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| HANLEY, FLIGHT & ZIMMERMAN, LLC 150 S. WACKER DRIVE SUITE 2100 CHICAGO, IL 60606 | | | DOERRLER, WILLIAM CHARLES | |
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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.

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARTSANA USA, INC.¹
Requester, Appellant

v.

KOLCRAFT ENTERPRISES, INC.²
Patent Owner, Respondent

Appeal 2013-008706
Inter partes Reexamination Control 95/000,514
Patent US 7,376,993 B2³
Technology Center 3900

Before JEFFREY B. ROBERTSON, DANIEL S. SONG and
BRETT C. MARTIN *Administrative Patent Judges.*

SONG, *Administrative Patent Judge*

DECISION ON APPEAL

¹ Previously named Chicco USA, Inc. (Appeal Brief (hereinafter "App. Br.") 3).

² Kolcraft Enterprises, Inc., is the real party in interest (Respondent Brief (hereinafter "Resp. Br.") 1).

³ Patent US 7,376,993 B2 (hereinafter "'993 patent") issued May 27, 2008 to Myers et al.

STATEMENT OF THE CASE

Claims 1-68 are subject to reexamination and claims 1-32, 34, 37-50, 52-60 and 63-68 have been confirmed or found patentable (Right of Appeal Notice⁴ (hereinafter "RAN") 1). Remaining claims 33, 35, 36, 51, 61 and 62 have been canceled (RAN 1). The Requester appeals under 35 U.S.C. §§ 134 and 315 from the Examiner's withdrawal or refusal to adopt certain proposed rejections of the claims (App. Br. 5-8). We have jurisdiction under 35 U.S.C. §§ 134 and 315.

The Requester relies on its Appeal Brief, Rebuttal Brief (hereinafter "Reb. Br.") and a declaration from Mr. O'Donnell to support its position that the appealed claims are unpatentable. The Patent Owner relies on a Respondent Brief and a declaration of Mr. Bretschger in support of the Examiner's decision. An oral hearing with the representatives of the parties was held before the Patent Trial and Appeal Board on November 6, 2013, a transcript of which will be entered into the record in due course.

The '993 patent has also been identified as being asserted in co-pending civil action captioned *Kolcraft Enterprises, Inc. v. Chicco USA, Inc.*, Civil Action No. 1:09-cv-0339 (N.D. Ill.) (App. Br. 3; Resp. Br. 1).

We AFFIRM-IN-PART and REVERSE-IN-PART, denominating the reversal as a New Ground of Rejection.

⁴ The Examiner's Answer mailed March 13, 2013 merely incorporates by reference the RAN so we cite to the RAN herein.

THE INVENTION

The '993 patent is directed to play gyms and methods of operating the same (*see* '993 patent, Title). There are 16 separate independent claims. Representative independent claims 1, 22 and 32 read as follows (Claims App'x, italics added):

1. An apparatus comprising:
 - a floor mat;
 - a play gym to suspend an object above the floor mat;
at least two compound connectors to couple the play gym to the floor mat; and
 - at least one fastener to couple the floor mat to at least one of a play yard and a bassinet,
wherein each of the at least two compound connectors comprises a first connector, a second connector and a third connector, and the play gym comprises:
 - a hub; and
 - at least two legs, each of the legs having a first end coupled to the hub and a second end dimensioned to be removably coupled to a respective one of the compound connectors such that the first, second, and third connector of each compound connector cooperate to couple a respective leg to the floor mat, wherein *the at least two legs are pivotably coupled to the hub.*

22. An apparatus comprising:
 - a hub; and
 - at least two legs, each of the legs having a first end coupled to the hub and a second end dimensioned to be removably coupled to: (a) a fabric pocket on at least one of a bassinet and a play yard, and (b) *a compound connector* of a floor mat separate from the bassinet and the play yard, wherein the hub defines a first plurality of cavities and a second plurality of cavities, *wherein each of the at least two legs is pivotable* between a first position in which the first end is disposed within a respective one of the first cavities and a

second position in which the first end is disposed within a respective one of the second cavities, wherein the compound connector includes a first connector defining an aperture to receive the leg and *a metal connector to secure the leg to the mat.*

32. An apparatus comprising:
- a play yard having a floor mat, the floor mat having a set of first connectors and a set of second connectors,
 - a bassinet for suspension within the play yard;
 - a play gym to suspend an object above the floor mat when the bassinet is suspended in the play yard and the floor mat is in the bassinet, and to suspend the object above the floor mat when the floor mat is in neither the play yard nor the bassinet, the play gym including a hub and four legs, each of the first connectors from the first set being paired with a respective one of the second connectors from the second set, each pair of first and second connectors cooperating to removably connect a respective one of the legs to the floor mat, *each of the legs having a first end pivotably coupled to the hub and a second end dimensioned to be removably coupled to the floor mat via a respective pair of first and second connectors, wherein the hub defines a first plurality of cavities and a second plurality of cavities, and wherein each of the legs is pivotable between a first position in which the first end is disposed within a respective one of the first cavities and a second position in which the first end is disposed within a respective one of the second cavities, and wherein the hub includes a plurality of pins and each of the first ends of the legs defines a slot to receive a respective one of the pins;*
 - a plurality of springs positioned to bias the legs towards the hub;* and
 - a fastener to couple the floor mat to at least one of the play yard and a bassinet.

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