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**Datasheet for the decision  
of 26 May 2011**

**Case Number:** T 2319/09 - 3.2.07

**Application Number:** 07107787.9

**Publication Number:** 1854739

**IPC:** B65D 85/10

**Language of the proceedings:** EN

**Title of invention:**

A rigid wrapper containing packets of cigarettes

**Applicant:**

G.D S.p.A.

**Headword:**

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**Relevant legal provisions:**

EPC Art. 123(2), 56

**Relevant legal provisions (EPC 1973):**

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**Keyword:**

"Amendments: allowable"  
"Inventive step: yes"

**Decisions cited:**

-

**Catchword:**

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Case Number: T 2319/09 - 3.2.07

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.07  
of 26 May 2011

**Appellant:**

G.D S.p.A.  
Via Battindarno, 91  
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**Representative:**

Ghioni, Carlo Raoul Maria  
c/o Bugnion S.p.A.  
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**Decision under appeal:**

Decision of the Examining Division of the  
European Patent Office posted 15 June 2009  
refusing European patent application  
No. 07107787.9 pursuant to Article 97(2) EPC.

**Composition of the Board:**

**Chairman:** H.-P. Felgenhauer  
**Members:** K. Poalas  
I. Beckedorf

## Summary of Facts and Submissions

I. The appellant (applicant) lodged an appeal against the decision of the Examining Division refusing European patent application 07 107 787.9.

II. In its decision, the Examining Division held that the subject-matter of claim 1 according to the main and to the auxiliary request does not involve an inventive step (Article 56 EPC).

III. Oral proceedings before the Board took place on 26 May 2011. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the following documents:

claims: 1 to 10 as filed during the oral proceedings;  
description: pages 2 to 4 as filed during the oral proceedings;  
drawing: 1 to 3 as originally filed with figure 4 being deleted.

IV. Amended claim 1 reads as follows:

"A rigid wrapper containing packets of cigarettes, wherein the cigarette packets (2) are of prismatic geometry, presenting a substantially isosceles triangular section and being arranged mutually parallel and in contact one with another, referable to a given predominating longitudinal axis (L), characterized in that the packets (2) are disposed inside the wrapper (1) with respective longitudinal axes (5) extending perpendicular to the predominating longitudinal axis

(L) of the wrapper (1) in such a way as to form one group (15) of packets (5) appearing prismatic in shape and presenting a trapezoidal longitudinal section matching that of wrapper (1), and in that the wrapper (1) comprises a bottom face (10) of rectangular outline, two mutually opposed flank faces (11) associated with respective shorter sides (12) of the bottom face (10), a front face (7) and a rear face (8) parallel one with another and associated with respective longer sides (9) of the bottom face (10) an access opening (13) parallel to the bottom face (10) and of rectangular outline so that the wrapper (1) is of prismatic appearance, presenting a trapezoidal longitudinal section, and in that the group (15) of packets comprises a first row (15a) of packets (2) disposed with respective side faces (4) offered to and resting on the bottom face (10), and a second row (15b) of packets (2) disposed with respective side faces (4) offered to and facing the access opening (13), in such a way as to interpose each packet (2) of the second row (15b) between two corresponding packets (2) of the first row (15a)".

## **Reasons for the decision**

### **1. *Amendments - Article 123(2) EPC***

Claim 1 is based on originally filed claims 1, 3, 7, 8, 9 and 10 together with the information disclosed on page 7, lines 7 to 10 of the originally filed description. Claims 2 to 10 are based on the originally filed claims 4 to 6 and 12 to 17.

The Board considers therefore that the new claims meet the requirements of Article 123(2) EPC.

2. *Inventive step - Article 56 EPC*

2.1 A rigid wrapper according to the preamble of claim 1 is known from D2 (WO 01/98179 A).

2.2 The rigid wrapper according to claim 1 distinguishes itself over this wrapper at least in that the longitudinal axis of the wrapper and the longitudinal axis of the packets extend perpendicular to each other, the wrapper and single group of packets packaged therein are both of prismatic appearance, presenting a trapezoidal longitudinal section, and in that said the group of packets comprises a first row of packets disposed with respective side faces offered to and resting on the bottom face, and a second row of packets disposed with respective side faces offered to and facing the access opening, in such a way as to interpose each packet of the second row between two corresponding packets of the first row.

2.3 The Board cannot see any objections against the appellant's arguments that these differentiating features enable the provision of a rigid wrapper containing packets of cigarettes of prismatic geometry having a triangular section, said rigid wrapper having a shape capable of better exploiting the space within the containers in which the wrappers are stowed.

2.4 D2 teaches the person skilled in the art that in order to provide a rigid wrapper for packets of cigarettes having a triangular cross-section using a relatively

modest quantity of wrapping material the wrapper's section across a predominating longitudinal axis extending parallel to the longitudinal axis of the packets of cigarettes has to present a prismatic shape of polygonal section, see claim 1 and page 2, lines 10 to 17. D2 teaches also the packaging of two rows of packets of cigarettes, each row being positioned either above or underneath a horizontal central plane, see figures 1,3, 5, 7, 9, 11 and 13 to 15. None of the prior art documents in the file gives any indication to the person skilled in the art starting from the rigid wrapper known from D2 to provide it with the structural features mentioned in the characterizing part of claim 1, nor is it otherwise obvious to provide them as claimed.

2.5 Accordingly, the subject-matter of claim 1 involves an inventive step (Article 56 EPC).

**Order**

**For these reasons it is decided that:**

1. The decision under appeal is set aside.
  
2. The case is remitted to the first instance with the order to grant a patent on the basis of the following documents:

claims: 1 to 10 as filed during the oral proceedings;  
description: pages 2 to 4 as filed during the oral proceedings;  
drawings: 1 to 3 as originally filed.

The Registrar:

The Chairman:

G. Nachtigall

H.-P. Felgenhauer