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Ankennzeichen / Case Number / N° du recours : T 71/87 - 3.2.1

Anmeldenummer / Filing No / N° de la demande : 83 900 566.7

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Bezeichnung der Erfindung: Package Blank and Packaging Method

Title of invention:

Titre de l'invention :

Klassifikation / Classification / Classement : B 65D 75/38

**ENTSCHEIDUNG / DECISION**

vom / of / du 8 March 1988

Anmelder / Applicant / Demandeur : Janhonen, Veikko

Patentinhaber / Proprietor of the patent /  
Titulaire du brevet :

Einsprechender / Opponent / Opposant : -

Stichwort / Headword / Référence :

EPÜ / EPC / CBE Article 56

Kennwort / Keyword / Mot clé : Inventive step (no)

Leitsatz / Headnote / Sommaire



Case Number : T 71 /87 - 3.2.1

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.1  
of 8 March 1988

**Appellant :** Janhonen, Veikko, Ilmari  
Långvik  
SF-02420 Jorvas (SF)

**Representative :** H. Hauck, W. Schmitz, E. Graalfs,  
W. Wehnert, W. Döring  
Mozartstraße 23  
8000 München 2 (DE)

**Decision under appeal :** Decision of Examining Division 082 of the European Patent Office dated 24 June 1986 and posted 18 August 1986 refusing European patent application No. 83 900 566.7 pursuant to Article 97(1) EPC

**Composition of the Board :**

**Chairman :** P. Delbecque

**Members :** F. Gumbel  
O. Bossung

## Summary of Facts and Submissions

- I. European patent application No. 83 900 566.7 filed on 26 January 1983 and published on 18 August 1983 under publication number WO 83/02764 was refused by a decision of the Examining Division at the oral proceedings held on 24 June 1986. The written decision was posted on 18 August 1986.
  
- II. The decision, which was based on Claim 1 filed on 4 March 1986 and Claims 2, 3, 5 and 6 filed on 22 February 1985, cites the documents FR-A-2 297 785 and SE-B-387 605. It summarises that the subject-matter of Claim 1, while being novel nevertheless does not involve an inventive step in the light of the disclosure of these documents.
  
- III. A notice of appeal against this decision was filed on 13 September 1986 and the appeal fee was paid on the same date. In the Statement of Grounds filed on 24 December 1986 the Appellant argues that the subject-matter of Claim 1 involves an inventive step over the available prior art and in particular over the prior art reflected by the documents FR-A-2 297 785 and SE-B-387 605, both taken alone or in combination.
  
- IV. In a communication of the Board of Appeal dated 29 December 1987 some objections concerning Rule 29(1)(a) and Article 123(2) EPC were raised. Furthermore the Appellant was informed that the Board had doubts about the existence of an inventive step.
  
- V. In response to this communication the Appellant submitted new Claims 1 and 2 and a new description, pages 1 to 3, on 24 February 1988. He requested that the decision under appeal be set aside and that a patent be granted on the basis of those documents together with the Figures 1 and 2 of the original drawings.

VI. At the oral proceedings held on 8 March 1988 the Appellant maintained his request. He confirmed his arguments previously put forward in writing and in particular pointed out that FR-A-2 297 785 did not give a lead to the solution specified in Claim 1, since it suggests the use of corrugated card board or similar material being flexible in one direction, however presenting a relatively high resistance to bending in the direction perpendicular thereto in order to achieve a package which is sufficiently stiff. Furthermore, he argued that the problem solved by the invention was novel and that the skilled person would never combine the teachings of FR-A-2 297 785 and SE-B-387 605, since they pertain to totally different packaging systems.

VII. Claim 1 reads as follows:

"A package blank for packaging an article or bulk or the like comprising a flat, rectangular cardboard sheet, opposing edges of the cardboard sheet (1) being reinforced by strips (5) extending with uniform width along the extension thereof and bonded to one surface of the cardboard sheet (1), and a wrapper element (2) made of a single continuous strip adhered only by its central region to the said one surface of the cardboard sheet (1) transverse to the extension of the reinforcing strips, characterized in that the reinforcing strips (5) are formed of inwardly folded edges of the sheet of cardboard (1), and in that to improve and broaden the applicability of the package blank, the wrapper element (2) is made of paper, plastic film or the like thin flexible material."

### Reasons for the Decision

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is admissible.
2. Concerning the formal admissibility of Claim 1 it is observed that it is correctly divided into preamble and characterising part having regard to the nearest prior art reflected by FR-A-2 297 785 and thus meets the requirements of Rule 29(1) EPC. Furthermore, the Board does not maintain its objection pursuant to Article 123(2) EPC concerning the feature according to which the wrapper element is made of paper, plastic film or the like thin flexible material. Although the only passage of the original application documents mentioning paper, plastic film or alike material is related to the embodiment of Figures 3 and 4, which is no longer upheld in the present application, the Board was convinced by the Appellant's submission that a skilled person being informed by page 3 of the original description that the wrapper element is made of a flexible material and taking into account that it is essential to the invention that the packaging elements conform tightly to the article to be parcelled (page 6, par. 2), would understand by implication that the specific examples of the flexible material given with respect to Figures 3 and 4 may also apply to the embodiment of Figures 1 and 2.
3. Novelty of the subject-matter of Claim 1 is apparent. It clearly follows from the comparison of the package blank specified in Claim 1 with the disclosure of each single document of the available prior art. Since novelty has never been disputed, no further substantiation of this matter is considered to be necessary.

4. Having regard to the requirement of an inventive step, the following is observed:

4.1 As already stated under point 2, the closest prior art is shown by FR-A-2 297 785. Although this document does not actually describe or show reinforcing strips having a uniform width along their extension, this feature would be included by the skilled person in the disclosure of this document because of the information given on page 5, lines 12 to 24 according to which these strips may have any width and only "preferably" may have a recess. Hence, FR-A-2 297 785 is considered to disclose a package blank comprising all the features indicated in the preamble of Claim 1.

4.2 As pointed out by the Appellant, with this known package blank both the outer sheet and the inner wrapper element are made of a material, preferably of corrugated cardboard, which is easily flexible in the direction perpendicular to its length sides, however exhibits a higher resistance to bending in the direction transverse thereto. Consequently, the inner wrapper element can be tightly wrapped around articles, such as books, having different height, while there may be difficulties in wrapping it sufficiently tight around those articles in the opposite direction by means of the outer sheet because of the relatively great stiffness against bending in this direction. This may, as the Appellant contended, give rise to some movement of the articles in the package during shipping and thus cause damages of the articles.

Furthermore, the reinforcing strips of this known package blank are separately produced from corrugated cardboard having a thickness preferably twice as thick as the

cardboard of the inner wrapper element and subsequently glued to the outer sheet, thus causing additional manufacture costs.

4.3 In order to avoid these problems arising with this prior art package blank, the object to be achieved with the subject-matter of Claim 1 is to provide a package blank which allows to tightly enwrap articles of various sizes and nevertheless ensures a sufficient stiffness of the package. This shall be achieved in an economical manner at low manufacturing costs.

4.4 In contrast to the view taken by the Appellant, the Board does not consider that the mere recognition of the problems existing with the package blank disclosed in FR-A-2 297 785 and, consequently, the posing of the object as started above, did involve an inventive activity. The problem concerning the damage of articles due to the fact that they were not fixed tightly enough in their lateral direction could immediately be observed in practice, and it is also apparent to a practitioner that extra steps of manufacture should be avoided, if possible.

In addition, the person skilled in the art was not led away from conceiving the object of tightly enwrapping the article in order to fix its position within the package by the disclosure of FR-A-2 297 785. On the contrary, from page 6, lines 20 to 35 of this document he learns that it is important to hold the article tightly within the package. Hence, this aspect of the problem to be solved by the subject-matter of present Claim 1 was not novel, in contrast to the view taken by the Appellant, and of course, the problem of avoiding manufacturing costs is always present in a practitioner's mind.

4.5 Concerning the solution as claimed in the characterising part of Claim 1, the Board takes the view that a skilled person encountering in practice the problem that the inner wrapper element was not suited to conform the article to be parcelled sufficiently tight because of its stiffness against bending in the lateral direction, would immediately think of using a material being more flexible in both directions, without needing a specific lead thereto. Suitable thin flexible packaging materials such as paper or plastic film, were wellknown to him, even in combination with cardboard sheet in a single packaging element (see SE-B-387 605). Hence it is considered that it was obvious to the skilled person to replace the inner corrugated cardboard sheet of the package blank known from FR-A-2 297 785 by a material providing flexibility in all directions, such as plastic film or paper. It is apparent and could be easily foreseen that this would bring about more flexibility and a closer engagement of the article to be wrapped and thus would enhance the applicability of the blank and moreover, would require less storage area both of the package obtained and of the blanks. On the other hand, a sufficient stiffness of the package obviously was ensured by the outer cardboard sheet and the reinforcing strips at its lengthside edges.

4.6 Once the skilled person had decided to utilize a thin flexible material for the inner wrapping element, it follows that there is no need for separate reinforcing strips having a specific thickness as suggested by FR-A-2 297 785, since this thin wrapping element in any case can be folded such that it does not extend beyond the thickness of the cardboard element defined by the reinforcing strips. Hence, the skilled person would normally choose the easiest and least expensive way of manufacturing these strips, that is by inwardly folding the edges of the cardboard sheet and thus would arrive at

a package blank as specified in Claim 1 without the exercise of an inventive activity.

5. Summarising, it is to be stated that the subject-matter of Claim 1 lacks an inventive step pursuant to Article 56 EPC and that, consequently, Claim 1 is not allowable (Art. 52(1) EPC).
  
6. Since a dependent claim can only be allowed if there is an allowable independent claim to which it is appended, Claim 2 is not allowable either, just for this formal reason. Additionally, it is observed that tightening the package by a binding strip is, in principle, known from FR-A-2 297 785.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman.

F.Klein

P.Delbecque