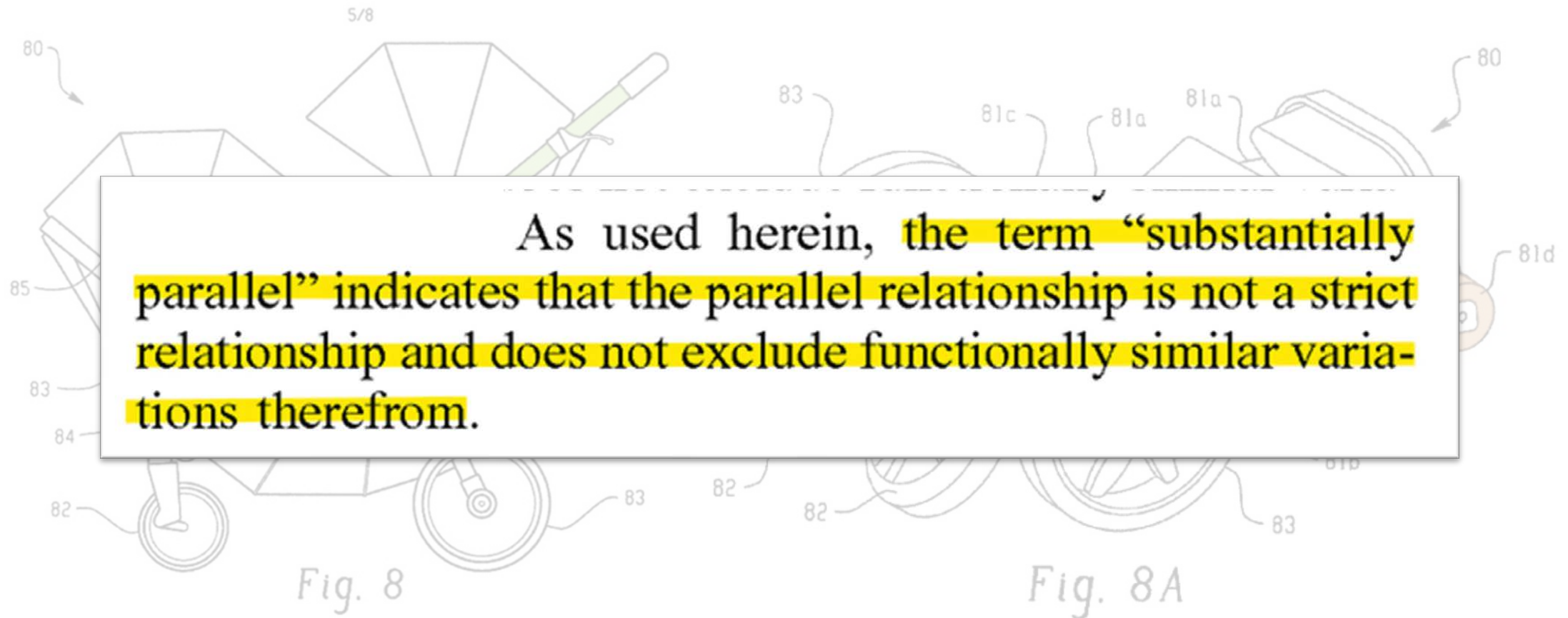
Priority: Vertical Positions



Priority: Substantially Within a Plane



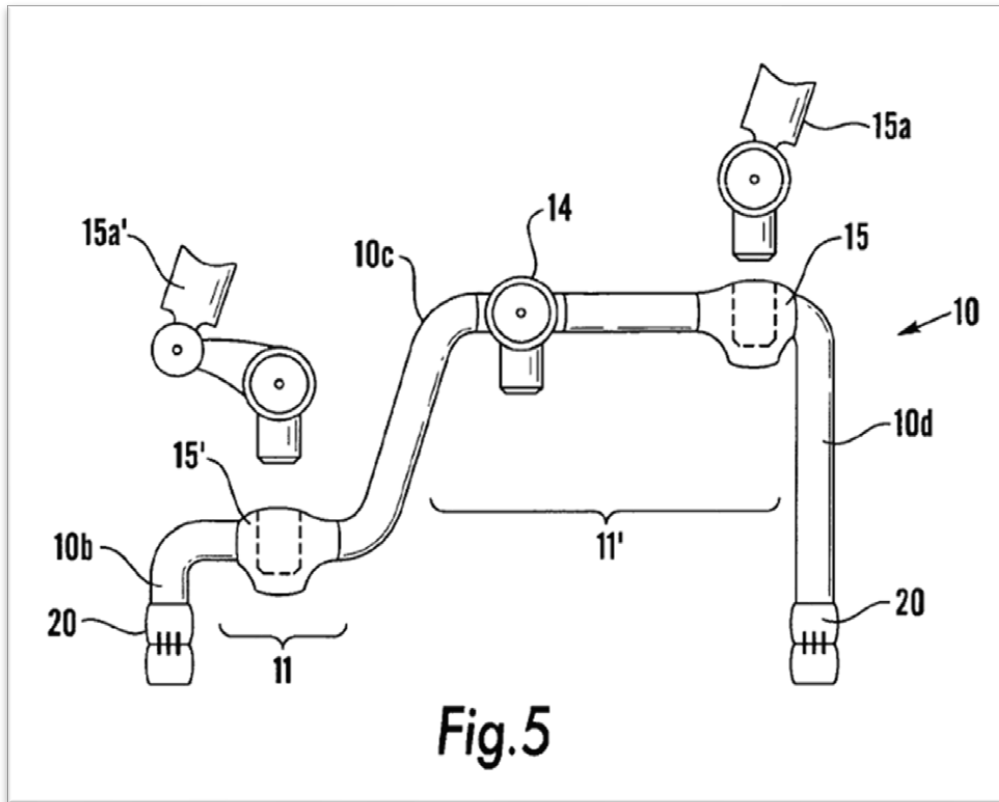
Priority: Substantially Within a Plane



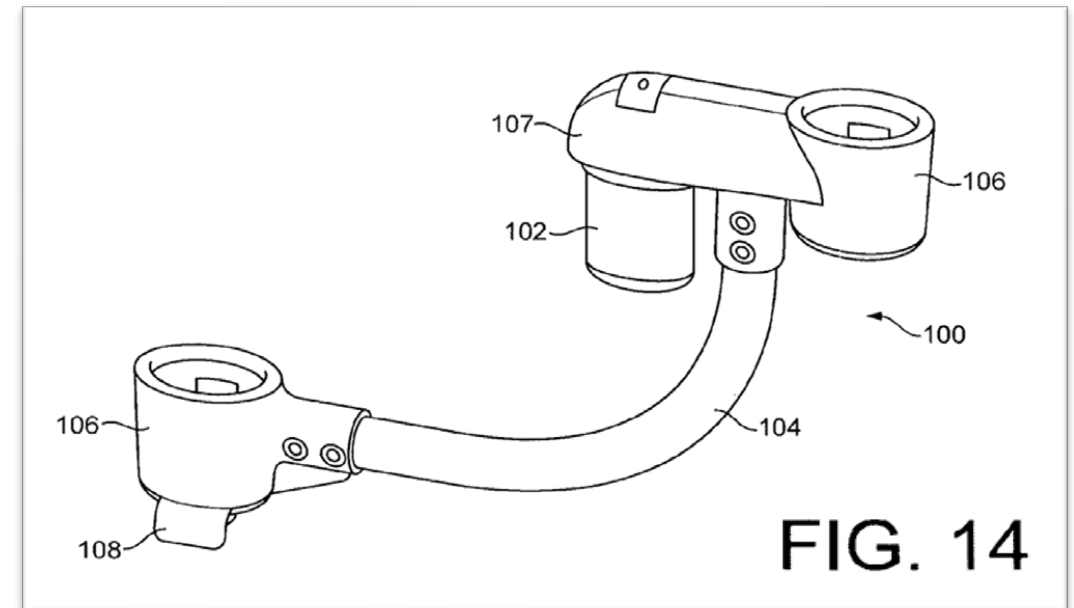
Offord '341 + Offord '797

Offord '341 + Offord '797: Not Designed to Reverse

Designed to reverse



Not designed to reverse



Offord '341 + Offord '797: Not Designed to Reverse

Designed to reverse

3. Five support points

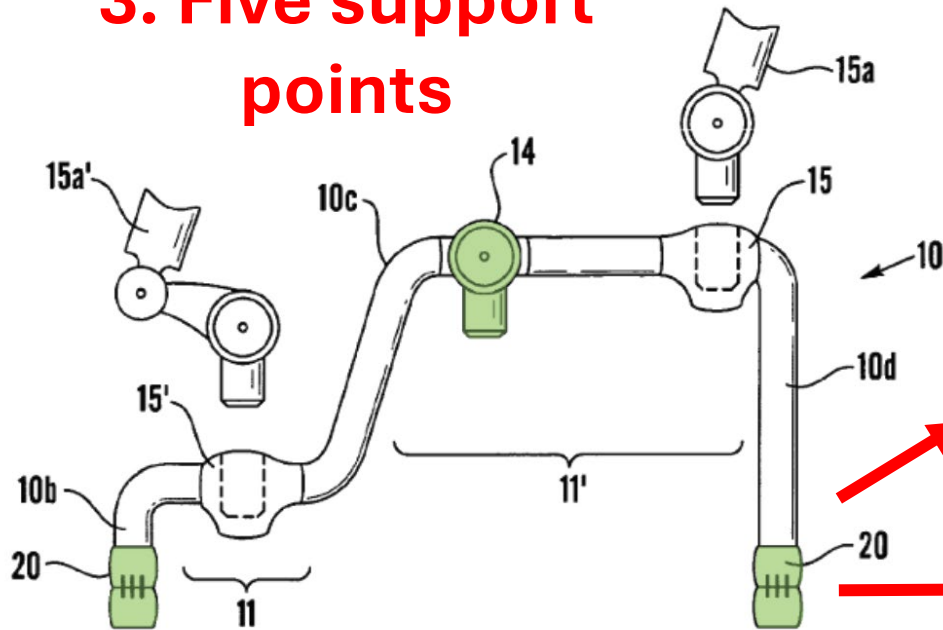
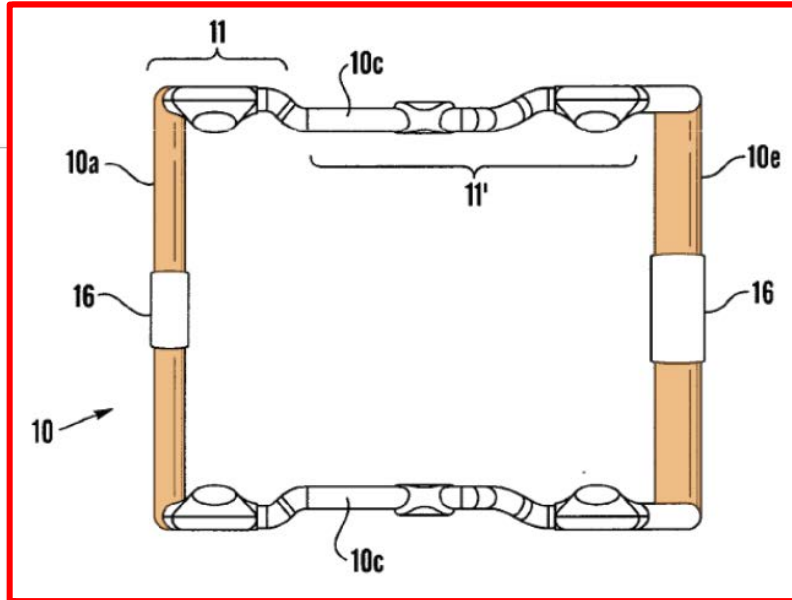
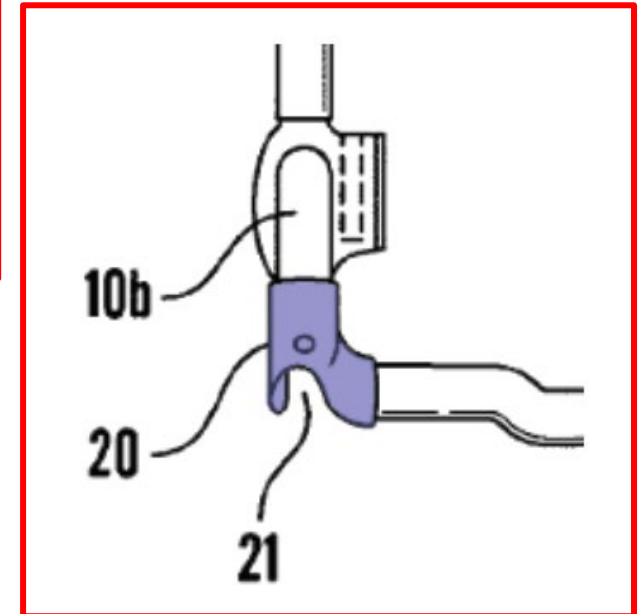


Fig.5



2. Crossbar members

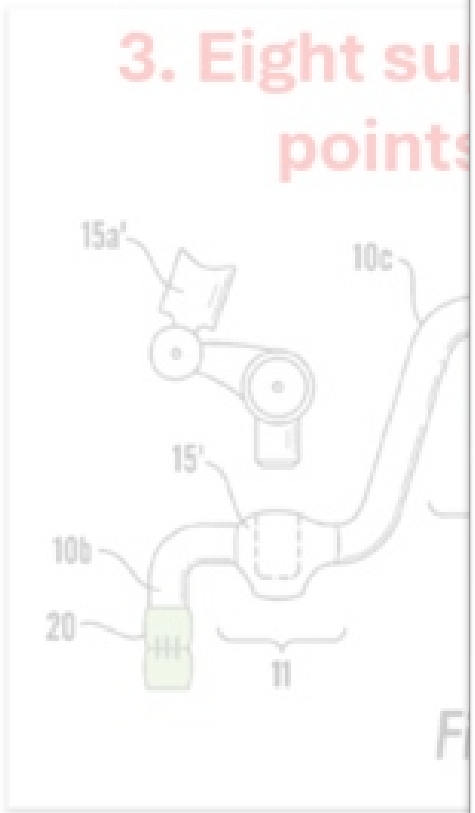
1. Channels



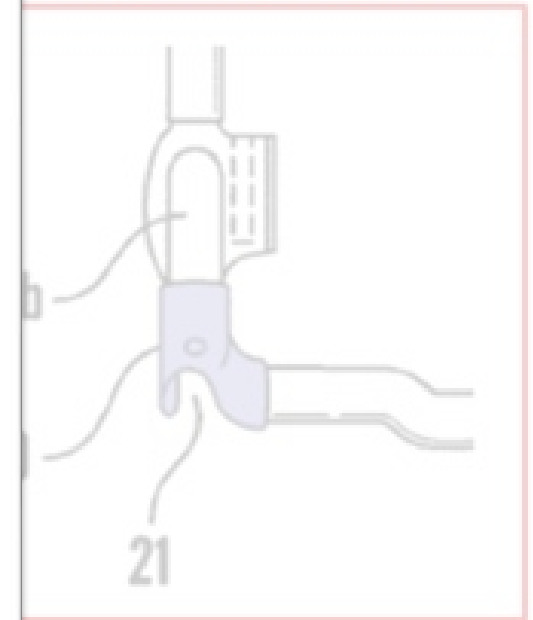
Offord '341 + Offord '797: Not Designed to Reverse

The interface portion 10, in order to achieve suitable stability, is also supported at other locations on the vehicle 2, other than through the connectors 14 mentioned above.

Referring again to Figure 1, the crossbar member 10e of the interface portion 10 has, at its central region, a clip 16 which clips onto a parallelly arranged rear crossbar of a basket frame 18, itself attached to the frame assembly 4. At the front end of the interface portion 10, corner pieces 20 between the shorter of the vertical struts 10b and the crossbar 10a are shaped so as to include a channel 21 (shown in Figure 6) in order to closely receive and rest on top of forward portions of the basket frame 18.



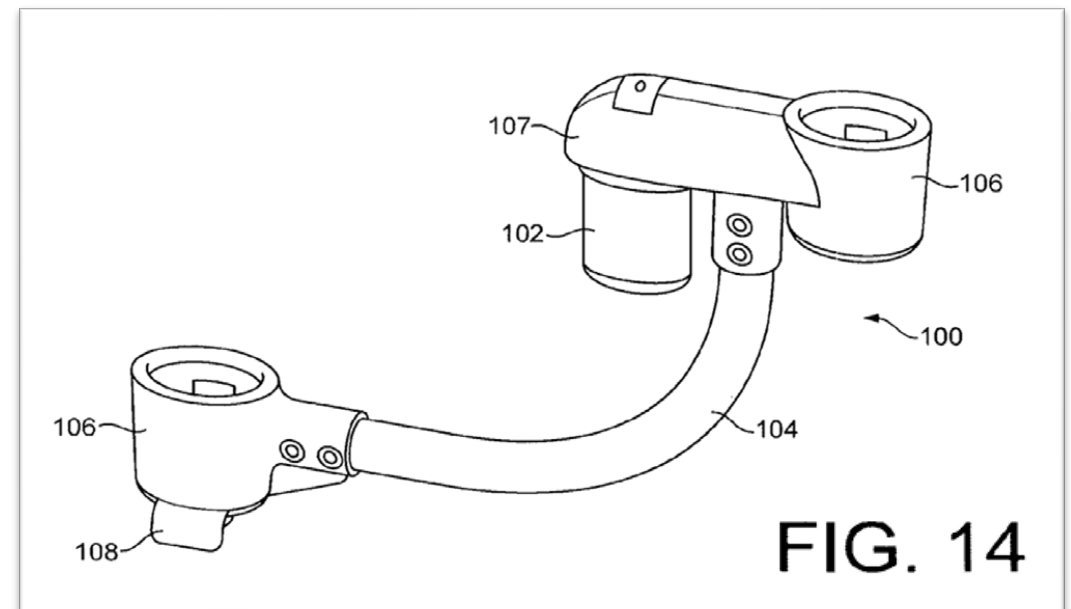
1. Channels



Offord '341 + Offord '797: Not Designed to Reverse

- **No crossbar members**
- **Only two support points per component (four total)**
- **Not symmetric**

***Not* designed to reverse**



Offord '341 + Offord '797: Not Designed to Reverse

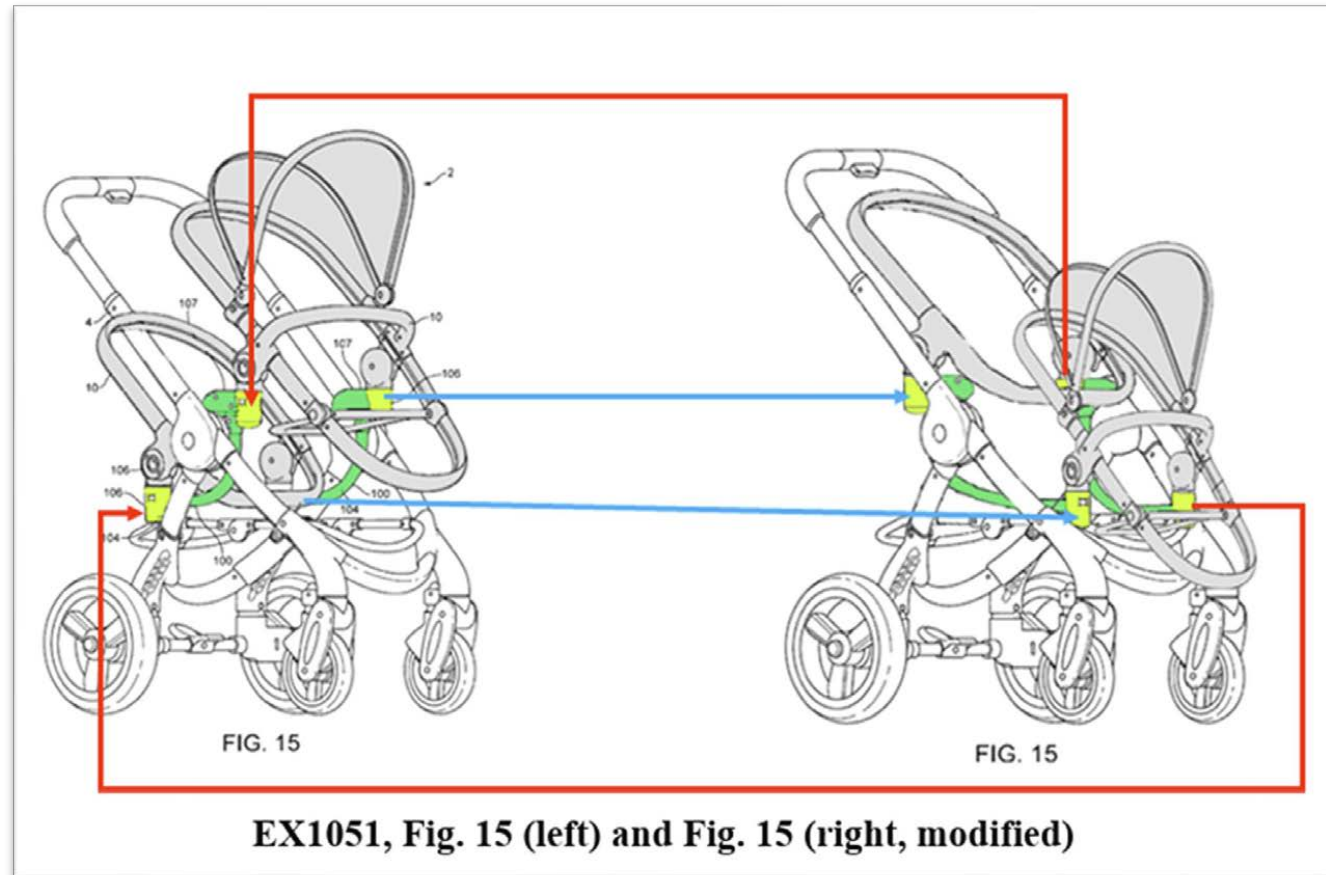
Petitioner:

- Repeats itself
- Ignores PO's showing:
 - o Does not consider features PO identified
 - o Does not contend that Offord '341 has them
 - o Does not explain why a POSA would nonetheless expect '341's sub-frame to be reversible

2. Petitioner Provides Clear Motivation to Combine Offord '341 and Offord '797

PO calls the motivation to combine Offord '341 with '797 conclusory, but it is grounded in the references' express disclosures. Offord '341 discloses a double stroller with a sub-frame assembly and expressly directs the POSITA to Offord '797 for a "similar sub-frame arrangement." (EX1051, 9:35-36.) Offord '797, in turn, expressly teaches reversible seat orientation by reversing the interface portion (e.g., 180°). (EX1054, 4:24-30.) A POSITA would have been motivated to apply that technique to Offord '341's similar sub-frame to obtain the predictable benefit '797 teaches—seats orientable in both directions. (Petition, 125; EX1001, ¶¶486, 580.) That is "articulated reasoning with ... rational underpinning": the references supply both the reason (reversible orientation) and the means (reversing the interface portion). *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). And reversible seats were a well-known, widely copied feature at the time of filing. (EX1001, ¶¶48-61.)

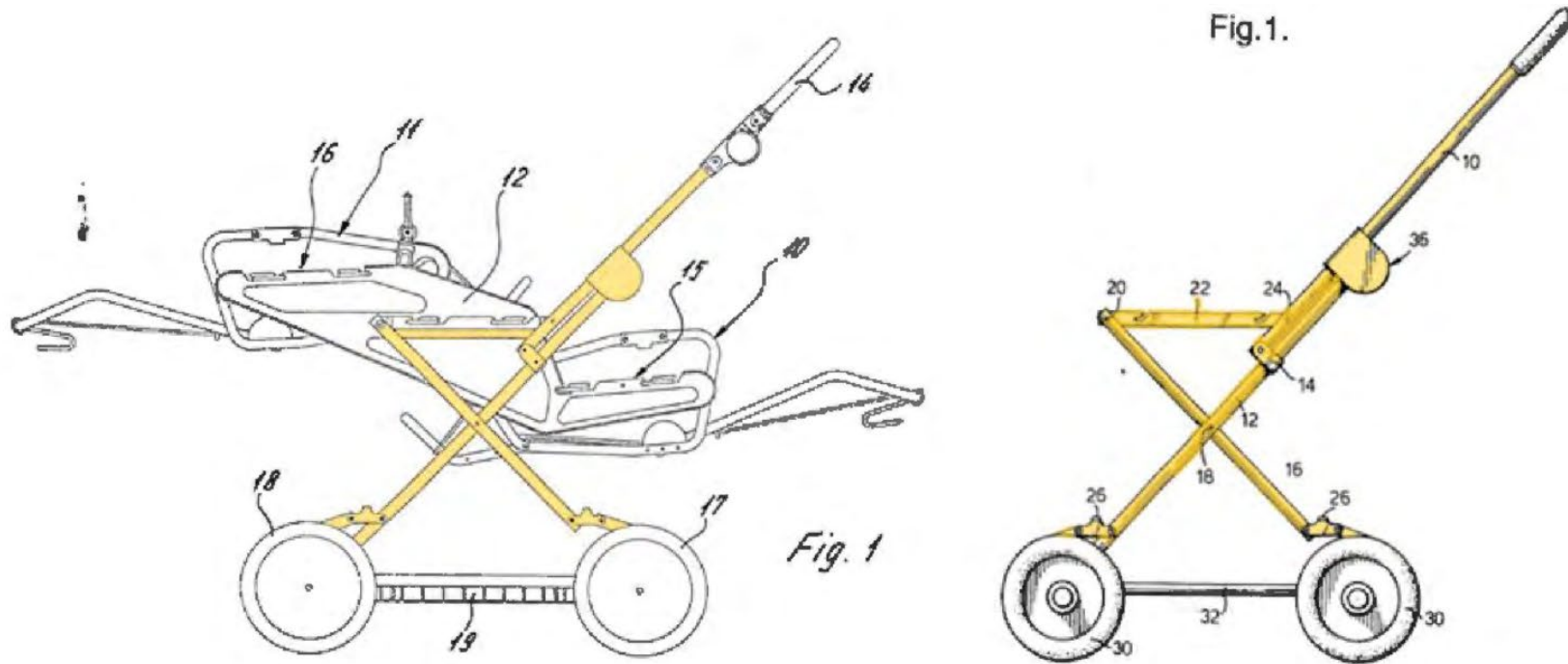
Offord '341 + Offord '797: Missing Step



Gotting + Britax

Gotting + Britax: The Single → Double Conversion

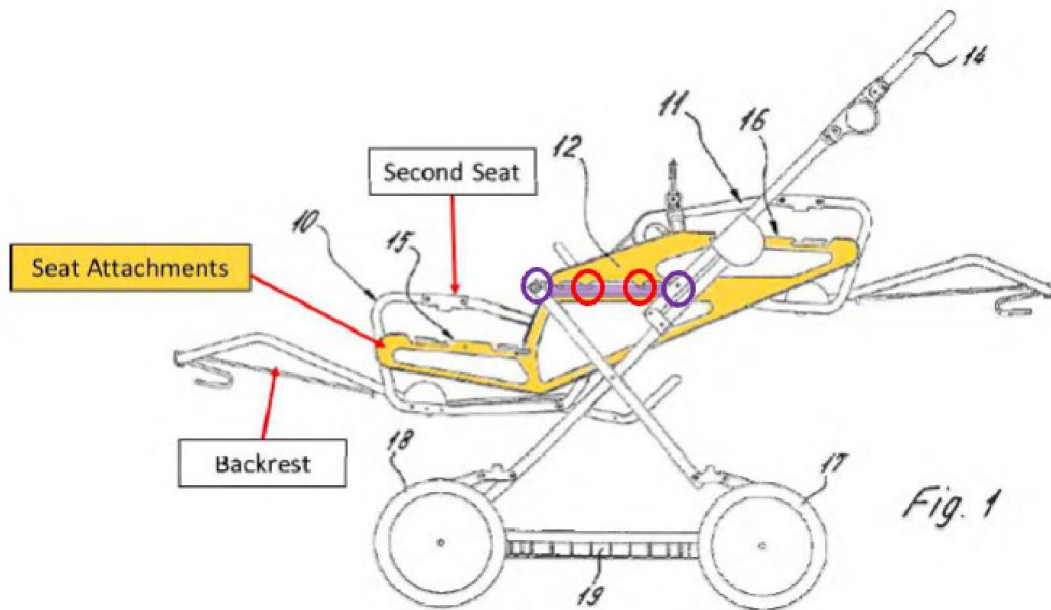
The parties agree: the same underlying frame — Britax shows the single-seat configuration



EX1041, Fig. 1; EX1048, Fig. 1

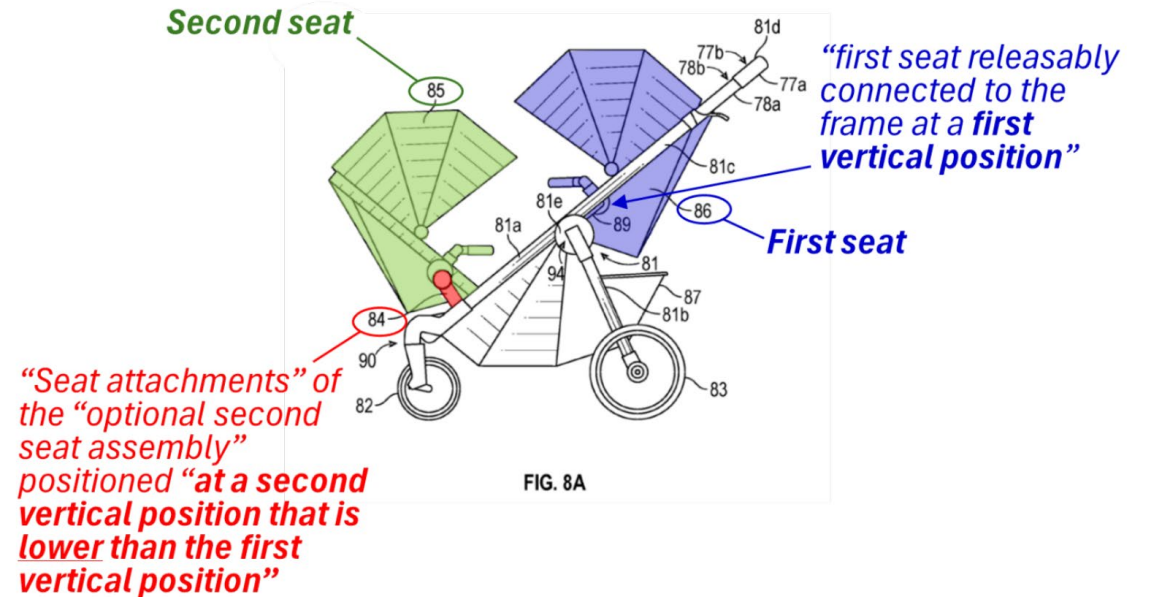
Gotting + Britax: One Big Adapter in the Middle

Gotting



EX1041, Gotting, Fig. 1 (Modified and Annotated)

'771 Patent



Gotting + Britax: “Disposed Along” in the Patent

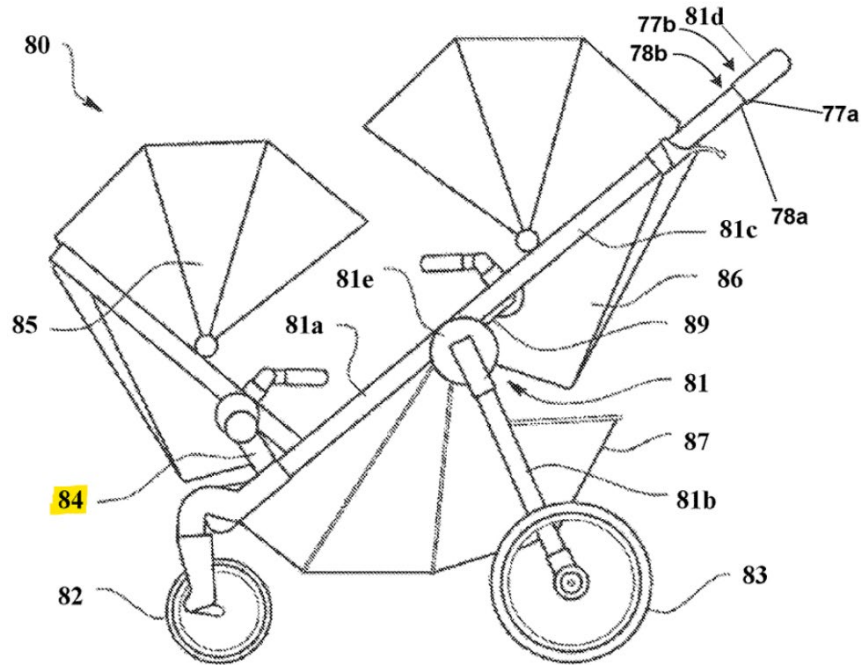
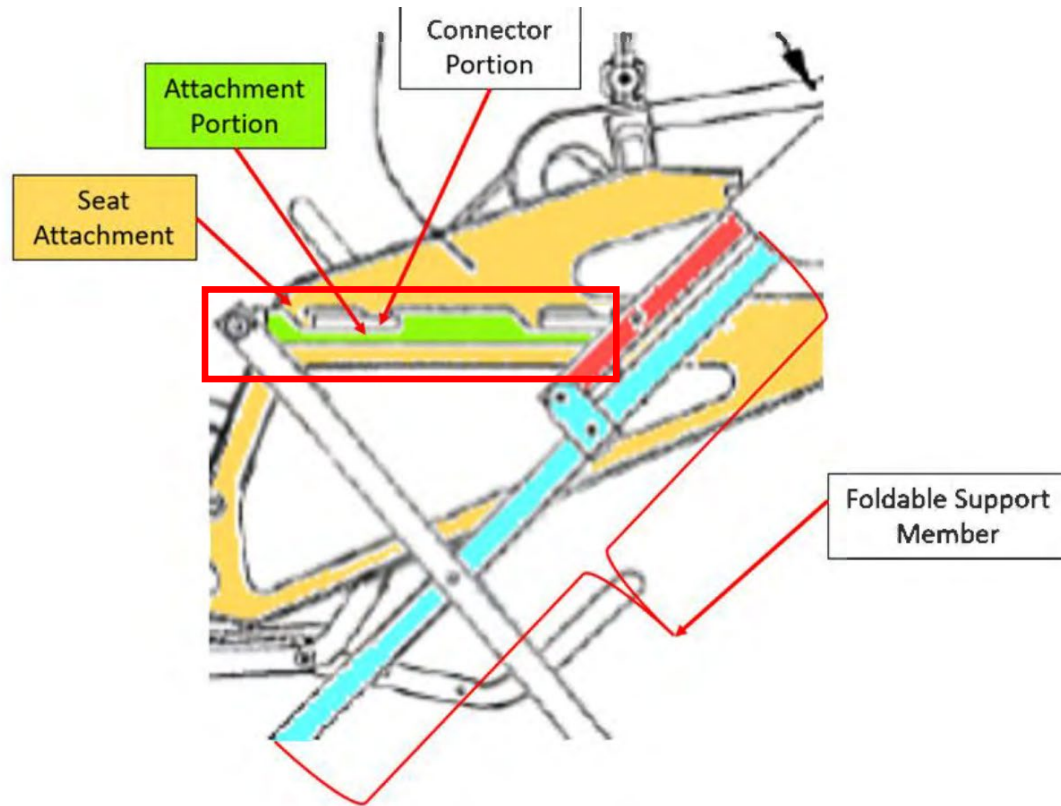


FIGURE 8A

The elected embodiment

- “In another example embodiment, the left connector and the right connector can each be tabs or slots that are configured to be coupled to corresponding *slots or tabs along the stroller frame* 81.” EX1011, 9:66-10:2.
- “In one example embodiment, each removable seat attachment adapters can be coupled to the frame by coupling the adapter 84 into a seat attachment *housing disposed along* the frame 81.” EX1011, 10:7-10.
- “In one example, the seat connector 88 can be *disposed along a top end of the seat support element 84.*” EX1011, 12:15-17.

Gotting + Britax: Adapter on Support Bar ([1.5b])

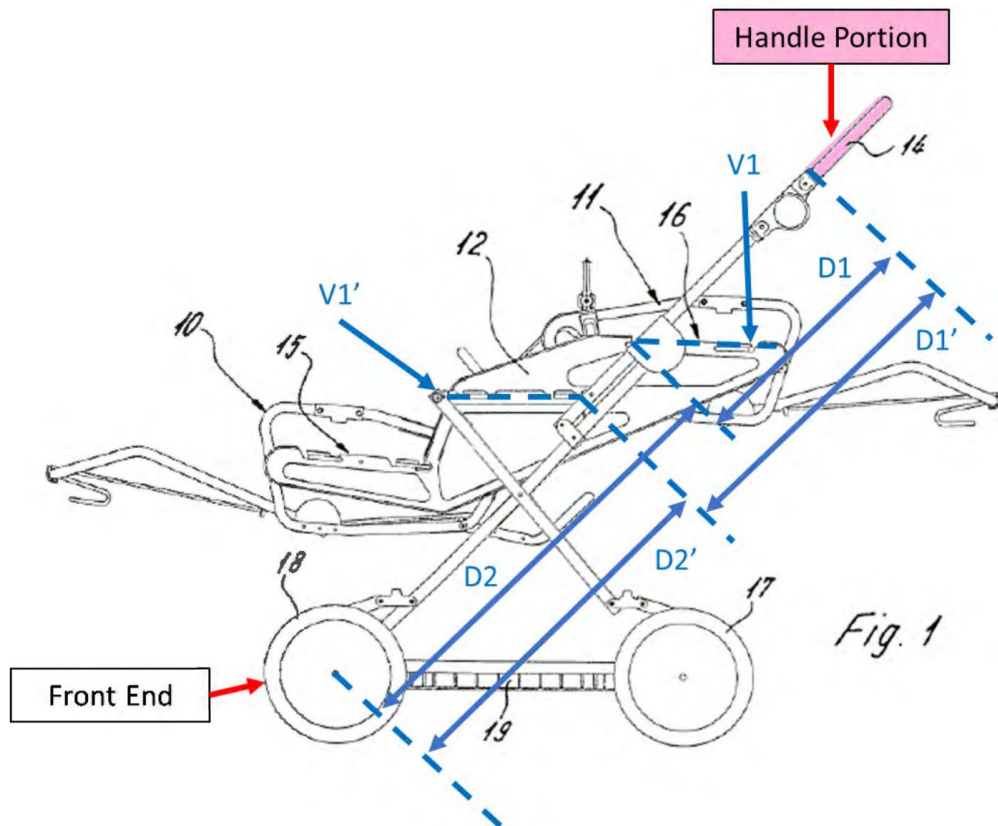


EX1041, Fig. 1 (Modified)

Mr. Prairie (1140 EX1001 ¶ 445):

445. As I discussed in claim 1, Gotting discloses the left and right adapters 12 (“seat attachments”) are connected to the frame in the “conventional manner.” (EX1041, Gotting, [0011].) The adapters connect to the left and right “foldable support members” through a support bar that is directly attached to the right and left support members.

Gotting + Britax: Their Own Annotation ([1.5c])



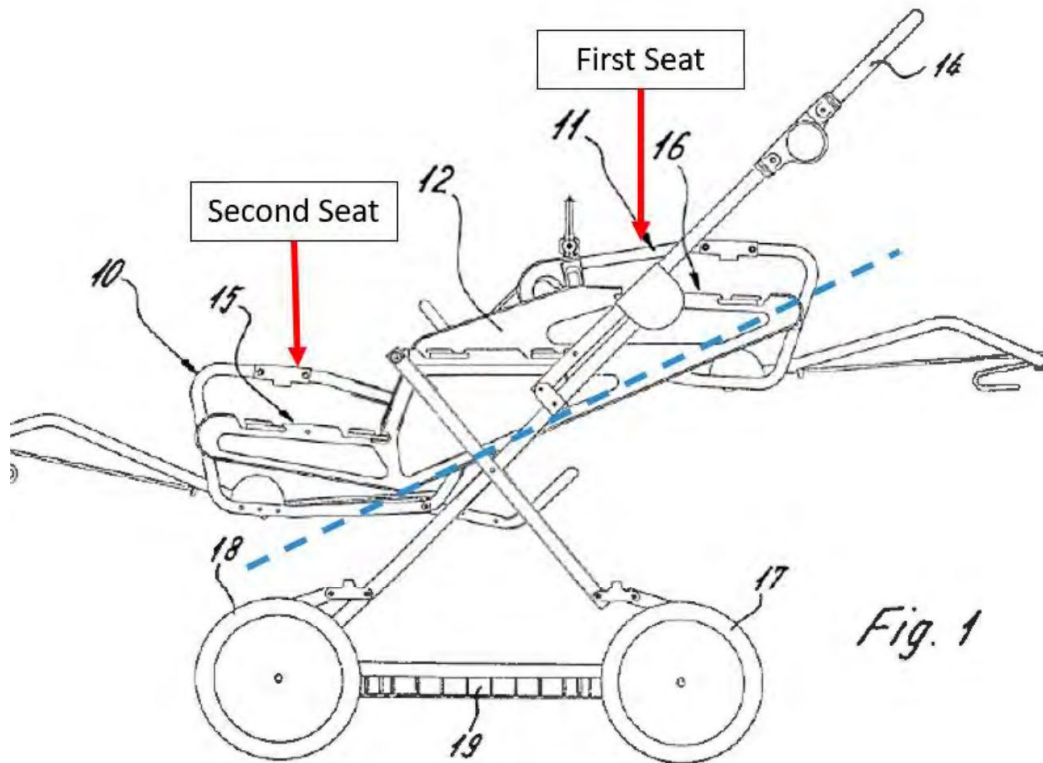
EX1041, Fig. 1 (Modified)

Petition (at 66-67):

vertical position.” (*Id.*) Both V1 and V1’ are closer to the pink “handle portion” than the “front end portion” as shown by the distance arrows (i.e., $D1 < D2$ and $D1' < D2'$). (*Id.*, see Modified Fig. 1 below.)

V1' is where adapter 12 attaches to the support bar — Mr. Prairie agreed. (EX2100, 179:20-180:5.)

Gotting + Britax: No “Inline Descending” ([1.5e])



EX1041, Fig. 1 (Modified)

One attachment location — nothing descends along the frame’s plane.

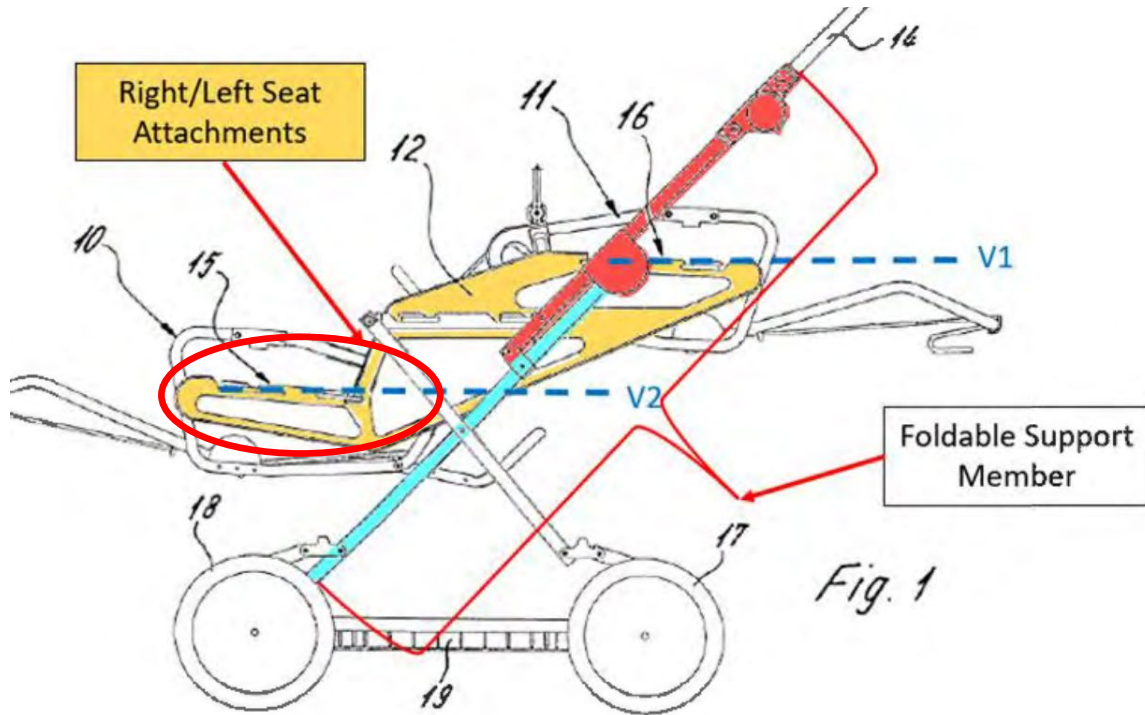
The forward seat juts past the support member that defines the plane.

The blue dashed line: unexplained by any witness.

IV. GROUND 2: GOTTING AND BRITAX

Mr. Prairie's rebuttal declaration offers no testimony on this Ground. Every "POSITA would understand" in the Reply (at 32-34) is unsworn attorney argument that fails against Dr. Cameron's unrebutted analysis (EX2011 ¶¶ 91-127). *Gemtron Corp. v. Saint-Gobain Corp.*, 572 F.3d 1371, 1380 (Fed. Cir. 2009).

Gotting + Britax: V2 Is on the Adapter, Not Frame



EX1041, Fig. 1 (Modified)

V2 = where the second seat clips onto the adapter (connecting points 15)

Calling V2 “the” defined vertical location is not analysis; **it is selecting whichever point the claim needs**. An adapter that “sits at” V2 equally “sits at” V1 (connecting points 16) and V1’ (support bar 22)—Gotting’s flat adapter panel spans all three vertical locations. Nor may Petitioner locate the attachments by

“Either ... or” + Rolicki

“Either ... or” + Rolicki: Reversible Seats Required

Claim 1 ([1.4]/[1.5d]): seats “connectable to the frame in either a forward or backward facing position”

The specification describes exactly one thing reversible seats:

“the first stroller seat 86 *may be adjustable from a forward-facing configuration to a rearward-facing configuration and vice-versa*” (EX1011, 11:12-15)

“the second stroller seat 85 ... can be adjustable ... and vice-versa” (EX1011, 11:15-19)

“seat support element 22 ... may be capable of supporting the front stroller seat 13 in either a forward-facing or backward-facing position.” (EX1011, 6:66-7:2)

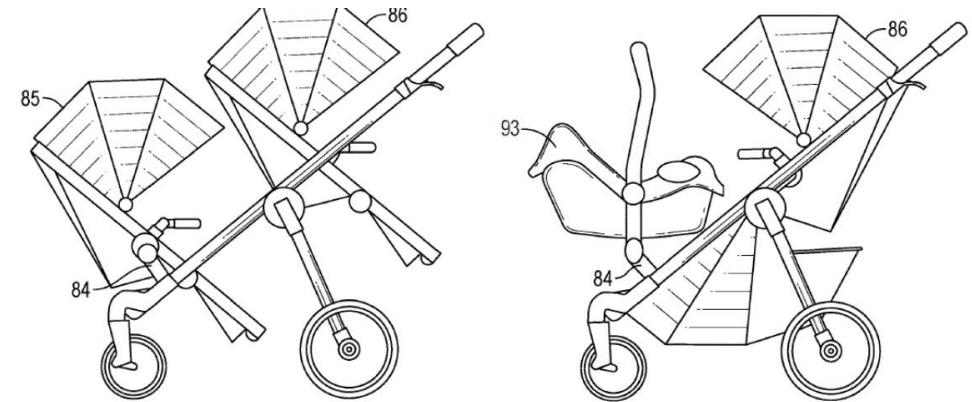


FIG. 8C

FIG. 8D

EX1011, Figs. 8C, 8D (1140 POR 10)

“Either ... or” + Rolicki: Every Seat Faces Forward

29 figures and 5 example strollers

Not one seat faces any direction but forward.

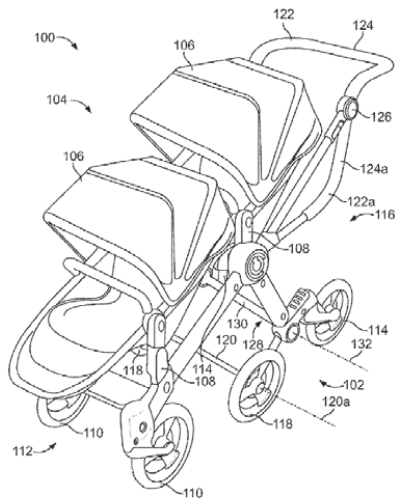


FIG. 1

EX1047, Fig. 1

Removable first and second seats
always in a **forward position**

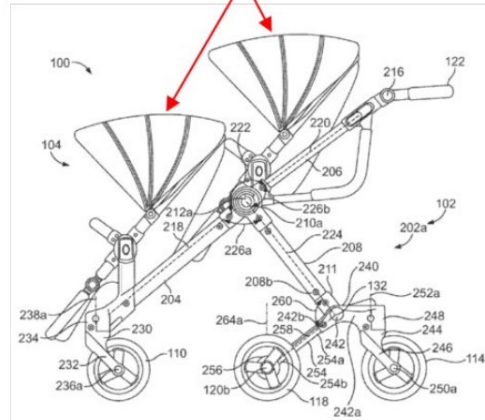


FIG. 2

Rolicki – Fig. 2

1140 POR 38

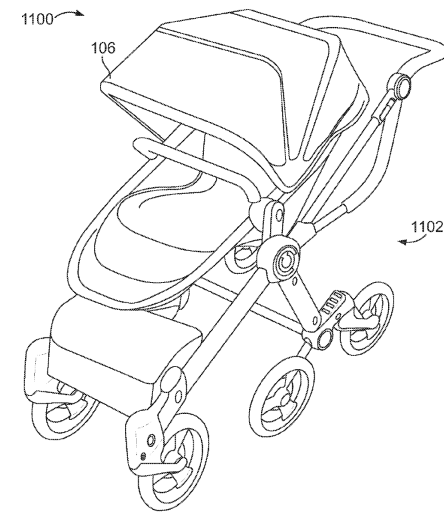


FIG. 11

EX1047, Fig. 11

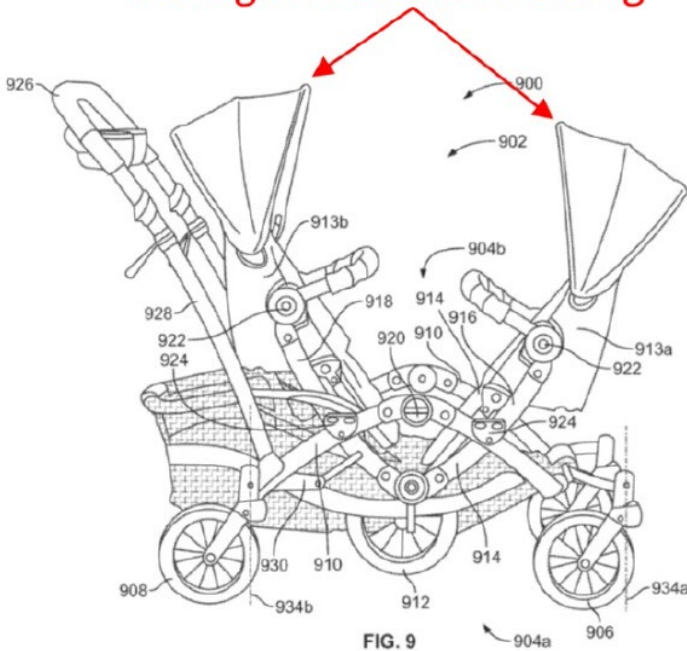
Petition: “Since Rolicki Fig. 2 discloses the seat attached in the forward position, this limitation is met.” (1140 Pet. 37)

1140 EX1001 ¶ 311: Rolicki meets only “one of the claimed alternatives”

Reply argues only “**Alternatively**, Rolicki Renders the ’771 Patent Obvious Even Under PO’s ... Construction” (1140 Reply 30)

“Either ... or” + Rolicki: The WO '157 Fallback

*No teaching that either seat can be **adjusted** from forward-facing to backward-facing*



WO '157 – Fig. 9

1140 EX1050, Fig. 9 (“a side view,” ¶ [0012])

Two seats **fixed** in opposite directions — no seat being reversed, no mating-interface geometry, no enlarged view of the hubs.

(1140 Sur-Reply 18)

Mr. Prairie searched WO '157 at his deposition but found none:

“reversible,” “rearward,” “backward,” “keyed” (and “key”)

(EX2200, 28:17-31:17)

“Figure 9, from what I could gather, does not show inner workings of that hub.” (EX2200, 38:24-39:6)

Dr. Cameron’s testimony, unchallenged: bayonet-type connections are “**typically implemented with orientation-constraining features.**” (EX2011 ¶ 84)

“Either ... or” + Rolicki: A New Theory in Reply

Reply: two new theories, too late

Symmetry: hubs *“mirrored left-to-right ... with no asymmetry or directional keying”* (1140 Reply 31; EX1082 ¶ 23)

Design choice: reversibility was *“a known, desirable design choice”* (1140 Reply 32; EX1082 ¶¶ 21-25)

“[A] reply cannot supply particularity the petition omitted.” (1140 Sur-Reply 17)

No modification proposed in Petition

“requires the first seat connect in ‘either the forward or backward facing position,’ not that it be reversible.” (1140 Pet. 37)

WO '157 *“discloses a similar seat connector and the seats **connected in both** the rear facing position and front facing position.”* (1140 Pet. 37)

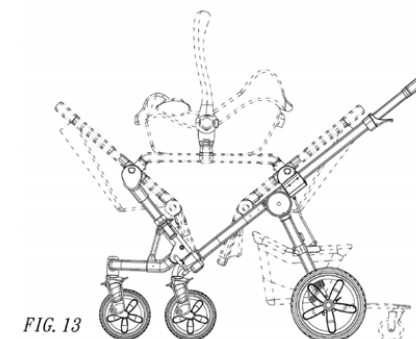
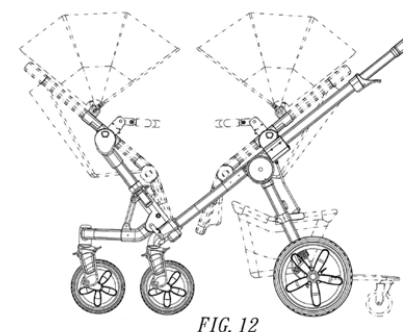
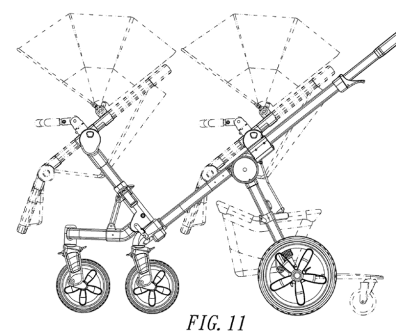
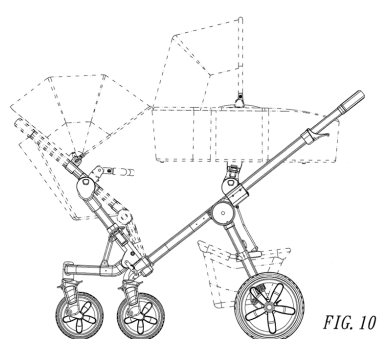
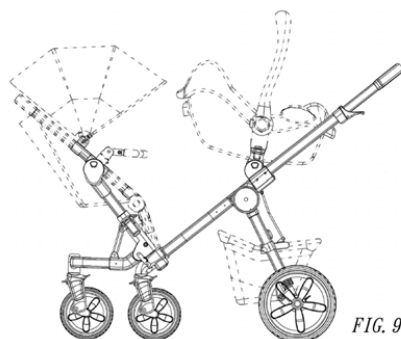
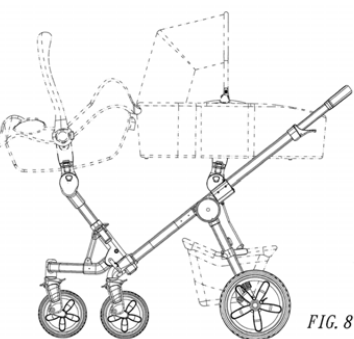
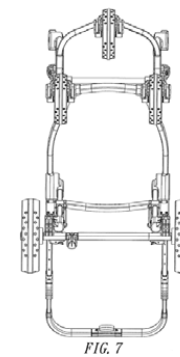
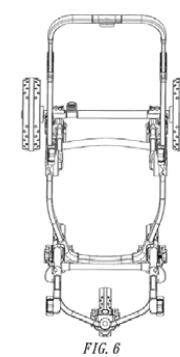
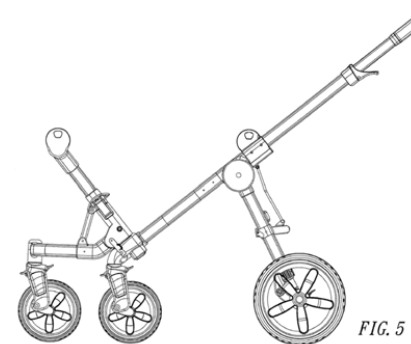
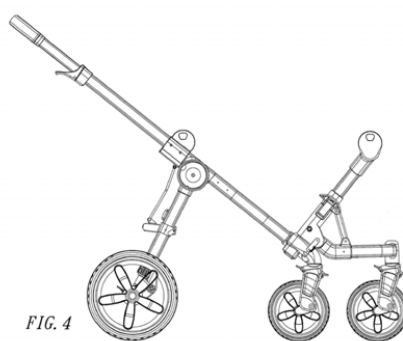
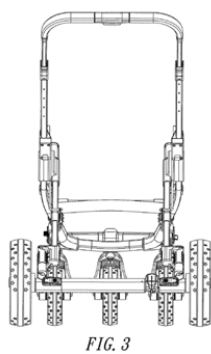
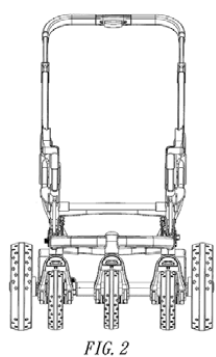
Mr. Prairie disclaimed modification theory: “Paragraph 312 does not describe modifications.” (EX2200, 42:16)

Q. [W]hat specific physical change to Rolicki’s stroller, if any, does that opinion require?

A. They would already be able to be reversible. (EX2200, 44:5-8)

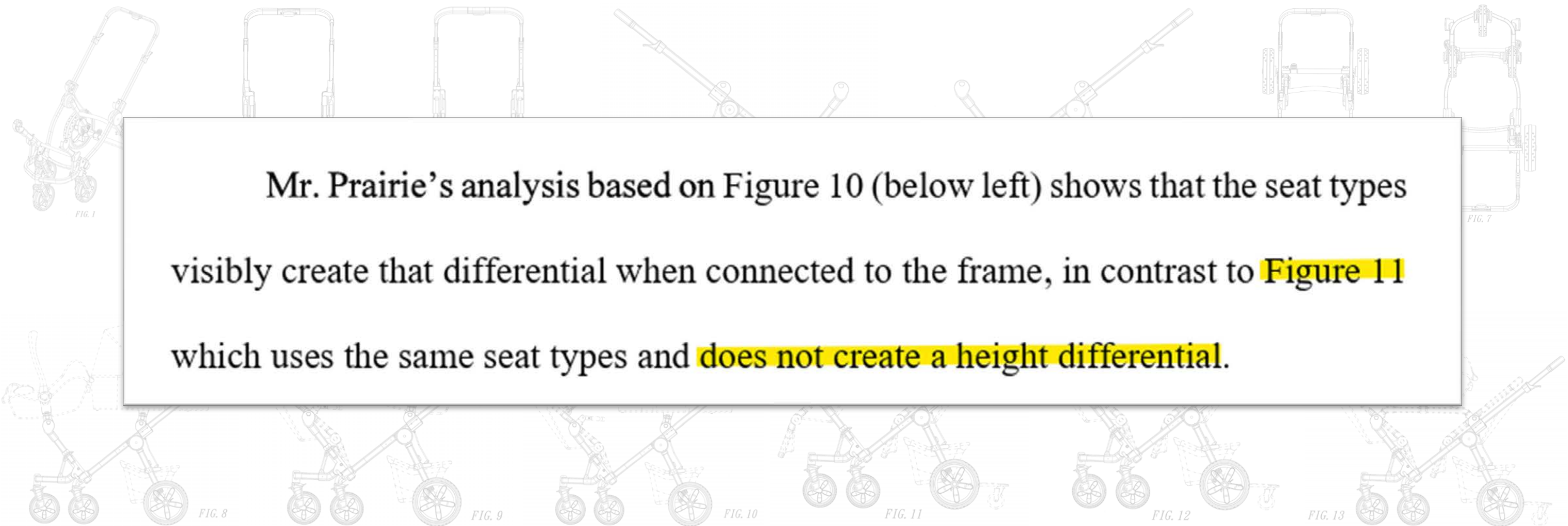
Liao

Liao: Liao's Entire Disclosure



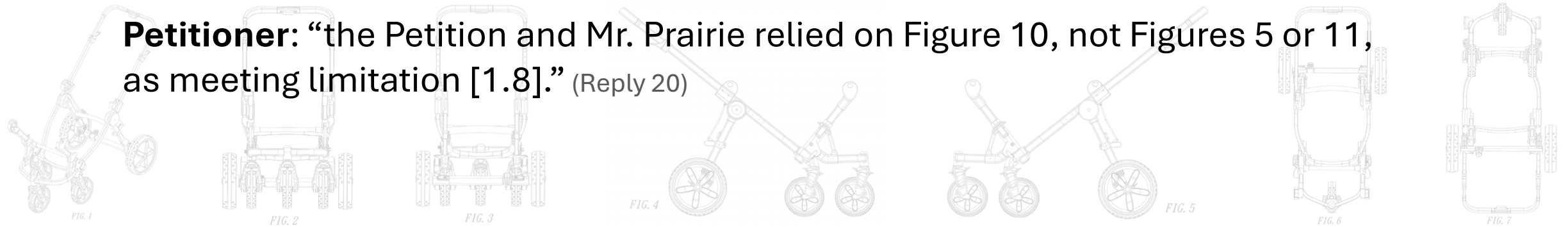
Liao: Liao According to Petitioner

Mr. Prairie's analysis based on Figure 10 (below left) shows that the seat types visibly create that differential when connected to the frame, in contrast to **Figure 11** which uses the same seat types and **does not create a height differential**.

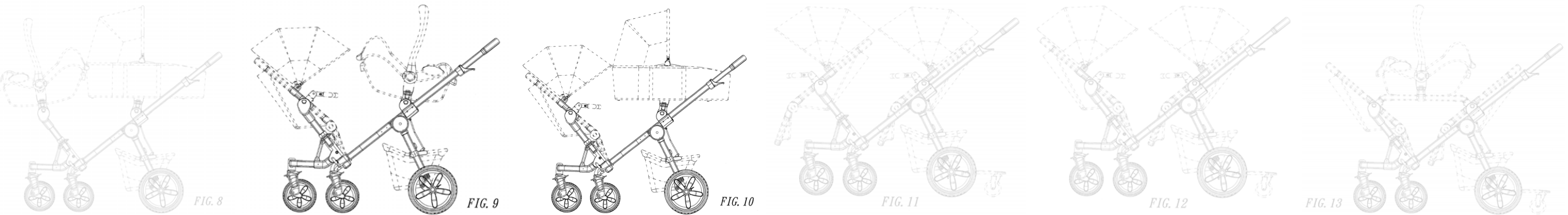


Liao: Liao According to Petitioner

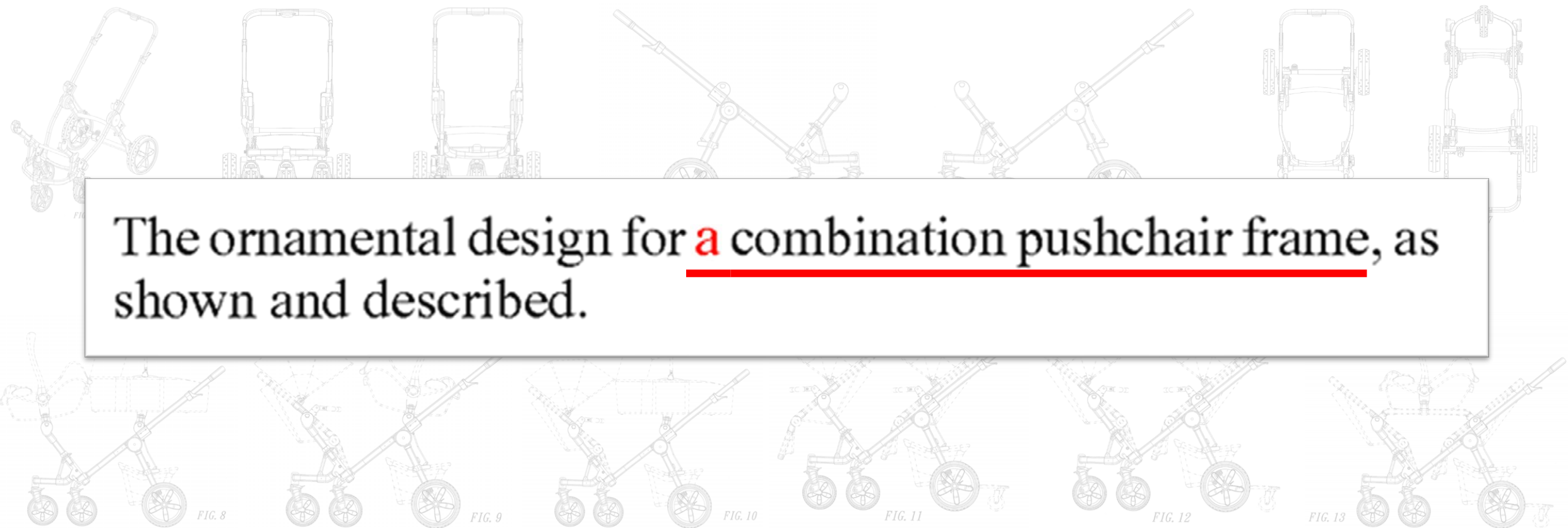
Petitioner: “the Petition and Mr. Prairie relied on Figure 10, not Figures 5 or 11, as meeting limitation [1.8].” (Reply 20)



Mr. Prairie: “Figure 10 is the one that effectively shows it inline descending configuration” and all he “relied on for this specific position.” (Ex2200:54:10-23)



Liao: Liao According to Petitioner



Liao: Mr. Prairie's Approach is Arbitrary



FIG. 1

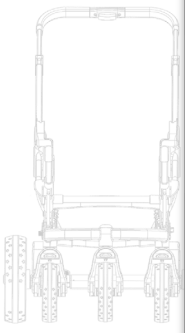


FIG. 2

Why did you choose to draw the line where you did, where the infant's buttocks would be located?

A Honestly, I don't recall my exact logic for the beginning and ending point of that line. It was just a general to show that in the seat there are different vertical positions there and the red line was to emphasize the point that there is an inline descending configuration from multiple vertical positions.

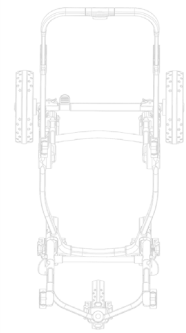


FIG. 6

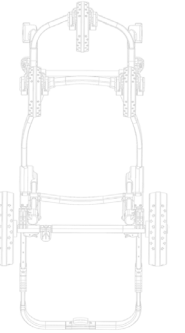


FIG. 7

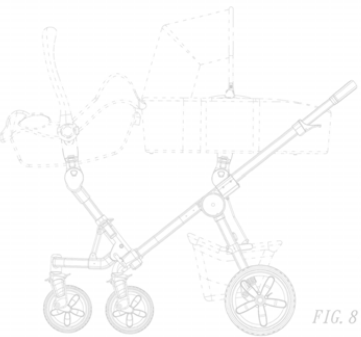


FIG. 8

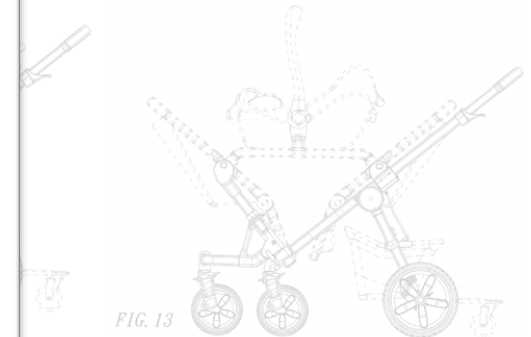
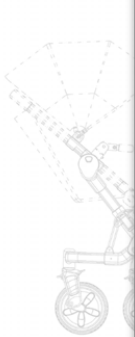
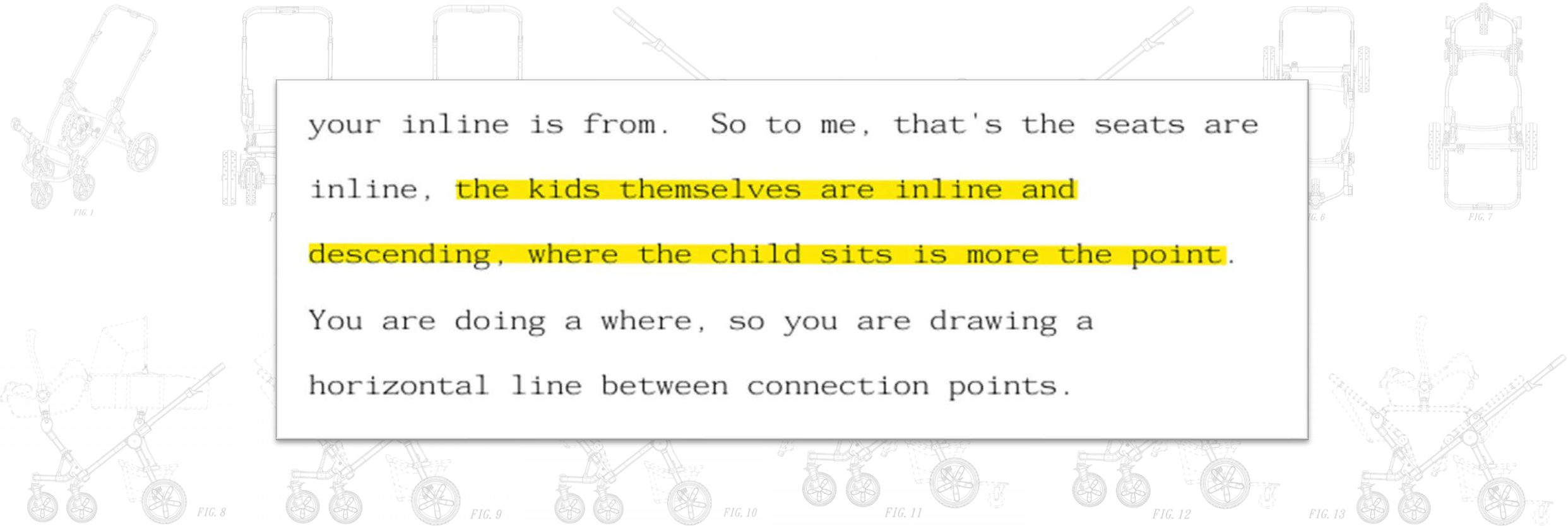


FIG. 13

Liao: Mr. Prairie's Approach is Arbitrary

your inline is from. So to me, that's the seats are inline, the kids themselves are inline and descending, where the child sits is more the point. You are doing a where, so you are drawing a horizontal line between connection points.



Liao: The Claim Provides the Anchor

1. A stroller, comprising:
a stroller frame comprising a handle portion and a front end portion;
a plurality of wheels comprising a plurality of back wheels;
a first seat coupled to the stroller frame at a first vertical position of the stroller frame, wherein the first seat is disposed closer to the handle portion than the front end portion of the stroller frame;
a first seat attachment housing coupled to the stroller frame at a second vertical position of the stroller frame that is below the first vertical position, wherein a first front wheel and a second front wheel extend from the front end of the stroller;

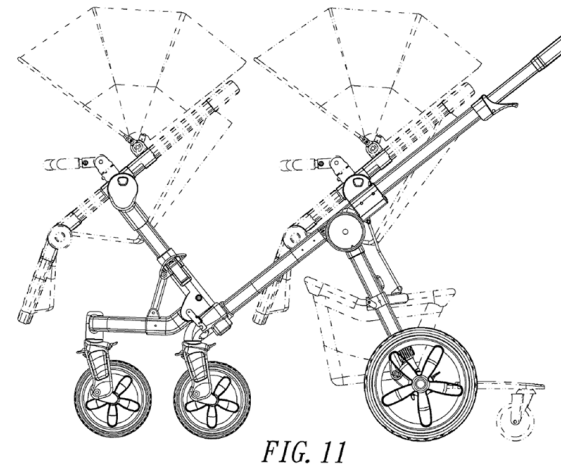
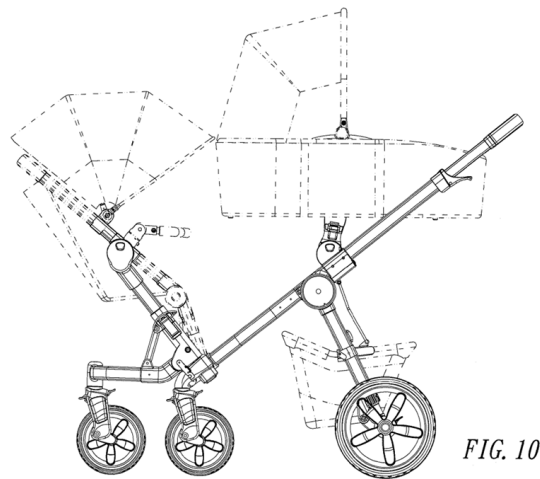
a second seat attachment housing coupled to the stroller frame at a third vertical position of the stroller frame that is below the first vertical position, wherein the third vertical position is closer to the front end portion than the handle portion;
a first seat attachment adapter spaced from and coupled to the first seat attachment housing by a first attachment frame member; and
a second seat attachment adapter spaced from and coupled to the second seat attachment housing by a second attachment frame member;
wherein the first seat and the second seat, when connected to the frame, are arranged in an inline descending configuration along the stroller frame.

Liao: The Claim Provides the Anchor

The claim: “the first seat and the second seat, when connected to the frame, are arranged in an inline descending configuration **along the stroller frame.**”

Petitioner’s Reply (at 21): Figure 10’s “seat types visibly create that differential”; Figure 11 “**uses the same seat types and does not create a height differential.**”

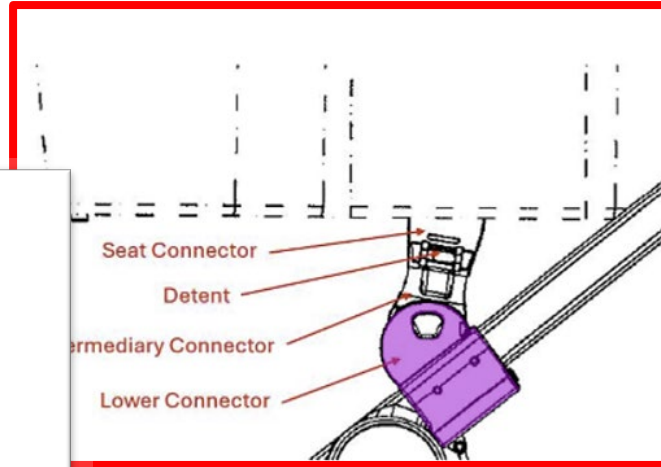
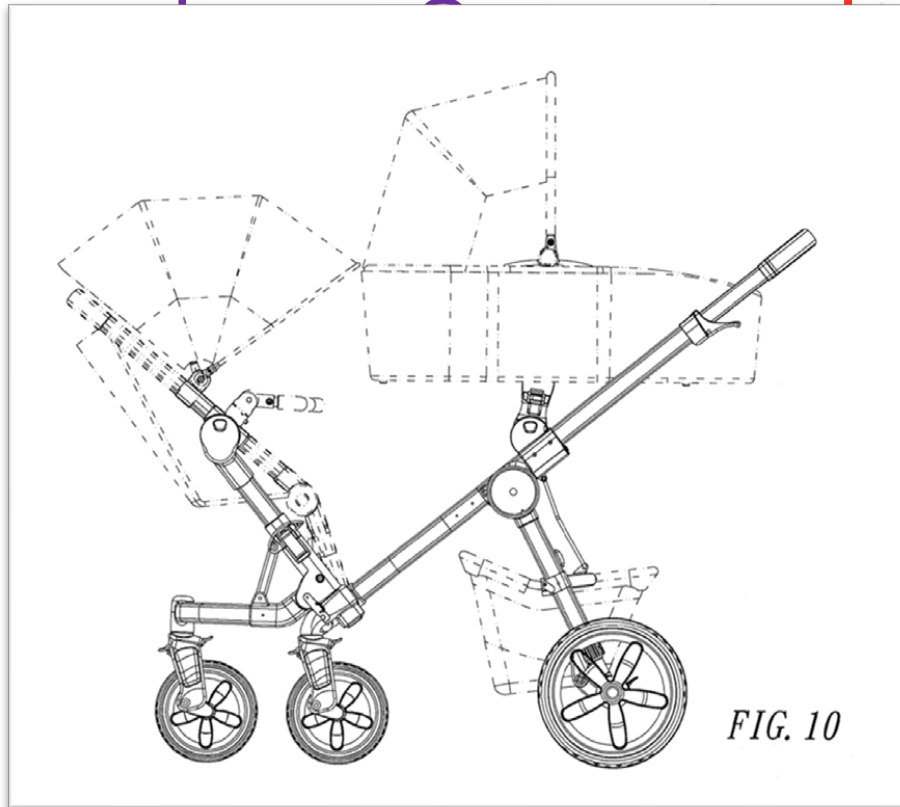
The Sur-Reply (at 20): “Swap the positions of Liao’s bassinet and seat, and the difference disappears **while the frame remains unchanged.**”



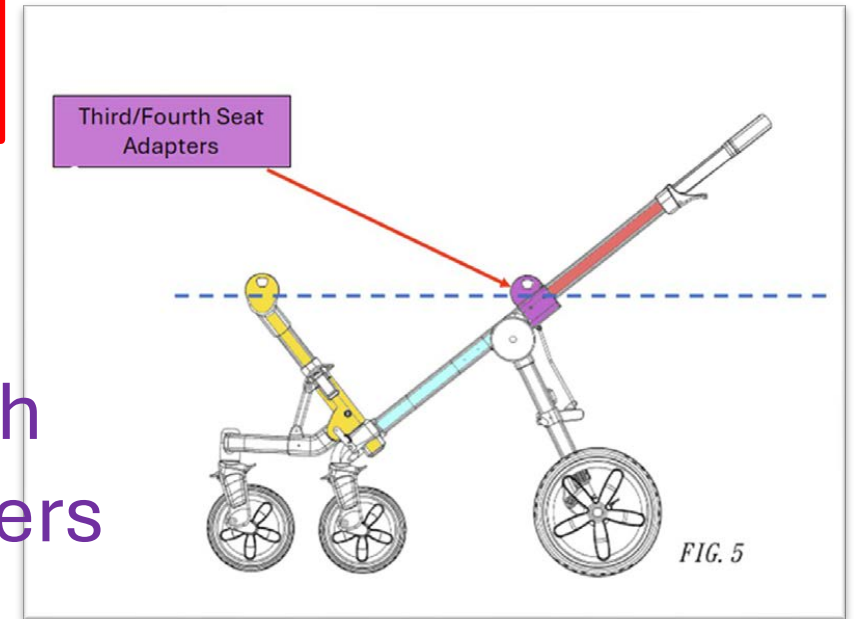
Same frame — different accessories

Liao: Petitioner's Alternative Mapping

Now:



Then:
Third/Fourth
Seat Adapters



Liao: Petitioner's Alternative Mapping

Now:



THE WITNESS: I believe it's the seat connector itself on the bassinet, so the connection point is different.



Third/Fourth
Seat Adapters



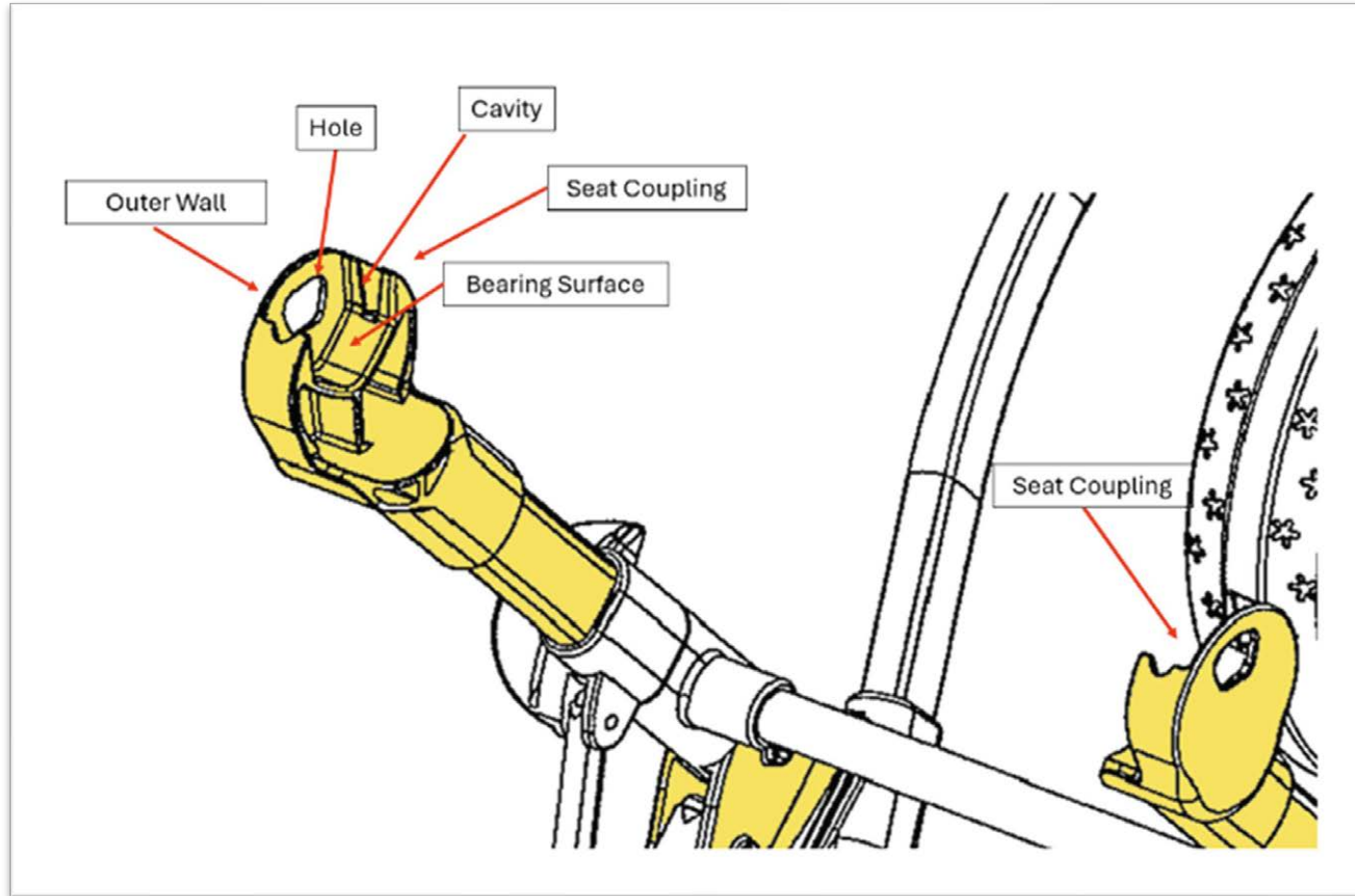
Mr. Prairie's Opinions

Mr. Prairie did not apply a “double standard”

Mr. Prairie applied the same objective test to both records:

Nor were his methods inconsistent.

Mr. Prairie interpreting Liao:



Mr. Prairie interpreting the Baby Jogger patent family:

Does that look like a U to you, Mr. Prairie?

A I guess it has a, generally a U profile. I wanted to make sure I was looking at the right object, that's all.

Q Would a POSA have any understanding of the function of that structure illustrated in Figure 9?

A Just from the manual alone, I can't say for certainty, no.

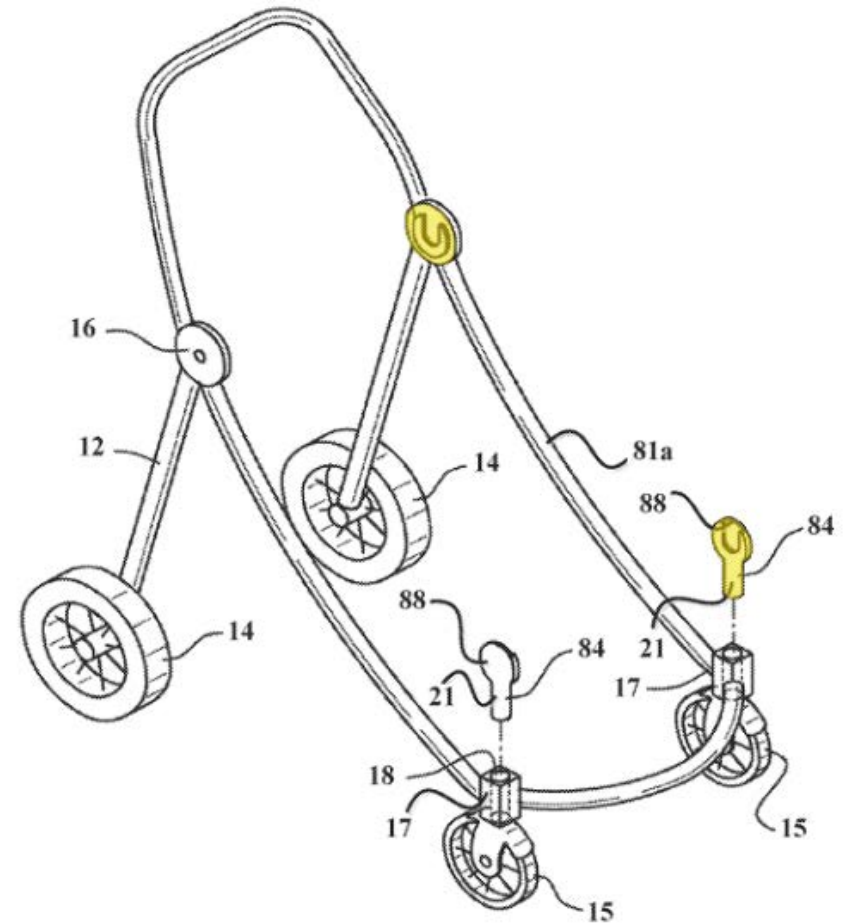


FIGURE 9

Mr. Prairie interpreting Liao:

A POSITA would understand the cavity receives and supports a portion of the second seat on a bearing surface at the bottom. The outer wall includes a hole that engages a resilient locking tab or button on the second seat. As the seat is inserted, the tab deflects and snaps into the hole, securing the seat. The seat can be removed by pressing the tab through the hole, releasing it for upward removal through the open top. Given Liao has couplings on both the right and left side (see Figures 4 and 5), Liao discloses a first/second “seat attachment adapter” allowing the “second seat” to be “removably coupled.”

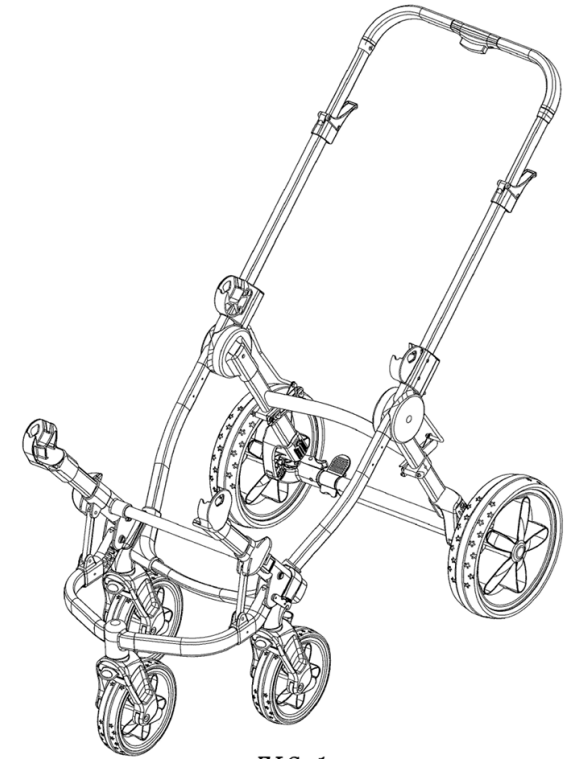
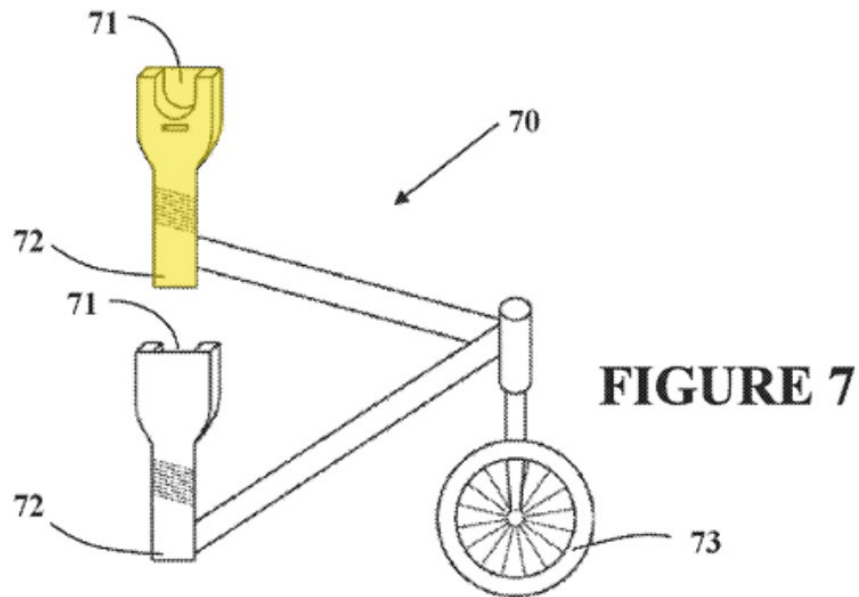


FIG. 1

Mr. Prairie interpreting the Baby Jogger patent family:



Q Would a POSA looking at this figure be able to understand what the purpose of that cutout, as you referred to it, is?

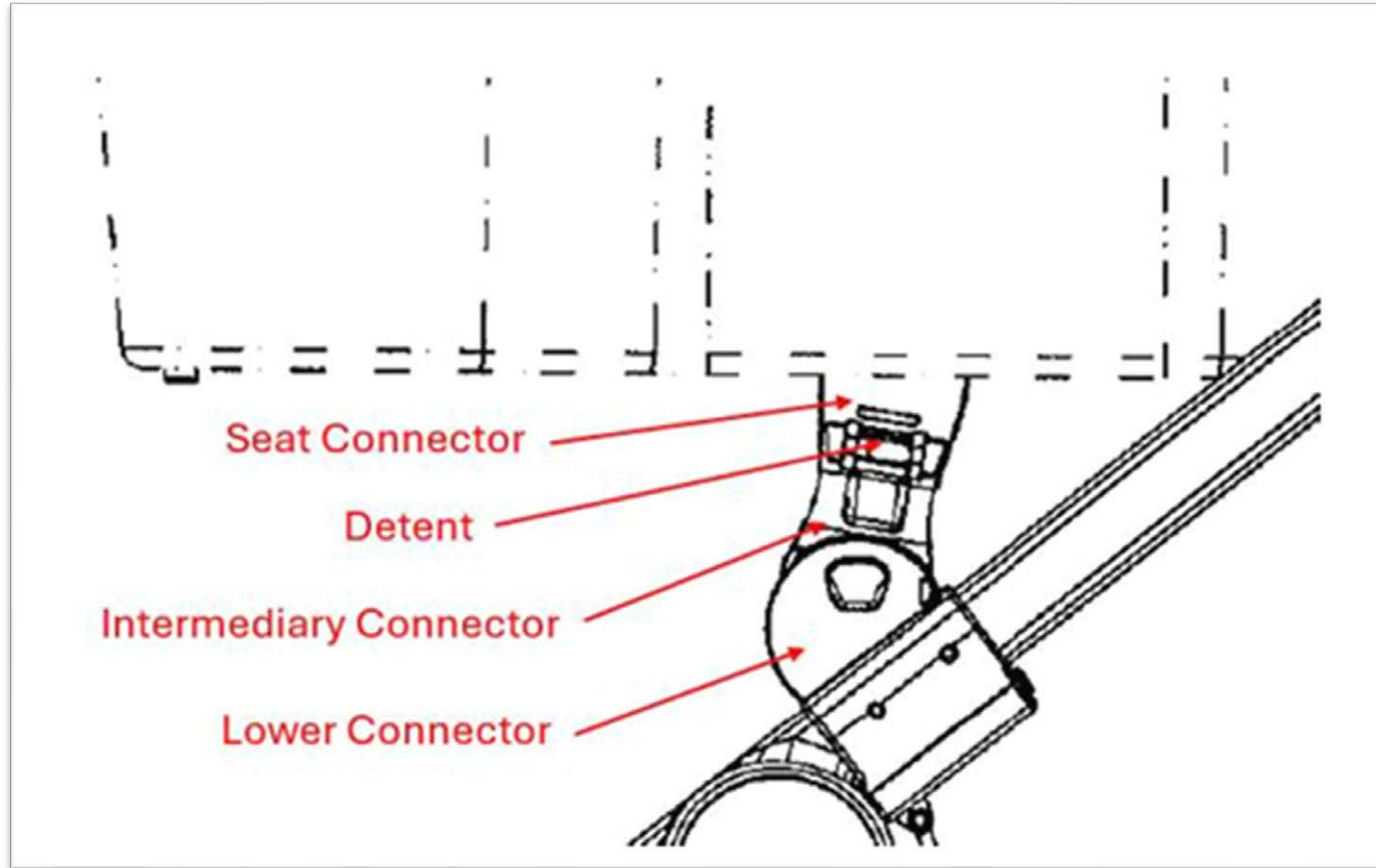
A I guess, I don't know. I guess I would have to see what does 71 specifically call out.

Q You would have to go look at the specification to see what 71 is described as?

A Well, you are referencing a different figure, so just because I see a U shape profile in another part doesn't mean that it is the same exact thing. So a U is a general shape and -- the profile you give is a generic shape. So just because you show a shape doesn't mean it has a purpose.

And so I want to identify in this particular figure what does 71 call out.

Mr. Prairie interpreting Liao:



... also Mr. Prairie interpreting Liao:

Q Let me ask a different question. If two identical seats are mounted onto a stroller shown in Figure 10, the same seat model on each, the two seats would sit at the same height, correct?

THE WITNESS: That's not what Figure 10 shows, so I don't know for sure.

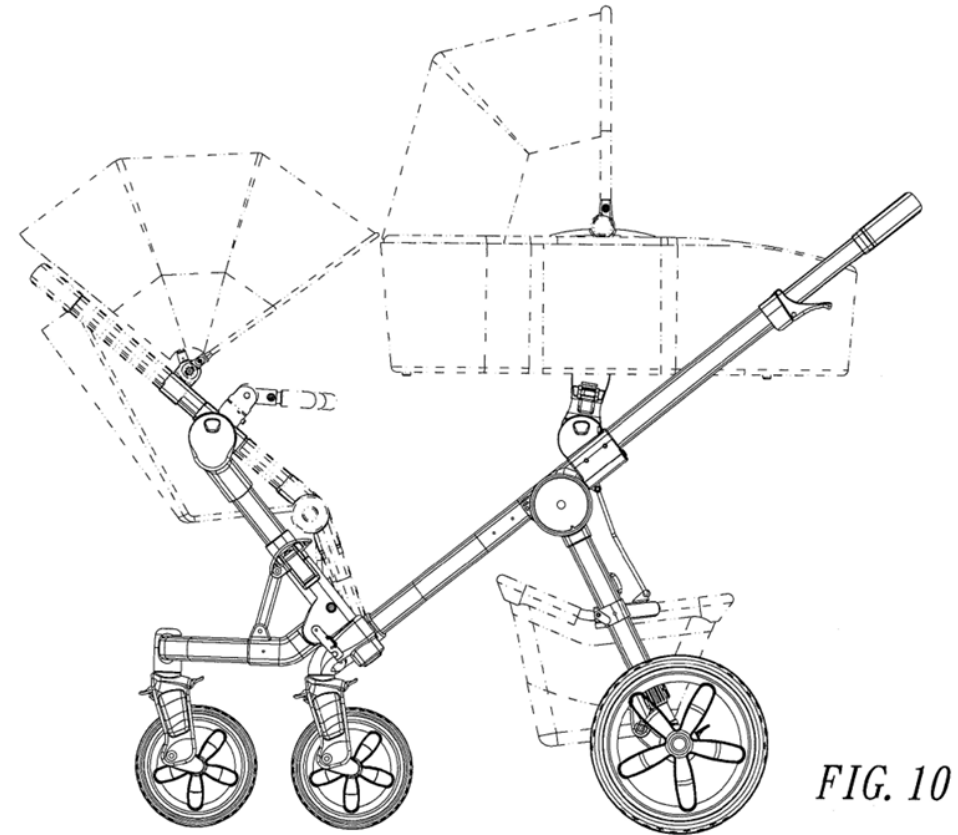


FIG. 10

Mr. Prairie interpreting his own combination:

Q In your modified Figure 15, which is shown on page 19 of your declaration, both seats are facing forward, correct?

A I don't remember if they were both facing forward or not. The lower one is facing forward. I can't remember the orientation. The upper one doesn't show the full structure, so I don't remember which direction that is at this point right now.

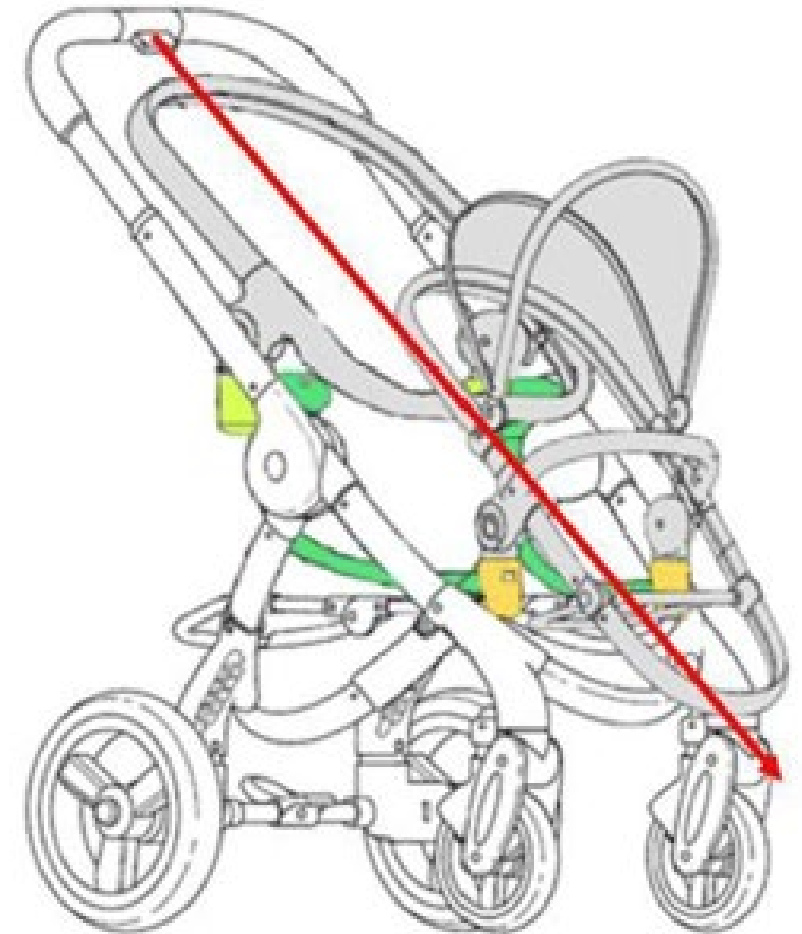


FIG. 15

Mr. Prairie interpreting his own combination:

So please tell me, both of those seats are facing forward, correct?

A That structure could even be for a bassinet, so it could be forward or reverse. I don't remember at this point in time.

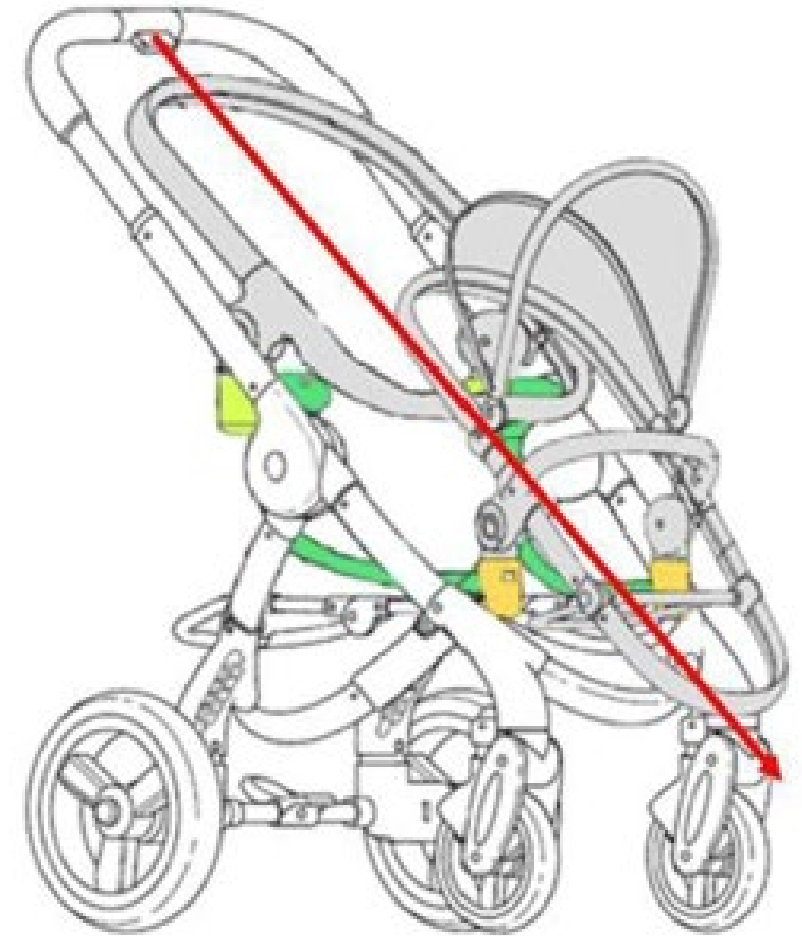


FIG. 15

Mr. Prairie's "Objective Test"

Mr. Prairie did not apply a "double standard"

A But a POSITA would know that if you want inline design configuration, the length of those arms could be adjusted or adjusting the connection points to create the inline descending type configuration.

Nor were his methods inconsistent.

Mr. Prairie's "Objective Test"

Mr. P

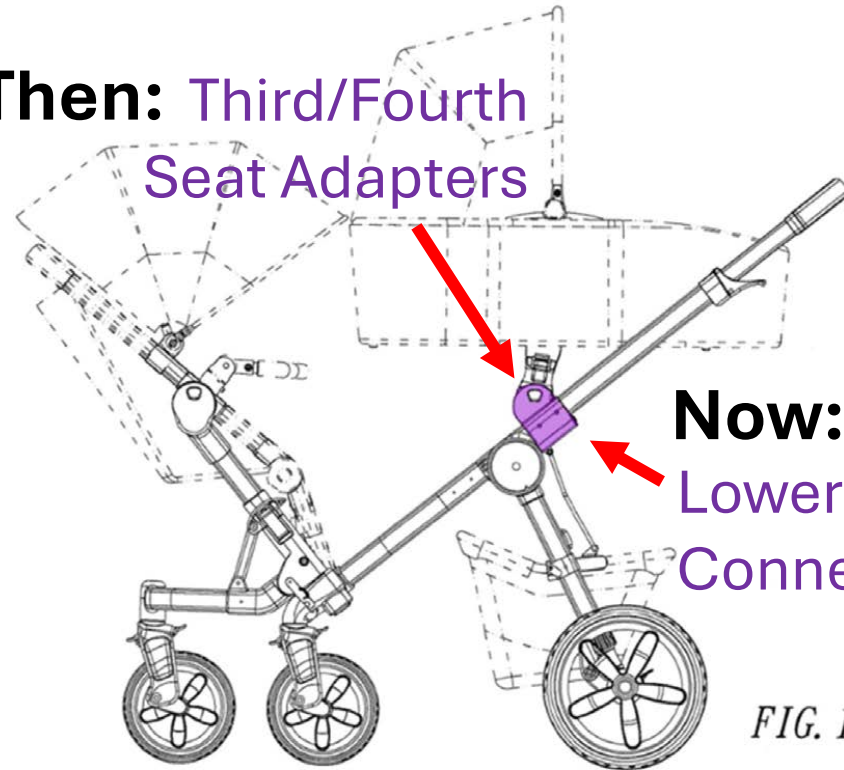
A I guess a POSITA, it teaches the POSITA that are there are alternate configurations and the POSITA can look at these detailed engineering drawings and understand that you could adjust the heights and position of those seats to create an inline descending configuration, if that is a desired configuration.

ds:

istent.

Mr. Prairie's "Objective Test"

Then: Third/Fourth
Seat Adapters



Now:
Lower
Connector

FIG. 10