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**Datasheet for the decision
of 21 April 2021**

Case Number: T 2382/18 - 3.2.03

Application Number: 11001129.3

Publication Number: 2365160

IPC: E04H15/18, E04H3/10, E04H15/38,
E04B1/342

Language of the proceedings: EN

Title of invention:
Compound tent structure with portico

Applicant:
Warner, Gerhard Allan

Headword:

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - non-obvious modification - main request (yes)

Decisions cited:

Catchword:



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Case Number: T 2382/18 - 3.2.03

D E C I S I O N
of Technical Board of Appeal 3.2.03
of 21 April 2021

Appellant: Warner, Gerhard Allan
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 19 April 2018
refusing European patent application No.
11001129.3 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman C. Herberhold
Members: R. Baltanás y Jorge
N. Obrovski

Summary of Facts and Submissions

I. European patent application No. 11 001 129.3 relates to a saddle-shaped tent with portico.

II. The appeal lies from the decision of the examining division refusing the above-mentioned European patent application. In its decision the examining division held that the subject-matter of claim 1 according to the main request filed on 27 April 2017 did not involve an inventive step as required by Article 56 EPC.

III. Requests

The applicant (hereinafter: the "appellant") requests that the decision under appeal be set aside and a patent be granted on the basis of the set of claims filed as the main request on 11 December 2020.

IV. Claim 1 according to the main request reads:

"A compound tent structure comprising:

a. a first saddle-shaped tent (700a);

b. a second saddle-shaped tent (700b), wherein said first and said second saddle-shaped tents are juxtaposed in an end-to-end fashion; and,

c. a portico interposed between an end of the first saddle-shaped tent and an end of said second saddle-shaped tent, wherein said portico comprises:

i. a drape (701) having a lower edge (600),

wherein said drape hangs downward from said first and said second saddle-shaped tents and connects said first saddle-shaped tent to said second saddle-shaped tent; and,

ii. a portico-frame, said portico-frame comprising at least one horizontal beam (303), wherein said horizontal beam is attached to at least a portion of said lower edge (600) of said drape (701)."

Claims 2 to 6 concern particular embodiments of the compound tent structure of claim 1.

V. State of the art

The following documents were cited both in the grounds of appeal and the examination proceedings:

D2: DE 91 08 528 U1

D3: FR 2 410 099 A1

VI. The appellant's arguments can be summarised as follows.

Inventive step, Article 56 EPC

In concluding that the claimed subject-matter lacked inventive step with respect to D3 and D2, the examining division had erred in its appreciation of the problem to be addressed, which was not only to provide an entrance, but also to provide a joiner with structural stability for two saddle-shaped tents.

Since the drape was defined as being a part of the portico of claim 1, the feature of using a portico to join the tents could not be "irrelevant", as stated by the examining division.

The tent of D3 would become less stable if an entrance opening were to be made in the drape of the D3 compound tent. The drape of D3 is stable because of its attachment to the frame, and the entrance disclosed in D2 is not used as a joiner for tents. D2 discloses an entrance at an end of a saddle tent, but not that the entrance could be used to join two adjacent saddle-shaped tents with improved tent stability. Furthermore, D2 fails to disclose that the side of the drape is attached to a horizontal beam in a portico, as required by claim 1.

Reasons for the Decision

1. Main request, Article 56 EPC
- 1.1 The Board agrees with the examining division that D3 constitutes a proper departing point for assessing inventive step, since it concerns a compound tent structure formed by a first and a second saddle-shaped tent (see Figure 1).
- 1.2 The Board also agrees that document D3 does not disclose the following features of claim 1:

a portico interposed between an end of the first saddle-shaped tent and an end of said second saddle-shaped tent, wherein said portico comprises a portico-frame, said portico-frame comprising at least one horizontal beam, wherein said horizontal beam is attached to at least a portion of said lower edge of said drape.
- 1.3 The appellant is of the opinion that the technical effect which should be considered is that of joining

the first and second saddle-shaped tents. However, the tents of D3 are already joined to each other by means of the side region of the drape, and there is no indication in D3 which could motivate the skilled person to think that a joining element is needed between the tents.

- 1.4 The word "portico" defines a structure comprising a roof-like horizontal element, which is usually supported by columns and shelters a passage.

Taking this into account, the technical effect of the differentiating features is that of providing an opening in the compound tent structure, in particular in view of the lack of details concerning the opening in D3.

The objective technical problem as formulated by the examining division ("easing ingress/egress"; see point 15.1 of the contested decision) thus is correct.

- 1.5 Document D2 likewise concerns saddle-shaped tents (see e.g. Figure 3, 4 or 11) and would therefore be consulted by the skilled person when looking for a solution to the posed objective technical problem.

The embodiment corresponding to Figures 11 and 12 of D2 discloses an entrance for a saddle-shaped tent.

The skilled person would thus take the teaching of that embodiment of D2 into consideration in order to provide a solution for the problem posed.

- 1.6 D2 teaches providing a construction at the end of a saddle-shaped tent which provides an entrance opening. The construction is not described in the text of D2,

and its details can only be derived from Figures 11 and 12.

These figures show that the construction comprises a horizontal element (the part of the entrance portion where drape 6 connects to its "roof") which can be generally defined as a "beam", and that the hanging side drape 6 surrounds the construction without leaving any gap at the top part.

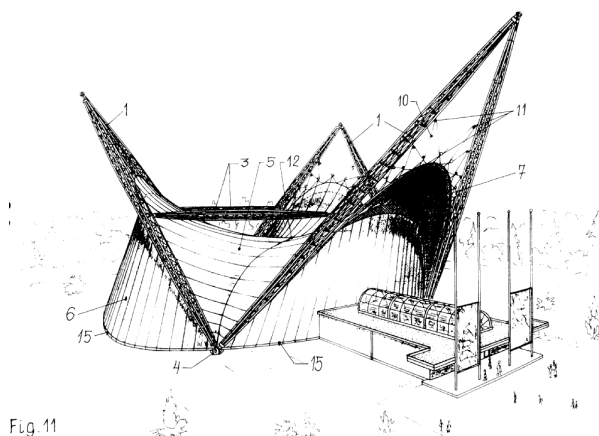
The Board agrees with the examining division that it is implicitly disclosed that the hanging side drape 6 is attached to at least a portion of this horizontal element of the construction, since this is the only possibility which makes technical sense in view of the general aim of the tent, i.e. to isolate the interior space from the outside. Without being able to close the hanging side drape 6, it would be susceptible to being blown aside by the wind, thus exposing the interior of the tent.

- 1.7 The examining division considers in point 15.3 of the contested decision that the skilled person, in view of the teaching of D2, would provide the disclosed construction of D2 either at one end of the compound tent structure of D3, or in one of the side regions of it.

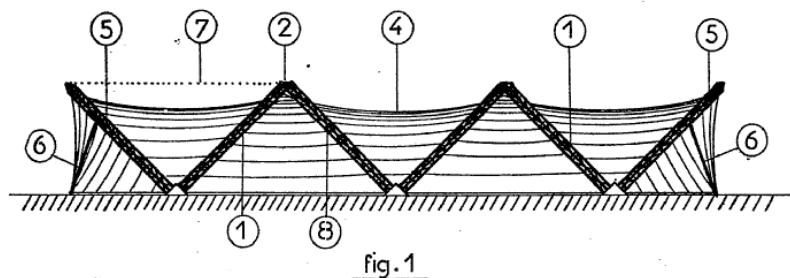
In implementing the latter, the examining division considered that the skilled person would arrive at the subject-matter of claim 1 without the exercise of inventive skills.

- 1.8 The Board disagrees with the assessment of the examining division for the following reasons.

The teaching of D2 is directed at providing a construction at the end of a saddle-shaped tent (see Figure 11, reproduced below), the construction being connected to a drape (6) which does not have to withstand horizontal forces, since it is merely hanging, unlike the drape (5) which is tensioned between the triangular frames (1) forming the structure of the tent.



When the skilled person contemplates combining the teaching of D2 with D3 in order to solve the technical problem of easing ingress/egress, they would simply do that in a straightforward manner by applying the precise teaching of D2, that is by arranging the construction at one of the two ends of the compound tent structure of D3 (see Figure 1, reproduced below, hanging portions of the drape at the left and right ends of the compound tent, close to reference numbers 6).



The skilled person would not arrange the passage construction at the side regions of the drape 4 in D3 in between the arches 1 (e.g. in the area situated between the reference signs 1 and 8, as proposed by the examining division in point 15.3), since those side regions must withstand the horizontal force resulting from the tensioning of the arches (see horizontal lines in the side regions of drape 4 between the arches 1 of Figure 1, which can be taken as a representation of the lines of stress of the drape in that direction); this would be a fundamentally different construction from the purely hanging drape 6 disclosed in D2.

Providing an opening in a loose hanging drape (as on the right side of D2, Figure 11) presents no technical difficulty, whereas it is more challenging to provide one in a tensioned drape, where stress regions form around the opening and compromise the stability of the tent.

Since the disclosure of D2 merely concerns providing a passage construction through a hanging drape, there is a lack of teaching concerning the provision of such a construction in a drape subject to tension in the horizontal direction, as is the case in the side drape joining the saddle-shaped tents of D3.

Providing the missing features of claim 1 in D3 would thus not be an obvious step in the light of D2.

1.9 In view of the above, the subject-matter of claim 1 of the main request involves an inventive step.

1.10 The dependent claims 2 to 6 concern preferred embodiments of the invention claimed in claim 1.

2. Main request, other considerations

The contested decision does not raise any objections to the main request other than the lack of inventive step of the subject-matter of claim 1.

The Board does not find any further objections either.

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 in the following version:

Claims:

No. 1-6 filed with the letter dated 11 December 2020.

Description:

Pages 1, 2, 3, 5 and 6 filed with the letter dated 11 December 2020,
page 4 filed with the letter dated 1 April 2021,
page 7 filed with the letter dated 20 April 2021.

Drawings:

Figures 1 to 7 of the patent application as published.

The Registrar:

The Chairman:



C. Spira

C. Herberhold

Decision electronically authenticated