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D E C I S I O N
of 8 May 1996

Case Number: T 0816/95 - 3.2.4

Application Number: 92111230.6

Publication Number: 0521504

IPC: B65B 11/08

Language of the proceedings: EN

Title of invention:

Wrap around caser

Applicant:

SHIBUYA KOGYO CO., LTD

Opponent:

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Headword:

-

Relevant legal provisions:

EPC Art. 56

Keyword:

"Inventive step - yes"

Decisions cited:

-

Catchword:

-



Case Number: T 0816/95 - 3.2.4

D E C I S I O N
of the Technical Board of Appeal 3.2.4
of 8 May 1996

Appellant:

SHIBUYA KOGYO CO., LTD
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Representative:

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Decision under appeal:

Decision of the Examining Division of the European Patent Office posted 3 July 1995 refusing European patent application No. 92 111 230.6 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: C. A. J. Andries
Members: R. E. Gryc
J. P. B. Seitz

Summary of Facts and Submissions

I. The appellant lodged an appeal, received at the EPO on 4 September 1995, against the decision of the examining division refusing the European patent application No. 92 111 230.6, despatched on 3 July 1995.

The fee for appeal and the written statement setting out the grounds of appeal were paid and received on 4 September 1995.

II. The examining division held that the subject-matter of Claim 1 filed with the letter of 12 June 1995 did not meet the requirements of Article 56 EPC, having regard to the embodiments disclosed in the following prior art documents:

D1: DE-B-1 238 836 and
D3: EP-A-0 240 117.

Document D2: JP-A-59-134122 was cited in the application as filed to reflect the background art (Rule 27(1)(b) EPC).

III. With his written statement of the grounds of appeal, the appellant filed new pages 2a, 3 and 4 of the description and argued mainly:

- that the invention teaches the moving and holding means of a casing apparatus to be made in a single unit so that, in contrast to the prior art, no additional folding means is needed and,
- that none of the cited documents is concerned with the integration of the function of a folding station into a holding and moving means.

IV. The appellant requests that the decision under appeal be set aside and a patent granted on the basis of the following documents:

Claims: 1 to 3 filed with the letter of 12 June 1995;

Description: pages 1, 2 and 5 to 10 as originally filed and pages 2a, 3 and 4 filed with the statement of grounds;

Drawings: (Figure 1) as originally filed.

V. The wording of Claim 1 reads as follows:

"1. A wrap around caser, including:
- a collection station (2) for collecting articles (1), which are being transported by transporting means along a predetermined path, in a predetermined arrangement, said collection station (2) being defined at a predetermined location on said predetermined path;
- supplying means (3) for supplying a blank sheet (5) of predetermined shape to a receiving station one by one from a storing station (4) which stores a number of blank sheets (5);
- holding and moving means (6) for holding a predetermined number of said articles (1) at said collection station (2) and for moving said articles (1) onto a predetermined portion of said blank sheet (5) at said receiving station, and
- a folding station (11) for folding the blank sheet (5) around said articles located on the predetermined portion thereof to have said articles (1) wrapped by said blank sheet (5) with said predetermined portion forming bottom of a carton box formed thereby,

characterized in that

- said holding and moving means (6) is adapted for holding and moving a predetermined number of two or more of said articles (1) at said collection station in a suspended manner and for moving said articles (1) in unison with said blank sheet (5) to a bottom of the folding station (11) located below said receiving station along a predetermined path so as to have said blank sheet (5) folded in a predetermined manner by a descending motion of said holding and moving means (6) to have said articles (1) wrapped by said blank sheet (5) so folded as a carton box about sides of said articles (1) with its top open when reaching the bottom of said folding station (11)."

Reasons for the Decision

1. *Admissibility*

After examination, the appeal was found to be admissible.

2. *Amendments (Article 123(2) EPC)*

2.1 *Amendments to Claim 1*

In comparison with Claim 1 of the application as filed, new Claim 1 has been amended mainly in order to specify the existence of a folding station below the receiving station where the articles are wrapped by the blank sheet and to describe how the holding and moving means are adapted for moving the articles "in a suspended manner" at the collection station and "in unison" with the blank sheet to the bottom of the folding station by

a descending motion, in order to have the articles wrapped by the blank sheet.

Support for these additional characteristics can be found in the description of the application as filed on page 6, from line 3 to line 7 and page 7, from line 9 to line 21 respectively. These additional features clarify the claimed subject-matter without adding new matter.

Therefore these amendments do not contravene Article 123(2) EPC and are admissible.

2.2 Amendments to the description

In order to comply with Rule 27(1)(c) EPC, the introductory part of the description has been modified so as to refer to the features of Claim 1. No objection is raised against these modifications.

However, on page 2a, line 1, the word "characterising" is obviously to be changed into "precharacterising".

3. Novelty

Having examined the available prior-art documents D1 to D3, the Board is satisfied that none of them discloses an apparatus comprising in combination all the features described in Claim 1 at present on file.

Since novelty has not been disputed in the decision under appeal, there is no need for further detailed substantiation of this matter.

The subject-matter as set forth in Claim 1 is thus to be considered as novel within the meaning of Article 54 EPC.

4. *The closest prior art*

D1 and D2 both concern a casing apparatus comprising all the features described in the precharacterising portion of Claim 1. However, in contrast to the holding and moving means of the apparatus according to D1, the corresponding means of the wrap around caser of D2 are adapted, like the means according to the invention, for holding and moving more than just one article.

Therefore the Board considers that the state of the art disclosed by D2 appears to be closest to the invention.

The apparatus described in claim 1 differs from this closest prior art mainly in that the holding and moving means is adapted for transporting the articles "in a suspended manner" onto a predetermined portion of the blank sheet and for folding the blank sheet by a descending motion of the said holding and moving means "in unison" with the articles and the said predetermined portion of the blank sheet.

5. *Problem and solution*

When starting from the state of the art known from D2, and taking into account the above-mentioned differences, the problem to be solved by the person skilled in the art could be objectively determined as being to simplify the structure of the known caser and to improve its reliability (see the application as filed, page 4, lines 2 to 4).

The Board is satisfied that the solution described in Claim 1 solves this problem effectively.

6. *Inventive step (Article 56 EPC)*

6.1 The questions to be answered regarding inventive step in relation to the modification of the apparatus of D2 as proposed in Claim 1 are, whether the state of the art seen in the light of the general common knowledge of the skilled person would provide him with the information about the elements which are essential and necessary to reconstitute the invention and whether, having these means at his disposal, he would transport and assemble them in an apparatus according to D2 in expectation of the improvement he was seeking.

6.2 D1 discloses a packing apparatus based on the same general concept and working according to the same processing steps as the case of D2. As in D2, the articles are moved by being pushed from a collection station onto a predetermined portion of a blank sheet and then forced downward by a separate top pusher so that the said blank sheet is folded about the articles to be wrapped.

Concerning the conception of the apparatus and the manner in which the articles are transported between the working stations, the skilled person would thus not learn more from D1 than from D2. Since, in D1 and D2, the articles are pushed in two perpendicular directions by two different pushers respectively, the skilled person would neither find information on how to make a single device causing the two perpendicular displacements to be carried out, nor information on how to move the articles in a suspended manner rather than by pushing them.

6.3 D3 is not concerned with a wrap-around caser but with a bottle-picking machine whose function is to transport bottles into or out of a crate. The holding means of the machine is described as grab heads being able to clamp about the neck of the bottles (see column 4, lines 36, 37) to take them out of, or place them into crates (see column 3, lines 52 to 56).

In D3 the skilled person can therefore find an alternative device to the pushing device of D2 for moving the articles at and from the collection station to the receiving station in a suspended manner.

Since the holding and moving means of D3 does not seem to be simpler than the holding means according to D2, the skilled person has a priori no reason to replace the pusher of D2 by the holding means of D3. Moreover, since the grab heads cited in D3 are neither described nor shown in the drawings, the skilled person cannot find any information or suggestion that these grab heads may be used not only as a holder to suspend the articles but also as a vertical pusher to push them downwards in unison with the central portion of the blank sheet, so as to replace the top pusher of the apparatus of D2.

6.4 It should furthermore be emphasized that none of the cited documents points to an integration of the function of a folding station into a holding and moving means. Consequently, without any particular hint, a skilled person seeking to simplify the caser of D2 would learn from D1 nothing more than what is already disclosed in D2 and he would have a priori no reason to consult D3, whose holding and moving means does not appear to be simpler than the pusher according to D2.

For the foregoing reasons, the Board is convinced that improving the caser known from D2 (or D1) according to the teaching of Claim 1 does not follow plainly and logically from the prior art illustrated by D1 (respectively D2) and D3 but implies an inventive step within the meaning of Article 56 EPC.

7. Therefore a patent can be granted based on the amended version of the application on file, with, however, page 2a corrected according to section 2.2, second paragraph, above.

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 based on the following documents:

Claims: 1 to 3 filed with the letter dated 12 June 1995;

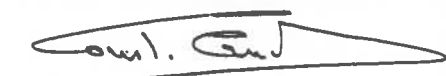
Description: pages 1, 2 and 5 to 10 as originally filed and pages 2a, 3 and 4 filed with the statement dated 4 September 1995, with page 2a corrected (see section 2.2 above);

Drawing: (Figure 1) as originally filed.

The Registrar:


N. Maslin

The Chairman:


C. Andries

