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GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			TSUI, YUNG-SHENG M	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* TOMOKI NII and YOSHIYUKI MURATA

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Appeal 2018-001320  
Application 14/227,288  
Technology Center 1700

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Before CATHERINE Q. TIMM, WESLEY B. DERRICK, and  
MONTÉ T. SQUIRE, *Administrative Patent Judges*.

DERRICK, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant<sup>1</sup> seeks review under 35 U.S.C. § 134 from the Examiner's maintained rejection under 35 U.S.C. § 103(a) of claim 1 over Kono<sup>2</sup> in view of Suzuki<sup>3</sup> and of claims 2 and 3 over Kono in view of Suzuki and Kobayashi.<sup>4</sup> We have jurisdiction under 35 U.S.C. § 6.

We reverse.

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<sup>1</sup> Appellant is Applicant, Toyota Boshoku Kabushiki Kaisha, who is also identified as the real party in interest. Appeal Br. 3.

<sup>2</sup> Kono et al., US 2013/0127225 A1, published May 23, 2013.

<sup>3</sup> Suzuki et al., JP 06206229, published July 26, 1994. The Examiner relies on an abstract provided by Applicant. Final Act. 2.

<sup>4</sup> Kobayashi, US 4,699,427, issued October 13, 1987.

### CLAIMED SUBJECT MATTER

The subject matter of the claims on appeal relates to a method of manufacturing a conveyance seat that includes integrally molding a seat pad. Specification filed March 27, 2014 (“Spec.”), Abstract.

Claim 1—the sole independent claim—is representative.

1. A manufacturing method for a conveyance seat having a pad structure including a seat pad and a back face member, the manufacturing method comprising:

integrally molding the seat pad with the back face member in a state where the back face member is arranged so as to cross over a parting line that is formed by laying a first sub element and a second sub element of a molding die on top of each other, the back face member crossing over the parting line from the first sub element to the second sub element, the molding die being formed of at least the first sub element and the second sub element.

Appeal Brief filed April 28, 2017 (“Appeal Br.”), 14.

### DISCUSSION

We have reviewed the maintained grounds of rejection set forth by the Examiner, Appellant’s arguments, and the Examiner’s response.<sup>5</sup> On this record, we are persuaded that the Examiner has failed to establish the unpatentability of the claims. For any ground of rejection, “the Examiner bears the initial burden . . . of presenting a *prima facie* case of unpatentability.” *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). We add the following.

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<sup>5</sup> We refer to the Specification, the Final Office Action dated November 30, 2016 (“Final Act.”), the Appeal Brief, the Examiner’s Answer dated September 22, 2017 (“Ans.”), and the Reply Brief filed November 17, 2017 (“Reply Br.”).

Kono relates to a method of manufacturing a vehicle seat with an elastic fiber body 10 using a forming apparatus 30 that includes a first mold 31 and a second mold 32 to form a cavity 34 when, which is filled with a foaming material FM. Spec. ¶¶ 68, 72, Figs. 7A–C. Kono further discloses that second mold 32 can be divided into a side mold 32L and a center mold 32C. *Id.* ¶ 69. As disclosed in Kono, elastic fiber body 10 is disposed on a rear surface of the pad member 6P formed. *Id.* ¶ 2. The Examiner relies on Kono as disclosing a method of making a vehicle seat by molding a seat pad with a back face member (elastic fiber body 10) where the molding die is composed of first and second sub elements (32L and 32C) in Figure 8B. Final Act. 2.

In addressing Appellant’s arguments, the Examiner states that “there is no language in claim 1 that requires the back face member to extend beyond the sub element,” that the “parting line from the first sub element to the second sub element” in claim 1 is arbitrary, and the “Specification fails to clearly define where such a ‘parting line’ is located or how the ‘parting line’ is configured.” Ans. 4. The Examiner then relies on Kono’s Figure 8B again as depicting the back face member 10 as crossing over the “line” that, in effect, extends from the interface between element 32C and element 32L. *Id.* at 4–5. The Examiner further sets forth that assuming claim 1 includes a “limitation for ‘overlapping back face members,’ one of ordinary skill in the art would have recognized that overlapping the back face members would prevent the injected foam from leaking out the sides before it solidifies” and equates this to common everyday actions “performed to prevent something from falling out of its container.” *Id.* at 5–6.

Suzuki relates to a method of making a foamed molded product with a foam layer 14 formed between a core material 12 and a skin 13 where the peripheral edge parts of the core material 12 and the skin 13 overlap in contact and prevent exposure of the formed foam layer 14 to the outside. Suzuki, Abstract. As depicted in Suzuki Figures 4 and 5, a mold part 18, upon which a core material 12 is positioned, and mold parts 17 and 19, upon which a skin 13 is positioned, are brought together, whereby the overlapping portions of the core material 12 and the skin 13 are brought into contact, and a foam layer 14 is formed within the cavity defined by mold parts 17–19, with the foam part 14 bounded by core material 12 and skin 13. *Id.* Abstract, Figs. 4–5. The Examiner relies on Suzuki disclosing a method of making a foamed molded article, but mis-cites elements 18 and 19 as back face members and elements 12 and 13 as sub elements (of the mold). Final Act. 2; *see also* Ans. 6–7.

The Examiner determines that “[i]t would have been obvious to one skilled in the art, at the time of invention by applicants, to have modified the method of Kono by overlapping back face members (crossing the parting line of sub elements) as taught by Suzuki” because doing so was “a known method for producing a foamed article” and the “overlap would serve to prevent any leaking of the foamed material outside of the back face members and keep the foam from seeping into the gaps between the sub elements.” Final Act. 3.

Contrary to the Examiner’s position, we determine that claim 1 does require that “the back face member is arranged so as to cross over a parting line . . . formed by layering a first sub element and a second sub element of a molding die on top of each other,” as it is manifest from the Specification

that the “parting line” is the point at which sub elements of a molding die are mated, that is, the gap between the mold die parts that together form the mold cavity. *See* Spec. ¶¶ 3, 6, 7, 16, and 19. We give terms the broadest reasonable interpretation consistent with the Specification as it would be interpreted by one of ordinary skill in the art. *See, e.g., In re Suitco Surface, Inc.*, 603 F.3d 1255, 1259–60 (Fed. Cir. 2010); *see also In re Smith Int’l, Inc.*, 871 F.3d 1375, 1382–83 (Fed. Cir. 2017) (the “broadest reasonable interpretation . . . [is] an interpretation that is ‘consistent with the specification’”) (citation omitted). Here, we determine that the proper meaning of “parting line” is the gap or interface between sub elements of a molding die such that a back face member must lie over the gap or interface in order to “cross over a parting line.”

Appellant contends that the Examiner erred in failing to properly construe claim 1, and then in failing to establish a basis for the back face member being arranged to cross over the parting line. Appeal Br. 6–7; Reply Br. 7–8. As explained above, we agree with Appellant that the Examiner erred in this respect.

Appellant also contends that it would not have been obvious to modify the back face member 10 of Kono to extend over the parting line. Appeal Br. 7–8. In particular, Appellant contends that Kono teaches away from such a modification and that it would not operate properly if so modified. *Id.* Appellant further contends that the Examiner relies on impermissible hindsight in the combination. *Id.* at 8.

On this record, we agree that there is an insufficient basis set forth by the Examiner for modifying Kono as would be required to arrive at the subject matter of claim 1. While the Examiner contends that there is a basis

for modifying Kono if the claim requires the back face member to extend over the parting line, namely, to “prevent the injected foam from leaking out the sides before it solidifies” (Ans. 5), there is no explanation how injected foam would be expected to leak out of the sides before it solidifies in unmodified Kono, or how it would be a benefit to keep foam from seeping into the gaps between its sub elements (*see generally* Final Act.; Ans). In light of these deficiencies, Suzuki disclosing “a known method for producing a foamed article” is not, in and of itself, a sufficient basis for modifying the particular article of Kono, or its method of manufacture. Final Act. 3. “[O]bviousness concerns whether a skilled artisan not only *could have made* but *would have been motivated to make* the combinations or modifications of prior art to arrive at the claimed invention.” *Belden Inc. v. Berk-Tek LLC*, 805 F.3d 1064, 1073 (Fed. Cir. 2015). On this record, accordingly, the Examiner’s articulated reasoning falls short of that necessary for a prima facie case. *See Oetiker*, 977 F.2d at 1445.

The Examiner’s further reliance on Kobayashi in the rejection of claims 2 and 3 does not remedy the deficiency discussed above.

For these reasons, we do not sustain the Examiner’s rejections of claim 1 over Kono in view of Suzuki or of claims 2 and 3 over Kono in view of Suzuki and Kobayashi.

#### DECISION

The Examiner’s rejections of claims 1–3 under 35 U.S.C. § 103 are REVERSED.

REVERSED