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**Datasheet for the decision
of 25 September 2013**

Case Number: T 2146/12 - 3.2.03

Application Number: 08803226.3

Publication Number: 2193318

IPC: F25D 17/06, F25D 23/06

Language of the proceedings: EN

Title of invention:
A cooling device

Applicant:
Arçelik Anonim Sirketi

Headword:
-

Relevant legal provisions:
EPC Art. 56

Keyword:
"Inventive step (yes)"

Decisions cited:
-

Catchword:
-



Case Number: T 2146/12 - 3.2.03

D E C I S I O N
of the Technical Board of Appeal 3.2.03
of 25 September 2013

Appellant: Arçelik Anonim Sirketi
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 4 May 2012
refusing European patent application
No. 08803226.3 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: U. Krause
Members: C. Donnelly
K. Garnett

Summary of Facts and Submissions

- I. The appeal lies from the decision of examining division, posted on 4 May 2012, refusing European application no. 08 803 226.3.

In its decision the examining division held that the subject-matter of claim 1 as published did not involve an inventive step in view of US-A-5577822 (D1).

- II. The applicant (hereinafter "the appellant") filed a notice of appeal against this decision on 2 July 2012 and paid the fee the same day. The grounds of appeal were filed on 3 September 2012.

The appellant requests that the contested decision be set aside and a patent be granted on the basis of the main request, or alternatively on the basis of auxiliary requests 1 or 2 all filed with the grounds of appeal. The appellant also made an auxiliary request for oral proceedings.

- III. Claim 1 of the main request reads:

"A cooling device (1) that comprises a body (2), more than one side wall (3) restricting the cooling and/or freezing compartments, an evaporator (4), at least one fan (5) for activating the air cooled by the evaporator (4) and an evaporator lid (6) that separates the evaporator (4) from the cooling and/or freezing compartment,
characterized by
said evaporator lid (6) having more than one panel (7,107) that are fitted to one another from one of the

sides thereof, movable with respect to one another, wherein the width thereof can be adjusted by moving the panels (7,107) in accordance with bodies (2) having distances (A) between the side walls (3)."

IV. The Appellant's arguments can be summarised as follows.

The examining division failed to apply the problem-solution approach in the correct manner in coming to its conclusion that the subject-matter of claim 1 as published did not involve an inventive step. In particular, the examining division's definition of the objective technical problem to be solved contains a direct hint at the claimed solution. Further, the skilled person would not consider modifying the device of D1 since it deals with a completely different technical problem to that of the application.

Reasons for the decision

1. The appeal is admissible
2. Inventive step, Article 56
 - 2.1 The only relevant art is shown in US-A-5577822 (D1) since this is the sole document in the search report relating to an evaporator cover. FR-A-2882 134 concerns a wine storage cabinet with both heating and cooling devices; there is no mention of a covering device for an evaporator. GB-A-2210 153 concerns a divider system for supporting and separating foods in a freezer compartment and does not show a cover for an evaporator. EP-A-1703238 concerns a height adjustment system for a

drawer container device and does not mention an evaporator cover.

2.2 D1 describes a:

cooling device that comprises a body, more than one side wall restricting the cooling (12) and freezing (11) compartments, an evaporator (21), at least one fan (22) for activating the air cooled by the evaporator (21) and an evaporator lid ("shutting means" (90)) that separates the evaporator (21) from the freezing compartment,

wherein said evaporator lid (25,90) has more than one panel (insulating wall 25 and screen 91 - see figure 6) that are fitted to one another and movable with respect to one another, wherein the height thereof can be adjusted by moving one of the panels (91) in accordance with the compartments (11,12) having variable heights between the top and bottom.

2.3 The subject-matter of claim 1 differs therefrom in that:

the panels are fitted to one another from one of the sides thereof, wherein the width thereof can be adjusted by moving the panels in accordance with bodies having distances between the side walls.

2.4 Thus, it can be appreciated that the evaporator cover according to the application is intended to be adaptable to the various widths of standard fridge bodies whereas that of D1 is intended to be adapted to a user changing the heights of the freezing and cooling compartments within an individual fridge.

- 2.5 The appellant is therefore correct in arguing that D1 deals with a different problem. The Board also agrees with the appellant that the examining division's definition of the objective technical problem to be solved as being that of "to design a cooling device in which the evaporator lid can fit bodies having different distances between the side walls" is erroneous since it contains a direct hint at the solution.
- 2.6 The broader technical problem suggested by the appellant as being one of reducing production costs can be accepted by the Board.
- 2.7 By making the evaporator lid capable of adapting to various body widths the need to provide a range of lids of different fixed widths is avoided which, despite necessitating a more complex component, apparently saves on production costs. The skilled person faced with the above problem would not come up with the claimed solution in an obvious manner since it is not disclosed or suggested in the available prior art.
- 2.8 Thus, the subject-matter of claim 1 according to the main request involves an inventive step.
3. Since the appellant's main request is allowable there is no need for oral proceedings to be held.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the examining division with the order to grant a patent on the basis of:
 - claims 1 to 5 of the main request;
 - pages 1 to 4 of the description as published;
 - figures 1 to 4 as published.

Registrar:

Chairman:

C. Spira

U. Krause