

## Appeal decision

Appeal No. 2015- 13237

Italy

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The case of appeal against the examiner's decision of refusal of Japanese Patent Application No. 2012-527413, entitled "Seat Element" (international publication on March 10, 2011, International Publication No. WO 2011/027245; and national publication of the translated version on February 4, 2013, National Publication of International Patent Application No. 2013-503678) has resulted in the following appeal decision.

### Conclusion

The appeal of the case was groundless.

### Reason

#### No. 1 History of the procedures

The application of the case was originally filed on August 6, 2010 as an International Patent Application (priority claim under the Paris Convention: September 3, 2009, Italy). A notice of reasons for refusal was issued on August 12, 2014, and an examiner's decision of refusal was issued on February 10, 2015 (date of delivery (sending) of a copy of the decision: March 10, 2015). In response to this decision, an appeal against the examiner's decision of refusal was made and a written amendment of

the Claims was submitted on July 10, 2015.

No. 2 Decision to dismiss the amendment (hereinafter, referred to as "The Amendment") dated July 10, 2015

[Conclusion of Decision to Dismiss Amendment]

The amendment shall be dismissed.

[Reason]

1. Outline of the Amendment

The Amendment comprises an amendment of the Claims attached to the written submission of translation for International Publication. Claim 1 according to the scope of claims for patent before amendment was as follows.

[Claim 1]

A seat element (4), comprising a frame (8) able to support a seat (12) and fitted with at least one means of support (16), such as a foot or a leg, the seat (12) and the frame (8) being made separately from each other and being attachable and detachable from each other,

characterized in that

the frame (8) comprises at least one lateral plate (24),

the seat (12) comprises at least one tab (28) which in an assembled configuration, hooks onto said lateral plate (24) at least partially, in a shaped coupling, wherein

between the at least one tab (28) and at least one lateral plate (24), a snap coupling element (32) is positioned, flexible in relation to the plate (24) and to the tab (28) so as to fix the seat (12) to the frame (8) in an assembled configuration of the seat element (4).

Amended Claim 1 is as follows.

[Claim 1]

A seat element (4), comprising a frame (8) able to support a seat (12) and fitted with at least one means of support (16), such as a foot or a leg, the seat (12) and the frame (8) being made separately from each other and being attachable and detachable from each other,

characterized in that

the frame (8) comprises at least one lateral plate (24),

the seat (12) comprises at least one tab (28) which in an assembled configuration, hooks onto said lateral plate (24) at least partially, in a shaped coupling, wherein

between the at least one tab (28) and at least one lateral plate (24), a snap coupling element (32) is positioned, flexible in relation to the plate (24) and to the tab (28) so as to fix the seat (12) to the frame (8) in an assembled configuration of the seat element (4),

the at least one plate (24) comprises the snap coupling element (32) which is flexible in relation to the plate (24) and to the tab (28), and the tab (28) comprises a connection seat (36) which is able to receive the snap coupling element (32) of the plate (24) so as to fix the seat (12) to the frame (8) in an assembled configuration of the seat element (4).

the tab (28) of the seat (12) defines cavities (44) with a lower wall (48) of the seat (12), and said cavities (44) house the lateral plate (24) at least partially, in an assembled configuration of the seat element (4).

the snap coupling element (32) is a spring (52) having an attachment base (56) to

the frame (8) and a cantilever flexible arm (60) provided with a free extremity (64) which is able to snap engage to the connection seat (36) of the tab (28) of the seat (12). (Underlines are added in Appeal decision to clarify the details of the Amendment.)

The above amendment is to add limitations of the above underlined parts for "the plate (24)", "the tab (28)", and "the snap coupling element (32)", which are matters necessary for specifying the invention according to Claim 1. This amendment falls under "Restriction of the scope of claims" in accordance with Article 17-2 (5)(ii) of the Patent Act.

The invention according to Claim 1 after the Amendment (hereinafter, referred to as "the Amended Invention") will be examined below as to whether it could be patented independently at the time of filing of the patent application with the above matters specifying the invention (whether it falls under the provisions of Article 126(7) of the Patent Act which is applied mutatis mutandis pursuant to the provisions of Article 17-2(6) of the same Act).

## 2. Cited Document

### (1) Cited Document 1

The specification of EP 1284113 A2(hereinafter, referred to as "Cited Document 1"), which is cited in reasons for refusal of the examiner's decision and a publication distributed on February 19, 2003, a date before the date of priority claim of the present application, describes the following matters along with Drawings.

A. "[0018] With reference to the figures, reference numeral 1 designates a chair that comprises a frame, designated by reference numeral 2, that is advantageously made of a metallic material that is advantageously tubular and has, in this embodiment, four legs 3 that protrude downward.

[0019] The legs are advantageously mutually associated or rigidly coupled by two transverse elements 4a and by two longitudinal elements, designated by reference numeral 4b, which constitute a quadrilateral that is arranged on an approximately horizontal plane.

[0020] The frame 2 acts as a support for a seat, designated by reference numeral 5, with which a backrest 6 and/or two armrests, not shown in the figure, are optionally associated."

B. "[0021] Two approximately rectangular wings 7 protrude externally from the pair of longitudinal elements 4b of the frame 2 and constitute means for sliding coupling to complementarily shaped means formed below said seat 5.

[0022] The complementarily shaped means are advantageously constituted by a pair of receptacles 8 formed by the interspaces between the lower surface of the seat 5 and two tabs 9 that protrude from it so as to lie approximately parallel to the seat 5.

[0023] The tabs 9 are associated, or obtained monolithically, with the seat at at least one edge, designated by reference numeral 10a.

[0024] In the example shown in the figures, the tabs 9 have a first edge 10a and a second edge 10b, which are contiguous and provide a connection to the seat 5, so that the second edge 10b constitutes stroke limiting means for the sliding of the pair of wings 7 in the respective seats 8."

C. "[0025] The pair of wings 7 advantageously have first holes, designated by reference numeral 11, which are preferably threaded for the optional interconnection of screws, not shown, that pass through slots 12a or second holes 12b formed in the tabs 9. [0026] Advantageously, there are also means suitable to facilitate unidirectional sliding, such as, for example, lugs 13 that protrude obliquely from the lower surfaces of the two wings 7 and can be optionally associated within said second holes 12b."

E. "[0027] With reference to Figure 3, it is noted that it is possible to fit the seat on the frame easily and very rapidly: this assembly does not require special knowledge or skills and therefore can optionally be performed even by the user. [0028] This allows the chairs to be shipped in a disassembled condition, so that they occupy a very small space by being constituted by a frame and a seat (with or without a backrest) that can be stacked separately on other frames and seats. [0029] The sliding and interlocking connection further allows saving on the cost of the mechanical means that are normally used, particularly avoiding the use of screws and rivets."

Summarizing the above described matters, it is acknowledged that Cited Document 1 discloses the following invention (hereinafter, referred to as "Cited Invention 1").

"A chair 1 comprising a seat 5 and a frame 2 which has a function to support the seat,

wherein

the frame 2 has four legs 3 that protrude downward, the legs 3 being mutually associated or rigidly coupled by two (a pair of) transverse elements 4a and by two (a pair of) longitudinal elements 4b,

two approximately rectangular wings 7 protrude externally from the pair of longitudinal elements 4b, and constitute means for sliding coupling to complementarily shaped means formed below said seat 5, the complementarily shaped means being constituted by a pair of receptacles 8 formed by the interspaces between the lower surface of the seat 5 and two tabs 9 that protrude from it so as to lie approximately parallel to the seat 5,

slots 12a and second holes 12b are formed in the tabs 9, while lugs 13 protrude obliquely from the lower surfaces of the two wings 7, the lugs 13 being means suitable to facilitate unidirectional sliding and being optionally associated within said second holes 12b,

and the seat can be fitted on the frame easily and very rapidly, and the frame and the seat can be separated."

## (2) Cited Document 2

The specification of U.S. Patent No. 6698840 (hereinafter, referred to as "Cited Document 2"), which is also cited in reasons for refusal of the examiner's decision and a publication distributed on March 2, 2004, a date before the date of priority claim of the present application, describes the following matters along with Drawings.

A "Referring to FIGS. 2 to 6, the preferred embodiment of a chair according to the present invention is shown to include a seat 21, a backrest 3, and a coupling unit 4.

As illustrated, the seat 21 has a rear portion 21" with two opposite sides, a front portion 212 and a footrest 22 disposed frontwardly of the front portion 212.

The backrest 3 is disposed rearwardly of the seat 21, and has a lower portion 31 with two opposite sides 31" respectively disposed proximate to the opposite sides of the rear portion 21" of the seat 21." (Second column, lines 35 to 44)

B "The coupling unit 4 includes a pair of spaced apart engaging tongues 214, a pair of brackets 5, and a pair of fastener clips 6. The engaging tongues 214 are fixed on and extend outwardly from the opposite sides of the rear portion 21" of the seat 21, respectively. Each of the engaging tongues 214 has a distal end that is formed with an engaging hole 215 confined by a hole-defining wall 215W. The brackets 5 are respectively fixed on the opposite sides of the lower portion 31 of the backrest 3. Each of the brackets 5 defines a tongue-retention channel 53 that extends in a longitudinal direction and that has a mounting end 53M and an inlet end 53I opposite to the mounting end 53M. Each of the engaging tongues 214 is snugly insertable into a respective one of the tongue-retention channels 53 of the backrests 5 via the inlet end 53I. The fastener clips 6 are mounted respectively on the brackets 5. Each of the fastener clips 6 includes a resilient arm 63 that extends from the mounting end 53M toward the inlet end 53I and that has an inverted U-shaped mounting portion 61 mounted on the mounting end 53M, and a V-shaped engaging end 64 distal from the mounting end 53M and projecting in a transverse direction relative to the longitudinal direction into the tongue-retention channel 53. The V-shaped engaging end 64 defines an abutment side face 641 and a sliding side face 642 that is opposite to and that extends from the abutment side face 641 and that is inclined relative to the longitudinal direction. The V-shaped engaging end 64 is resiliently movable relative to the respective tongue-retention channel 53 such that the V-shaped engaging end 64 resiliently moves in the transverse direction away from the respective tongue-retention channel 53 when a respective one of the engaging tongues 214 slides over the sliding side face 642 upon insertion of the respective engaging tongues 214 into the respective tongue-retention channel 53, and such that the V-shaped engaging end 64 resiliently moves toward the respective tongue-retention channel 53 and into the engaging hole 215 when the respective one of the engaging tongues 214 passes over the sliding side face 642 to the abutment side face 641 (see FIG. 6). The abutment side face 641 engages the hole-defining wall 215W of the engaging hole 215 when the respective one of the engaging tongues 214 is pulled away from the tongue-retention channel 53 (see FIG. 5). Thus, undesired removal of the engaging tongues 214 from the tongue-retention channels 53 of the backrests 5 is prevented. The backrest 3 can be detached from the seat 21 by simply pulling the V-shaped engaging ends 64 of the resilient arms 63 of the fastener clips 6 from the engaging holes 215 in the engaging tongues 214 so as to permit removal of the engaging tongues 214 from the tongue-retention channels 53 of the backrests 5." (Second column, lines 45 to Third column, line 27)

C "In this embodiment, each of the brackets 5 includes a mounting wall 51 that is fixed on one of the two opposing sides 31" of the backrest 3, that extends in the longitudinal direction, and that has two side edges, and two spaced-apart generally L-shaped flanges 52 which are fixed on and extend from the side edges of the mounting wall 51, respectively, to confine the respective tongue-retention channel 53." (Third column, lines 28 to 34)

Summarizing the above described matters, it is acknowledged that Cited Document 2 discloses the following invention (hereinafter, referred to as "Cited Invention 2").

"A coupling unit 4 including a pair of engaging tongues 214, a pair of brackets 5, and a pair of fastener clips 6, wherein the fastener clips 6 are mounted on the brackets 5, and an engaging hole 215 engaging with the fastener clips 6 is mounted on the engaging tongues 214,

the fastener clips 6 include a mounting portion 61 to be mounted on the bracket 5, and a resilient arm 63 having a V-shaped engaging end 64,

said V-shaped engaging end 64 defines an abutment side face 641 and a sliding side face 642 that is opposite to and that extends from the abutment side face 641 and that is inclined relative to the longitudinal direction,

and upon insertion of the engaging tongues 214 into the brackets 5, the V-shaped engaging end 64 can resiliently move into the engaging hole 215 to be engaged, thus preventing undesired movement of the engaging tongues 214 from the brackets 5."

### 3. Comparison

The comparison between the Amended Invention and Cited Invention 1 results in the following. "The seat 5" in the latter invention corresponds to "the seat (12)" in the former invention in view of their structures, functions, and working effects. Similarly, "the legs 3" corresponds to "the support (16) (such as a foot or a leg)", "the frame 2" corresponds to "the frame (8)", "the chair 1" corresponds to "the seat element (4)", "the wings 7" corresponds to "the lateral plate (24)", and "the tab 9" corresponds to "the tab (28)". From the description in the latter invention of "the seat can be fitted on the frame easily and very rapidly, and the frame and the seat can be separated", it can be said that the latter invention also has the configuration of "the seat (12) and the frame (8) being made separately from each other and being attachable and detachable from each other" as in the former invention.

In addition, "receptacles 8 (formed by the interspaces between the lower surface of the seat 5 and tabs 9 that protrude from it so as to lie approximately parallel to the seat 5)" in the latter invention corresponds to "cavities (44) (defined by the tab (28) of the seat (12) with a lower wall (48) of the seat (12))" in the former invention. The wings 7 and tabs 9 of the latter invention are connected by "sliding coupling", and thus it can be said that the latter invention also has the configuration of "the seat (12) comprises at least one tab (28) which in an assembled configuration hooks onto said lateral plate (24) at least partially, in a shaped coupling" as in the former invention.

Furthermore, in the latter invention, "the slots 12a and second holes 12b are formed in the tabs 9, while the lugs 13 protrude obliquely from the lower surfaces of the two wings 7, the lugs 13 being means suitable to facilitate unidirectional sliding and being optionally associated within said second holes 12b". Therefore, "the second holes 12b (which can be optionally associated with the lugs 13)" of the latter invention corresponds to "the connection seat (36) (which is able to receive the snap coupling element (32))" in the former invention. "The lugs 13" of the latter invention and "the snap coupling element (32)" of the former invention are positioned between the at least one tab and at least one lateral plate so as to fix the seat to the frame in an assembled configuration of the seat element, and therefore the two have common function as "a

coupling element".

Accordingly, the two inventions are in correspondence in the following:

"A seat element, comprising a frame able to support a seat and fitted with at least one means of support, such as a foot or a leg, the seat and the frame being made separately from each other and being attachable and detachable from each other,

wherein the frame comprises at least one lateral plate,

the seat comprises at least one tab which in an assembled configuration hooks onto said lateral plate at least partially, in a shaped coupling,

between the at least one tab and the at least one lateral plate, a coupling element is positioned so as to fix the seat to the frame in an assembled configuration of the seat element,

the at least one lateral plate comprises the coupling element, and the tab comprises a connection seat which is able to receive the coupling element of the plate so as to fix the seat to the frame in an assembled configuration of the seat element,

the tab of the seat defines cavities with a lower wall of the seat and these cavities house the lateral plate at least partially, in an assembled configuration of the seat element,

the coupling element is engaged to the connection seat of the tab of the seat."

And the two inventions are different in the following.

[The different feature]

As regarding the coupling element, the Amended Invention discloses "a snap" coupling element "which is flexible in relation to the plate (24) and to the tab (28)", and "the snap coupling element (32) is a spring (52) having an attachment base (56) to the frame (8) and a cantilever flexible arm (60) provided with a free extremity (64) which is able to snap engage" to the connection seat (36) of the tab (28) of the seat (12). While Cited Invention 1 discloses the lugs 13 that protrude obliquely from the lower surfaces of the wings 7, the lugs 13 are means suitable to facilitate unidirectional sliding.

#### 4. Judgment

The above different features will be discussed below.

"The fastener clips 6", "the mounting portion 61", "the engaging hole 215", and "the resilient arm 63" in Cited Invention 2 respectively correspond to "the snap coupling element (32)", "the attachment base (56)", "the connection seat (36)", and "the cantilever flexible arm (60)" of the Amended Invention.

"The resilient arm 63" of Cited Invention 2 has a V-shaped engaging end 64, and thus can be said to have a free extremity which is able to snap engage. In addition, "the fastener clips 6" of Cited Invention 2 correspond to "the spring (52)" of the Amended Invention, since the V-shaped engaging end 64 resiliently moves into the engaging hole 215 to be engaged.

Then, it can be said that Cited Invention 2 discloses the matter that "the snap coupling element (32)" of the Amended Invention according to the above difference is "the spring (52) having the attachment base (56) and the cantilever flexible arm (60) provided with the free extremity (64) which is able to snap engage to the connection seat (36)".

"The lugs 13" according to Cited Invention 1 and "the fastener clips 6" according to Cited Invention 2 have common structures and functions, as they are both coupling elements for engaging two members in the seat element. Accordingly, a person skilled in the art could have easily conceived of applying Cited Invention 2 to Cited Invention 1.

Then, it can be said that it could have been easily conceived by a person skilled in the art to apply Cited Invention 2 to Cited Invention 1 to make the matters specifying the invention of the Amended Invention according to the above difference.

In addition, if Cited Invention 2 is applied to Cited Invention 1, the attachment base is necessarily "for the frame" as in the Amended Invention, and the snap coupling element comes to "have flexibility in relation to the plate and the tab".

Also, effects obtained by the overall constituent of the Amended Invention fall within a scope that can be predicted by a person skilled in the art based on Cited Invention 1 and Cited Invention 2.

Therefore, the Amended Invention could have been easily made by a person ordinarily skilled in the art based on Cited Invention 1 and the Cited Invention 2, and the appellant should not be granted a patent for it independently at the time of patent application under the provisions of Article 29(2) of the Patent Act.

## 5. Closing

As described above, the Amendment violates the provisions of Article 126(7) of the Patent Act which is applied mutatis mutandis pursuant to the provisions of Article 17-2(6) of the same Act, and therefore should be dismissed under the provisions of Article 53(1) of the same Act applied mutatis mutandis by replacing certain terms pursuant to Article 159(1) of the same Act.

## No. 3. Invention of the present application

### 1. Invention of the present application

As the Amendment was dismissed as above, the invention according to Claim 1 of the present application (hereinafter, referred to as "the Invention") is recognized as follows, which is specified by the matters described in Claim 1 of the scope of claims for patent attached to the written submission of translation for International Publication.

"[Claim 1]

A seat element (4), comprising a frame (8) able to support a seat (12) and fitted with at least one means of support (16), such as a foot or a leg, the seat (12) and the frame (8) being made separately from each other and being attachable and detachable from each other,

characterized in that

the frame (8) comprises at least one lateral plate (24), the seat (12) comprises at least one tab (28) which in an assembled configuration hooks onto said lateral plate (24) at least partially, in a shaped coupling, wherein

between the at least one tab (28) and the at least one lateral plate (24), a snap coupling element (32) is positioned, flexible in relation to the plate (24) and to the tab (28) so as to fix the seat (12) to the frame (8) in an assembled configuration of the seat

element (4)."

## 2. Cited Document

Publications, description thereof, and Cited Inventions cited in the reasons for refusal of the examiner's decision are as described in the above "No. 2. 2. Cited Document".

## 3. Comparison / judgment

The Invention is, as clearly recognized from the consideration in the above "No. 2. 1. Outline of the Amendment", substantially an invention made by omitting the following limitations from the Amended Invention;

"the at least one plate (24) comprises the snap coupling element (32) which is flexible in relation to the plate (24) and to the tab (28), and the tab (28) comprises a connection seat (36) which is able to receive the snap coupling element (32) of the plate (24) so as to fix the seat (12) to the frame (8) in an assembled configuration of the seat element (4),

the tab (28) of the seat (12) defines cavities (44) with a lower wall (48) of the seat (12), and said cavities (44) house the lateral plate (24) at least partially, in an assembled configuration of the seat element (4),

the snap coupling element (32) is a spring (52) having an attachment base (56) to the frame (8) and a cantilever flexible arm (60) provided with a free extremity (64) which is able to snap engage to the connection seat (36) of the tab (28) of the seat (12)."

Accordingly, the Amended Invention which corresponds to one including all the matters specifying the Invention and further including limitations could have been easily made by a person skilled in the art based on Cited Invention 1 and Cited Invention 2, as described above in "No. 2. 3. Comparison" and "No. 2. 4. Judgment." Therefore, it can be said that the Invention could also have been easily made by a person skilled in the art based on Cited Invention 1 and Cited Invention 2 for the same reasons.

## 4. Closing

As stated above, the Invention could have been easily made by a person skilled in the art according to Cited Invention 1 and Cited Invention 2, and thus, the appellant should not be granted a patent for the invention in accordance with the provisions of Article 29(2) of the Patent Act.

Therefore, the appeal decision shall be made as described in the conclusion.

April 11, 2016

Chief administrative judge: YOSHIMURA, Hisashi  
Administrative judge: KUROSE, Masakazu  
Administrative judge: FUJIMOTO, Yoshihito