

COMMISSIONER'S DECISION

OBVIOUSNESS (and indefiniteness) - Reclining Chair

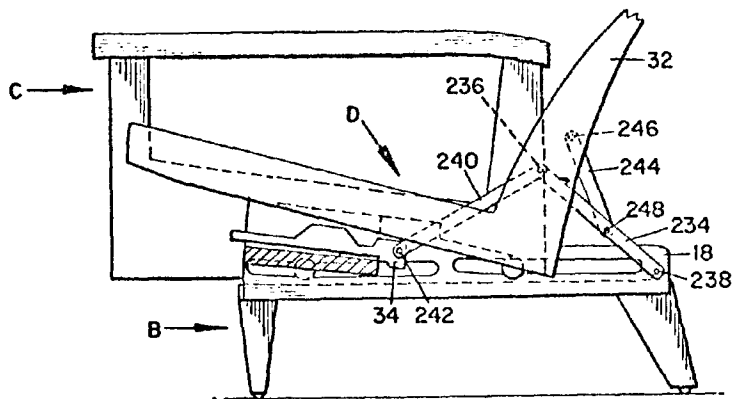
This application relates to a reclining chair which can be positioned in close proximity to a wall. An amendment submitted to the Board was accepted as overcoming the objections in the Final Action.

Final Action: Affirmed

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This decision deals with a request for review by the Commissioner of Patents of the Examiner's Final Action dated May 10, 1976, on application 155,013 (Class 155-41.2). The application was filed on October 27, 1972, and is entitled "Reclining Chair." An amendment to this application, dated June 10, 1977, was presented to the Patent Appeal Board just prior to the Board's consideration of this case. The examiner is of the opinion that this amendment overcomes the objections made in the Final Action. This amendment will now be considered by the Board.

The application relates to a reclining chair which can be positioned in close proximity to such things as a wall or other articles of furniture. Figure 9, shown below, depicts that arrangement.



In refusing claims in the Final Action the examiner had this to say (in part) as follows:

...

References Applied:

United States Patents

2,815,794	Dec. 10, 1957	Henrickson et al
2,789,291	Apr. 23, 1957	Nock
2,270,172	Jan. 13, 1942	Ruegger
2,966,939	Jan. 3, 1961	Fletcher
3,433,527	Mar. 18, 1969	Ré

The patent to Henrickson et al shows a reclining chair mounted on a chassis wherein the chassis and the body-supporting unit move forwardly on reclining. Applicant argues stability and center of gravity but this is not clear from claim 1. Applicant states that Hendrickson does not show a situation where the body-supporting unit goes in one direction relative to a chassis and the chassis goes in an opposite direction relative to the base.

While it is agreed that Hendrickson et al does not show this; this is not stated in claim 1; applicant appears to have missed the meaning of his words in claim 1. The mere substitution of a chassis for the linkages of Nock or Ruegger does not amount to invention.

The legrest is merely "added on" in view of common knowledge as shown by the patents to Ré and Fletcher. Applicant argues the fastening to the floor of the patent to Hendrickson et al however, no such fastening is required in the patent to Nock. Applicant argues in his October 14, 1975 reply that claim 1 does not read on the prior art. While this is agreed, more than this is required for patentability. The claim must be directed to subject matter that is inventive in view of the prior art. Such is not the case.

Claim 1 is therefore rejected as directed to unpatentable material in view of the cited references. Comments with respect to the prior art are limited to claims 1 and 5 for reasons outlined hereinafter.

Discussion with respect to the prior art and with respect to unity of subject matter with respect to the claims is difficult because of the vagueness of the claims. Claims 2 to 4 and 6 are avoidably obscure, the description of the interconnections and movements of the various parts is given in different terms throughout the claims. As far as can be understood, these descriptions are contradictory and inconsistent with the disclosure as presented hereinafter.

In claims 1 and 2 the body-supporting unit is stated to move relative to the wall. In claim 5 this is left out and the body-supporting unit moves rearwardly relative to the chassis. In claim 6 the seat and back are operatively interconnected and the seat moves rearwardly relative to the chassis. In claim 4 both the body-supporting unit and the chassis move relative to the base. In claims 2 and 3 the movement of the body-supporting unit relative to the base is stated to be in substantially inverse ratio to any movement of the chassis relative to the base. The ordinary meaning of these words in claims 2 and 3 is that if the chassis moves one foot forward relative to the base, the body-supporting unit moves one foot rearward relative to the base which is inconsistent with claims 4 and 5. The disclosure states, on page 1 that the body-supporting unit moves forwardly relative to the platform. Claim 2 is therefore also inconsistent with the disclosure.

The applicant submitted an amendment, dated August 9, 1976, to the Final Action. The examiner did not accept that amendment as overcoming the objection in the Final Action. A number of other amendments were subsequently submitted and on June 10, 1977, an amendment was made and the applicant stated his position (in part) as follows:

Following our most recent discussion, I now enclose the amended claim 1, which includes the agreed suggestion to add the words "a generally" in the last line to read -- a generally rearward movement relative to the chassis--; and to make the claim more definite and operable the words "relative to the base as" are included after "chassis" to read --of the chassis relative to the base as indicated--. (Fourth last line)

The above amendment is in addition to other amendments which have been entered in this application. Amended claim 1 now reads:

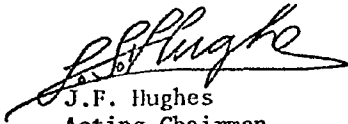
A reclining chair movable between upright-sitting and intermediate-television and fully-reclined positions and positionable anywhere on a floor of a room and in close adjacency and forwardly of a wall when in the upright-sitting position while allowing ready assumption of intermediate television and fully-reclined positions free of wall contact comprising:  
a base supportable on a floor without connection thereto,  
a chassis including interconnected armrests carried on the base, means mounting the chassis on the base for linear movement relative to the base, a body-supporting unit including a seat and back, a leg-supporting unit mounted from the body-supporting unit, a linkage mechanism operatively interconnecting the body-supporting

and leg-supporting units and the chassis and base whereby the body-supporting and leg-supporting units move forwardly relative to the base and effecting movement of the body-supporting unit between upright-sitting and intermediate-television and fully-reclined positions and concomitant and simultaneous movement of the leg-supporting unit between retracted and extended positions respectively, said linkage mechanism being actuated by the forward linear movement of the chassis relative to the base as initiated by the occupant applying a force to the armrests which imparts to the body-supporting and leg-supporting units a generally rearward movement relative to the chassis.

In the Final Action some claims were refused as being too broad in scope and failing to satisfy Section 36 of the Patent Act.

The examiner stated that he was prepared to accept the amendments mentioned above as overcoming the objection of the Final Action. We have studied these amendments and we are also satisfied that these amendments overcome the rejections in the Final Action. The claim, in our view, is now in condition for allowance.

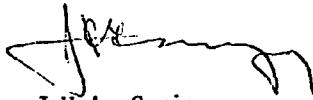
In summary, we are satisfied that the amendments overcome the rejections of the Final Action. We recommend that these amendments be accepted.



J.F. Hughes  
Acting Chairman  
Patent Appeal Board, Canada

Having studied the prosecution of this application and reviewed the recommendation of the Patent Appeal Board, I have decided to accept the amendments.

The application is returned to the examiner for resumption of prosecution.



J.H.A. Gariepy  
Commissioner of Patents

Dated at Hull, Quebec

this 28th. day of June, 1977

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