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**Datasheet for the decision
of 5 November 2013**

Case Number: T 2539/10 - 3.2.01

Application Number: 04726902.2

Publication Number: 1616509

IPC: B62B 5/08, B62B 9/24,
A47D 13/02

Language of the proceedings: EN

Title of invention:
Seat for childcare equipment

Patent Proprietor:
Aprica Children's Products Inc.

Opponent:
Dorel Juvenile Group Europe

Headword:
-

Relevant legal provisions:
-

Relevant legal provisions (EPC 1973):
EPC Art. 56

Keyword:
"Inventive step (no) "

Decisions cited:
-

Catchword:
-



Case Number: T 2539/10 - 3.2.01

DECISION
of the Technical Board of Appeal 3.2.01
of 5 November 2013

Appellant: Dorel Juvenile Group Europe
(Opponent) NL-5700 ET Helmond (NL)

Representative: Bobzien, Hans Christoph
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Respondent: Aprica Children's Products Inc.
(Patent Proprietor) 13-13, Shimanouchi 1-chome
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Representative: Oser, Andreas
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Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 4 November 2010
rejecting the opposition filed against European
patent No. 1616509 pursuant to Article 101(2)
EPC.

Composition of the Board:

Chairman: G. Pricolo
Members: C. Narcisi
D. T. Keeling

Summary of Facts and Submissions

- I. The opposition filed against European patent No. 1 616 509 was rejected by the decision of the Opposition Division posted on 4 November 2010. Against this decision an appeal was lodged by the Opponent on 29 December 2010 and the appeal fee was paid at the same time. The statement of grounds of appeal was filed on 14 March 2011.
- II. The Appellant (Opponent) requested that the contested decision be set aside and that the patent be revoked. The Respondent (Patentee) stated with fax of 4 August 2011 that the arguments presented in the contested decision and as put forward by the Respondent during the opposition proceedings should be taken into account. The Respondent also added that it did not intend to make any further submissions.
- III. Claim 1 as granted reads as follows:

"A seat (3; 50) of a child-care instrument comprising:

a body restraint belt (10, 11; 20; 30; 40; 60, 70) which restrains a body of a seated child, the body restraint belt including a crotch belt (10; 60) and a pair of waist belts (11; 70) restraining a waist part of a seated child; and

fixing means (22; 32; 42) for fixing and holding said body restraint belt in a predetermined restraint position, thereby both said crotch belt and said pair of waist belts are constituted so as to be automatically brought to an open position to open a front surface of said seat while they are not locked by

said fixing means (22; 32; 42), and whereby each waist belt is positioned along a side surface of the seat while it is not locked by said fixing means."

IV. With a communication pursuant to Rules 84 (1) and 100 (1) EPC and dated of 18 September 2012 the Board informed the parties that although the contested patent had lapsed with effect for all the designated Contracting States the appeal proceedings might be continued at the request of the Opponent. With fax dated of 16 November 2012 the Opponent stated its request that the patent be revoked in its entirety as from the date of filing.

V. The Appellant's submissions may be summarized as follows:

The subject-matter of claim 1 lacks an inventive step with regard to D1/D1' (JP-A-2001-328471; D1' designates the English translation of D1) and the ordinary capabilities of the skilled person. This subject-matter differs, if at all, from the seat of D1/D1' in that the crotch belt according to the invention is intended to be (i) "automatically brought to an open position to open a front surface of said seat while ... not locked by said fixing means". This feature cannot however involve an inventive step. In particular, it is already known from D1 to provide the waist belts with elastic members such that the waist belts are automatically brought to an open position to open a front surface of said seat. Therefore, it would be obvious for the skilled person, if need be, to similarly provide elastic members for the crotch belt too, such that the crotch belt is automatically brought to an open

position to open a front surface of said seat. Hence the skilled person would arrive at the subject-matter of claim 1 without an inventive step.

VI. The Respondent's arguments presented during the opposition proceedings, and referred to in the fax of 4 August 2011 filed in response to the statement of grounds of appeal, may be summarized as follows:

The subject-matter of claim 1 is inventive over D1/D1'. Claim 1 differs from D1/D1' in that (i) the crotch belt is "automatically brought to an open position to open a front surface of said seat while ... not locked by said fixing means" and (ii) "each waist belt is positioned along a side surface of the seat while it is not locked by said fixing means". These features are not obvious for the skilled person. In particular, the technical problem underlying the present invention, i.e. to "move a body restraint belt out of the way when a child is to be seated on a seat of a child-care instrument" (see published patent specification (hereinafter denominated as EP-B), paragraph [0010]), is not mentioned in D1/D1'. Also, there would be no need for the skilled person to implement a technical measure according to feature (i) in the seat shown in D1/D1'. In effect, it is not apparent from D1/D1' that a loosely hanging crotch belt would represent an obstacle to the folding of the seat, the folding operation being moreover not even considered in D1/D1'. Further, the waist belt's specific function of automatically opening when the buckle is released relies on the given configuration of the waist belts according to D1/D1' and particularly on their arc-shape. By virtue of this configuration opposite ends of the belt are subject to a biasing

force when the waist belts assume a bent shape with their ends approaching each other in the closed state of the belt, such that upon release of the buckle the biasing force drives the waist belts towards the open position moving said ends apart. It would not be possible to obtain this effect with a crotch belt, for a crotch belt has an entirely different configuration. For these reasons the skilled person would not arrive at the subject-matter of claim 1 in an obvious manner.

Reasons for the Decision

1. The appeal is admissible.
2. The subject-matter of claim 1 lacks an inventive step over D1/D1'. The Patentee contends that D1 does not disclose feature (i) and (ii) of claim 1. As to feature (ii) (i.e. "each waist belt is positioned along a side surface of the seat while it is not locked by said fixing means") it is noted that, contrary to the Patentee's opinion, this feature is indeed disclosed in D1/D1' since it is clearly shown in figure 1 of D1/D1' that the waist belts 2,10 are located in the immediate vicinity of the side walls of the support part 1 of the seat while in their open position. The Opposition Division likewise considered this feature to be disclosed in D1/D1' (see contested decision, page 3, point 4). Concerning feature (i) the Patentee and the Opposition Division (see contested decision, pages 2-3, point 3) held that there is no explicit or implicit disclosure in D1/D1' for the crotch belt to be "automatically brought to an open position to open a front surface of said seat while ... not locked by said

fixing means". Regardless of whether this view may be correct or not, feature (i) cannot anyway contribute to inventive step in view of the disclosure of D1/D1' and the ordinary capabilities of the skilled person. Indeed, from D1/D1' (D1', paragraph [0006]) the skilled person infers that this document "takes as its object the provision of a child seat allowing a child to be put in and out without a crotch belt getting in the way and ...". Further, according to D1/D1' the technical problem to be solved likewise consists in that "it is necessary to open the waist belts to the outside in order that the waist belt does not get in the way" (D1', paragraph [0004]). In D1/D1' the technical problem related to the waist belts is solved by providing the waist belts with elastic force-imparting means 10 for applying an elastic force "so as to open the waist belts 2 in an outward direction in a non-locked state" (D1', paragraph [0017]). Thus, for the skilled person it would be obvious that by using the same or similar technical measures the additional object relating to the crotch belt mentioned in paragraph [0006] (see above) would also be attained. The Patentee's objections are not convincing since on the one hand the technical problem related to the "crotch belt getting in the way" is clearly stated in D1/D1' (see above) and solving this problem also represents the object of the present invention (see EP-B, paragraph [0010]). On the other hand it would be evident for the skilled person that in much the same way as is shown in D1 in relation with the waist belts, appropriate elastic means connected to the crotch belt would solve the stated technical problem, i.e. avoiding that the crotch belt stands in the way when putting the child in and out of the child seat. In view of D1/D1' the skilled person

would thus arrive at the subject-matter of claim 1 without an inventive step (Article 56 EPC).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairman:

A. Vottner

G. Pricolo