



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes application details for 15/136,073 and 23911 7590, listing inventor Hendrik NORDALM and attorney CROWELL & MORING LLP.

EXAMINER

SHUDY, ANGELINA M

ART UNIT PAPER NUMBER

3668

NOTIFICATION DATE DELIVERY MODE

09/03/2020

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

- edocket@crowell.com
mloren@crowell.com
tche@crowell.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* HENDRIK NORDALM and SEBASTIAN GEITHNER

---

Appeal 2019-006074  
Application 15/136,073  
Technology Center 3600

---

Before EDWARD A. BROWN, CHARLES N. GREENHUT, and  
LEE L. STEPINA, *Administrative Patent Judges*.

GREENHUT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 2 and 4–8. *See* Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b). An oral hearing was conducted August 18, 2020.

We AFFIRM.

---

<sup>1</sup> We use the term “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Bayerische Motoren Werke Aktiengesellschaft. Appeal Br. 1.

CLAIMED SUBJECT MATTER

The claims are directed to an air supply device for a motor vehicle seat and method for operating the air supply device. Claim 2, reproduced below, is illustrative of the claimed subject matter:

2. An air-supply device for a vehicle seat having an air outflow opening provided in an upper region of the vehicle seat via which a head, shoulder and neck region of a seat occupant is suppliable with an air stream, the air-supply device comprising:
  - a fan controllable to adjust the air stream;
  - a heater configured to heat the air stream;
  - a controller operatively configured to control a speed of the fan and the heater in accordance with a switch-on signal of the air-supply device received by the controller,
    - wherein the controller receives a temperature signal indicating an interior temperature of the vehicle, and
    - in response to the switch-on signal received by the controller, the controller
      - switches on the heater and
      - activates the fan differently depending on comparison between the interior temperature of the vehicle and a preset threshold temperature value, wherein when the interior temperature of the vehicle is lower than the preset threshold temperature value, the controller, in response to the switch-on signal of the air-supply device, causes the fan to be operated at a preset minimum fan speed which is a non-zero speed.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Rauh	US 2002/0105213 A1	Aug. 8, 2002
Bargheer	US 2005/0238339 A1	Oct. 27, 2005
Hartmann	US 2008/0136221 A1	June 12, 2008

## REJECTIONS

Claims 2, 4, and 5 are rejected under 35 U.S.C. § 103 as being unpatentable over Bargheer and Rauh. Final Act. 4.

Claims 6–8 are rejected under 35 U.S.C. § 103 as being unpatentable over Bargheer, Rauh, and Hartmann. Final Act. 10.

## OPINION

Appellant’s arguments for all claims and rejections are premised on the purported incompatibilities between the teachings of Bargheer and Rauh. Appellant first argues

Bargheer is completely silent regarding operation of the air supply device (14) **when the top is closed**. Accordingly, one of ordinary skill in the art would **not** be motivated to measure a vehicle **interior** ambient air temperature (separately from the sensed vehicle exterior ambient air temperature in Bargheer) and control operation of the blower (34) of the air supply device (14) of Bargheer based on the vehicle **interior** ambient air temperature

App. Br. 5.

We cannot agree with Appellant that Bargheer’s mere silence with regard to how to operate the heated airstream control when the top is closed is evidence that a skilled artisan would not have been motivated to provide some form of control for the system. Just because a prior art product functions satisfactorily for a particular use does not mean that a skilled artisan would not try to improve it or make it usable for other purposes. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007). The silence of a prior art reference on a particular point provides an incentive, not a disincentive, to fill in the gaps. As the Examiner points out, the skilled artisan would understand that Bargheer’s vehicle will not always be operated

with the top open. Ans. 9. When the top is closed one skilled in the art would understand a logical input for the heated airstream controller to promote occupant comfort would be the internal vehicle temperature as opposed to the external temperature. Further, we see no reason why, even absent the draught caused by an open top, delivering heated air to the head or neck region of the vehicle occupant would be undesirable for general heating purposes with the top closed.

Appellant next argues Bargheer and Rauh are incompatible because they teach opposite heated airstream responses to low temperature inputs, with Bargheer *increasing* the output flow and Rauh, like Appellant,<sup>2</sup> ensuring it stays low. App. Br. 6–8. We do not think these teachings of Bargheer and Rauh necessarily conflict or are incompatible. Rather, they are considering two different circumstances. Bargheer is operating under the assumption, rightly or wrongly, that Bargheer’s heater has sufficient capacity to heat the airstream to a physiologically acceptable temperature for the vehicle occupant without regard to how cold it might be. If Bargheer’s heater lacked this capacity under certain circumstances, such as low temperatures, the continued operation of Bargheer’s device would exacerbate the draught problem contrary to Bargheer’s stated goal of remedying it (para. 1). Rauh, on the other hand, considers whether, based on temperature measurements, Rauh’s heater has the ability to heat the air flow

---

<sup>2</sup> The claim recitation “operated at a preset minimum fan speed which is a non-zero speed” leaves room for interpretations beyond that of “a minimum speed which the fan is capable of operating at,” which we understand, based on the oral arguments, to be what Appellant intended with the phrase. The PTO applies the broadest reasonable interpretation to claim terminology. Applying the narrow reading that Appellant suggests we should use has no bearing on the outcome of this case.

Appeal 2019-006074  
Application 15/136,073

sufficiently so as to be physiologically acceptable to the occupant. Rauh paras. 2, 5, 6, 23–24. This additional factor Rauh takes into consideration would *improve* Bargheer’s system, far from rendering it “unsatisfactory for its intended purpose” as Appellant argues.

### CONCLUSION

The Examiner’s rejections are AFFIRMED.

### DECISION SUMMARY

<b>Claim(s) Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
2, 4, 5	103	Bargheer and Rauh	2, 4, 5	
6–8	103	Bargheer, Rauh, and Hartmann	6–8	
<b>Overall Outcome</b>			2, 4–8	

### TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED