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D E C I S I O N
of 30 September 1997

Case Number: T 0064/96 - 3.2.1

Application Number: 90900199.2

Publication Number: 0434769

IPC: B60J 3/02

Language of the proceedings: EN

Title of invention:

Cover for mirrors of sun visors of motor vehicles

Patentee:

FICO I.T.M., S.A.

Opponent:

Gebr. Happich GmbH

Headword:

-

Relevant legal provisions:

EPC Art. 54, 56, 123(2)

Keyword:

"Novelty (main request, no - 'enabling disclosure')"
"Inventive step (first, second and fourth auxiliary requests,
no)"
"Addition of subject-matter (third auxiliary request, yes)"

Decisions cited:

G 0001/93, T 0206/83, T 0384/91, T 0576/91

Catchword:

-



Case Number: T 0064/96 - 3.2.1

D E C I S I O N
of the Technical Board of Appeal 3.2.1
of 30 September 1997

Appellant: FICO I.T.M., S.A.
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Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 15 November 1995
revoking European patent No. 0 434 769 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairman: F. Gumbel
Members: S. Crane
J.-C. Saisset

Summary of Facts and Submissions

I. European patent No. 0 434 769 was granted on 13 October 1993 on the basis of European patent application No. 90 900 199.2.

II. The granted patent was opposed by the present respondents on the grounds that its subject-matter lacked novelty and/or inventive step (Article 100(a) EPC). Among the prior art documents relied upon the respondents were the following:

(E1) DE-A-3 324 169

(E6) DE-A-1 815 406.

III. With its decision posted on 15 November 1995 the Opposition Division revoked the patent. It was held that the subject-matter of granted claim 1 lacked novelty with respect to document E1 and that the subject-matter of claim 1 according to the auxiliary requests then on file lacked inventive step with respect to documents E1 and E6.

IV. An appeal against this decision was filed on 16 January 1996 and the fee for appeal paid at the same time. The statement of grounds of appeal was filed on 25 March 1996.

With the statement of grounds of appeal the appellants (proprietors of the patent) submitted amended claims 1 according to first, second and third auxiliary requests.

V. At oral proceedings before the Board on 30 September 1997 the appellants submitted a further amended claim 1 according to a fourth auxiliary request. The main

request of the appellants was for the contested decision to be set aside and the patent to be maintained unamended. In the alternative they requested the maintenance of the patent in amended form on the basis of claim 1 according to one of the first to fourth auxiliary requests and dependent claims 2 to 5 as granted.

The respondent requested that the appeal be dismissed and revocation of the patent confirmed.

VI. Granted claim 1 reads as follows:

"A cover for automobile sun visor mirrors, characterised in that it comprises a plurality of rigid sheet-like plates (1,2;7,8,9), preferably two, three or four plates having an essentially rectangular shape, overlapping and connected together one after the other, with the aid of appropriate means, in continuous chain-like succession maintaining a degree of freedom of movement by relative sliding one over the other in the direction of the opening and closing movements of the cover (T), said plates (1,2;7,8,9) being situated under the mirror frame (5;11) and over the mirror (E), with a smooth fit between the side walls (4;13) of said frame which act as guideways for the sliding movements, the said side walls extending inside the structure of the sun visor body forming an internal container (3;10) having a length at least the same as the minimum length occupied by the ensemble of all the plates (1,2;7,8,9) when in a position of maximum overlap and of a height appropriate to admit the thickness occupied by the said overlapping plates, such that they may be almost integrally concealed in the interior thereof with the exception of small regions in the outermost end edges and with the exception also of a knob means (6;12) situated on one of the plates (1;7) for the cover (T) opening and closing operations."

Claim 1 according to the first auxiliary request is as follows:

"A cover (T) for automobile sun visor mirrors, comprising

- a. a plurality of rigid sheet-like plates (1,2; 7,8,9), preferably two, three, or four overlapping each other and having an essentially rectangular shape;
- b. means for connecting said plates (1,2; 7,8,9) one after the other in a continuous chain-like succession, said connection means
 - b1. maintaining a degree of freedom of movement by relative sliding one over the other in the direction of the opening and closing movements of said cover (T);
 - b2. allowing said plates to take on two relative extreme positions, a first end position of maximum overlap of said plates (1,2; 7,8,9) and a second end position of minimum overlap; and
 - b3. obliging one plate to follow the other when either is moved beyond said maximum and minimum positional limits
- c. a mirror frame (5; 11) having side walls (4; 13) acting as guideways for the sliding movement, said plates (1,2; 7,8,9) are situated under said mirror frame (5; 11) and over said mirror (E), with a smooth fit between said side walls (4; 13);

- d. said side walls (4; 13) extending inside the structure of a sun visor body (P) forming an internal container (3; 10), said container having
 - d1. a length which is at least the same as the minimum length occupied by the ensemble of all plates when in the position of maximum overlap,
 - d2. a height appropriate to admit the thickness occupied by said plates;
 - d3. such that said plates may be almost integrally concealed in the interior thereof, with the exception of
 - d3.1 small regions in the outermost end edges, and
 - d3.2 of a knob means (6; 12) situated on one of said plates (1; 7) for the opening and closing operations of said cover (T)."

In claim 1 according to the second auxiliary request the features "b2" and "b3" of the first auxiliary request have been replaced by a single feature "b2" as follows:

"comprising sets of slots and lugs (14, 15) located at lateral edges of said plates (1,2: 7,8,9), a first of said plates (1,2: 7,8,9) comprises slots located at said lateral edges being slightly shorter than the length thereof, a second of said plates comprising said lugs (15) in positional correspondence to said slots."

Claim 1 of the third auxiliary request corresponds to claim 1 of the second auxiliary request with the addition in the penultimate line of feature "b2" of the requirement that the lugs are "integrally formed in said plates".

Claim 1 of the fourth auxiliary request also corresponds in essence to claim 1 of the second auxiliary request. Here, the requirement added to the penultimate line of feature "b2" is that the lugs have "a substantially cuboid shape".

VII. The arguments put forward by the appellants in support of their requests can be summarised as follows:

Document E1 described in detail only one preferred embodiment of a cover for the vanity mirror of an automobile sun visor. This embodiment was provided with a single slidable cover plate. In the fourth paragraph of page 4 of the document there was a reference in general terms to an alternative construction comprising a plurality of plates which in their closed position lay besides each other ("nebeneinander") to cover the mirror and in their open position were stacked one above the other. There was no description of how the movement of the plates between these positions was to be achieved in practice. Furthermore, in particular since the clear meaning of "nebeneinander" was that the plates, in their closed position, had no overlap between them at all, the person skilled in the art would not have been able to design, without the exercise of inventive ingenuity, the necessary connection means between the plates. As a consequence document E1 did not constitute an enabling disclosure of the multi-plate arrangement and in accordance with the established case law of the Boards of Appeal, see in particular the decision T 206/83 (OJ EPO 1987, 5) and T 576/91 (not published in OJ EPO) and should be

disregarded as state of the art in this respect. Since the subject-matter of granted claim 1 was clearly novel and inventive with regard to the remaining state of the art, the patent should be maintained unamended in accordance with the main request.

For the case that document E1 was considered to constitute an enabling disclosure it had been specified in claim 1 according to the first auxiliary request that there was an overlap between the plates in their closed position, thus providing an adequate distinction over what was disclosed in that document.

In claim 1 of the second auxiliary request the form of the connection means between the plates was specified in detail. There was nothing comparable to the claimed arrangement in the state of the art. The respondents and the Opposition Division had relied in this respect on document E6, but that approach was defective in a number of respects and tainted by ex-post-facto considerations. Document E6 related to an extensible sun blind which was as wide as a whole windscreen and made up of a number of plates held together by rivets fixed in one plate and sliding in slots in an adjacent plate. There were three sets of rivets and slots spaced across the width of the blind. The position of the two outer sets was not at the lateral edges of the plates as required by the claim. Furthermore, the headed rivets used in document E6, which acted to hold the plates together, could not be compared to the lugs defined in the claim, which simply acted on the ends of the respective slots in adjacent plates to cause the plates to move together. Lastly, the heads on the rivets inevitably meant that the stack of plates formed when the blind was opened was substantially thicker than the combined thickness of the plates. This was incompatible with what was defined in feature "d2" of the claim. The differences in scale, purpose and

function of what was disclosed in documents E1 and E6 meant that the person skilled in the art would not seek to combine the teachings of the two and even if he did he would not arrive at what was claimed.

In order to make the distinction between the form of the connection means claimed and that disclosed in document E6 even clearer, claim 1 of the third auxiliary request defined that the lugs were integrally formed in the respective plates. Such an arrangement was impossible with the headed rivets disclosed in document E6 since there it was necessary to pass the shank of the rivet through the slot in one plate and then attach it to the other plate. The integral nature of the lugs with the respective plates was not explicitly disclosed in the original application but followed implicitly from the context. Since the plates were made of moulded plastics, it would be immediately apparent for the person skilled in the art that from the point of view of economy of production the lugs must be integral with the plates. Even if it could not be accepted that there was an implicit disclosure in the original application that the lugs were formed integrally in the plates then having regard to decision G 1/93 of the Enlarged Board of Appeal (OJ EPO 94, 541) the addition of this feature to the claim was not in any case objectionable, since it belonged to the class of features, referred to in point 2 of the order of that decision, which did not provide a technical contribution to the subject-matter of the claimed invention and merely limited the protection conferred by the patent and accordingly could not be considered as subject-matter which extended beyond the content of the application as filed.

As an alternative way of more clearly distinguishing the form of the lugs used in the invention from the headed rivets disclosed in document E6 it had been

specified in claim 1 of the fourth auxiliary request that the lugs were of substantially cuboid shape. There was a clear basis for this in Figure 10 of the original application.

VIII. In reply the respondents argued substantially as follows:

The person skilled in the art would have no difficulty implementing, on the basis of his common general knowledge, the proposal made in document E1 for a multi-plate cover. Since the basic type of telescoping structure referred to there and its mode of operation were well-known per se, there was no need for the document to spell these out. The use of the term "nebeneinander" did not, as a matter of language, require that there was no overlap whatsoever between the plates when in their closed position, so that the person skilled in the art was not faced with the problem, envisaged by the appellants, of how to design such a structure. All of the other features of granted claim 1 concerning the way the plates were guided and located could be derived from the description in document E1 of the single plate embodiment. The subject-matter of this claim therefore lacked novelty.

Since the term "nebeneinander" included a residual minimum overlap between the plates, the subject-matter of claim 1 according to the first auxiliary request also lacked novelty. Alternatively, if document E1 could not be seen as disclosing such an overlap then there was lack of inventive step as, for practical reasons, the provision of an overlap was an obvious measure.

For the person skilled in the art seeking to put the general proposal of document E1 into effect it would be necessary to consider in detail how the connection

means between the plates should be arranged. Here he would refer first of all to relevant state of the art in the same technical field. Document E6, which also related to an automobile sun visor, showed lug and slot connections between adjacent plates of an extensible multi-plate structure. The person skilled in art would have no difficulty in adapting the type of connection means shown in document E6 to his purposes. In particular, it is apparent that for aesthetic reasons the lug and slot sets should be at the lateral edges of the plates and that, since the plates are held in the guideways, there is no need for the lugs to take the form of rivets to hold the plates together. Thus, the subject-matter of claim 2 according to the second auxiliary request also lacked inventive step.

Claim 3 according to the third auxiliary request was not allowable having regard to Article 123(2) EPC. There was no disclosure in the original application, either explicit or implicit, that the lugs were formed integrally in the plates.

The subject-matter of claim 1 according to the fourth auxiliary request had effectively been dealt with when considering the second auxiliary request. The restriction to lugs of a substantially cuboid shape, whatever that might mean, was arbitrary and lugs of this shape would not function any differently to lugs which were for example cylindrical or prismatic.

Reasons for the Decision

1. The appeal complies with the requirements of Articles 106 to 108 and Rules 1(1) and 64 EPC. It is therefore admissible.
2. *Background to the claimed invention; state of the art*
 - 2.1 As set out in the introductory description of the patent specification it was well-known to provide the vanity mirror of the sun visor of an automobile with a cover of some form in order to prevent the mirror from becoming dirty and the driver or passenger being irritated by stray reflections when the mirror was not in use. Originally, the cover was hinged to the sun visor. Subsequently it was proposed to use a sliding cover which in its open position was concealed within the sun visor. This arrangement was however problematic when the mirror was of substantial size.

Accordingly, it has been suggested in EP-A-0 099 454, which is mentioned in the patent specification as constituting the closest prior art, to use a cover in the form of a flexible element which in the open position is rolled up on a spool, forms a loop at one side of the mirror or is partially disposed behind the mirror.

- 2.2 Document E1 relates to a sun visor for an automobile and in particular to the provision of a sliding cover for a vanity mirror mounted in the sun visor. A single embodiment is described in detail with reference to Figures 1 to 5. In this embodiment a substantially rectangular cover plate is mounted for sliding movement in the mirror frame with grooves in the sidewalls of the frame serving as guideways for the cover plate. The sidewalls of the mirror frame extend within the sun

visor body to form a container having a length sufficient to take up substantially all of the cover plate when it is in its open position, leaving only an operating knob located on an end portion of the cover plate exposed. In the closed position of the cover plate the mirror is completely covered. The width of the grooves in the sidewalls correspond to the thickness of the cover plate giving a smooth fit. To avoid vibrational movement in the plane of the cover plate integral spring-like projections are provided on the edges of the cover plate which interact with the bottom of the grooves.

In paragraph 4 of page 4 it is stated that if there is insufficient space available in the body of the sun visor to take up the full length of a single rigid cover plate, then the cover can consist of two or more parts which lie besides each other ("nebeneinander") in the closed position and which on opening form themselves automatically into a stack one above the other in the sun visor body. On closing the cover then the individual parts are drawn one after the other from the stack.

- 2.3 Document E6 relates to an automobile sun visor which is designed to cover the whole width of a windscreen. The sun visor takes the form of a blind comprised of a number of rigid elongate bands joined together by pin and slot connections between adjacent pairs. The upper band is attached to the top of the windscreen and the lower band is provided with two knobs for allowing the blind to be extended or retracted by hand. In the retracted position the bands overlie each other to form a compact package and are held in this position by friction between the bands. There are three sets of pin and slot connections, one in the middle of the blind and the other two spaced somewhat from its respective lateral edges. All of the bands between the upper and

lower ones have both pins and slots which in each set are offset a small distance from each other. As shown, the pins appear to take the form of headed rivets with a head wider than the slot in one band through which the shank of the rivet passes, the end of the shank being attached to the other band.

3 *Main request*

In defence of the novelty of the subject-matter of granted claim 1 the appellants have relied exclusively on their contention that document E1 does not constitute an "enabling disclosure" with respect to the multi-plate embodiment suggested in paragraph 4 of page 4.

The case law of the Boards of Appeal concerned with the requirement of an "enabling disclosure" in a prior art document was developed in the fields of organic chemistry and biotechnology, see for example T 206/83 (supra), and is directed to the principle that a document can only be said to have made something available to the public in the sense of Article 54(2) EPC if the document discloses it in a manner sufficiently clear and complete to enable the person skilled in the art to reproduce it, account being taken of his common general knowledge.

The Board concurs with the general proposition of the appellants that this basic principle is also valid in other technical fields, e.g. in the field of general mechanical technology. However, especially where the prior art document is concerned with a relatively simple artefact, the cases will be very few and far between where a proposal in that document for modifying

an embodiment described there in full detail in order to adapt it to a particular situation will not constitute an enabling disclosure in the above sense, even when the proposal is couched in general terms.

Certainly, the proposal for a multi-plate cover made in document E1 is not one of these rare cases. Although the passage in which the proposal is made is relatively short, it is in no way cryptic or ambiguous. The person skilled in the art is told that in the open position of the cover the plates are stacked one above the other in the sun visor body and that in the closed position they lie besides each other so that the mirror is covered. He is also told that the movement between these two positions takes place "automatically", which in the context means that no special manipulations are required and that the movement of the first plate by finger pressure on the knob provided will subsequently entrain the movement of the other plates. He therefore knows that it is necessary to provide an appropriate form of connection means between the plates. Given that telescoping mechanisms of this general type are well-known per se, the design of the connection means would present no difficulty for the person skilled in the art. In this respect the appellants argued that the term "nebeneinander" required that the plates should not overlap each other at all when the cover is in the closed position so that the construction of suitable connection means would indeed involve complex considerations going beyond the normal ability of the person skilled in the art. In support of this argument the appellants have submitted extracts from "Duden; Rechtschreibung der Deutschen Sprache und der Fremdwörter" and "Collins Pons, German-English Dictionary". Since, however, as explained below, the interpretation of the word "nebeneinander" in its context in reality poses no problems, then the person skilled in the art will have no need to refer to either

of these works to establish its meaning and even if he did he would find nothing in them that would lead him to the conclusion that the argument of the appellants is correct. The person skilled in the art knows from the whole content of document E1 that the purpose of the plates of the multi-plate embodiment is to cover the vanity mirror of the sun visor completely when in its closed position. He can see that this can be achieved by having the plates lie in abutting edge contact with each other or besides each other with some degree of overlap. There is nothing inherent in the term "nebeneinander" which would make him think the second of these possibilities was to be excluded.

Accordingly, the Board is of the opinion that document E1 contains an enabling disclosure of the multi-plate embodiment referred to in paragraph 4 of page 4. Taking into account the features of the single-plate embodiment which will be incorporated into the multi-plate embodiment, see point 2.2 above, it is evident that the latter exhibits all of the features of the subject-matter of granted claim 1 so that this lacks novelty (Article 54 EPC).

The main request of the appellants can therefore not be allowed.

4. *First auxiliary request*

The subject-matter of claim 1 according to the first auxiliary request differs from that of granted claim 1 (disregarding editorial re-arrangement) by the fact that an overlap between the plates in the closed position of the cover is mandatory. Although as explained above, document E1 covers two alternative possibilities, namely with the plates in edge-wise abutting relationship or with them overlapping, it does

not in strict terms specifically disclose either of those. The subject-matter of claim 1 of the first auxiliary request must therefore be considered as novel with respect to this state of the art.

On the other hand, the person skilled in the art will clearly be led from practical considerations, in particular to avoid the need for maintaining close tolerances in what is intended to be a relatively inexpensive mass-produced article, to choose the alternative where the plates have some overlap in the closed position of the cover. The subject-matter of claim 1 according to auxiliary request therefore lacks inventive step (Article 56 EPC).

5. *Second auxiliary request*

In claim 1 according to the second auxiliary request the form of the connection means between the plates has been defined as comprising sets of slots and lugs located at the lateral edges of the plates. In particular, one plate of each adjacent pair of plates comprises slots at its lateral edges, which slots are slightly shorter than the length of the edges, and the other plate of the pair comprises lugs in positional correspondence with the slots.

Since this form of the connection means is not disclosed in document E1, the subject-matter of claim 1 of the second auxiliary request is novel. It is therefore necessary to consider whether it involves an inventive step.

As already explained in point 3 above, the person skilled in the art would have had no difficulty, on the basis of his common general knowledge, in designing connection means of some form between the plates of the

multi-plate embodiment of document E1. However, it must be assumed that the person skilled in the art, when considering an optimum design solution, will make reference to relevant prior art documents in the same technical field. Document E6, which also relates to automobile sun visors, belongs to this class of prior art. This document teaches as a solution to the basic technical problem involved, namely the coupling of a set of cover plates together so that the movement of one will subsequently entrain the others, to provide projections on one plate of each adjacent pair which engage in slots of the other plate of the pair. It requires no inventive ingenuity to apply this teaching to the multi-plate embodiment of document E1. Given the relatively small size of the plates it will be obvious to the person skilled in the art that only two sets of slots and projections are required rather than the three disclosed in document E6 and that for aesthetic reasons and also to ensure that the mirror is completely covered it will also be obvious that these two sets should be located at the lateral edges of the plates. Lastly, since in the multi-plate embodiment of document E1 the individual plates are guided and held together by the mirror frame, it will be obvious to the person skilled in the art that the projections need only take the form of simple lugs rather than the headed rivets shown in document E6. For these reasons the Board cannot accept the line of argument adopted by the appellants to the effect that the person skilled in the art would not consider the teaching of document E6 as relevant to his situation insofar as the document is only concerned with a construction in which the plates are held together by rivets.

Accordingly, the Board has come to the conclusion in that the subject-matter of claim 1 of the second auxiliary request lacks inventive step (Article 56 EPC).

6. *Third auxiliary request*

In comparison with claim 1 of the second auxiliary request, claim 1 of the third auxiliary request includes the additional feature that the lugs are "integrally formed in said plates".

The appellant argue that this feature is disclosed, at least implicitly, in the originally filed application. In this context they say that since the plates are described as being of plastics then the person skilled in the art would not seriously consider forming the plates without lugs and then attaching the lugs thereafter, for to do so would unnecessarily increase the production costs of what is after all a mass-produced article. In the opinion of the Board this line of argument confounds two essentially different questions, namely what the person skilled in the art would do on the basis of his common general knowledge when seeking to put the teachings of the original application into practical effect and what the original application directly and unambiguously discloses to him. The answer to that second question is that he is told that the plates "are provided" with lugs, nothing more. That statement certainly includes the possibility of forming the lugs integrally with the plates, but does not disclose it. It is also to be noted that the plates being made of plastics is a central part of the argument of the appellants. This is however not a requirement of the claim in question and it is explicitly stated in the original application, see paragraph 2 of page 8, that the plates could also be made of an appropriate metallic material.

In the alternative the appellants argue that even if an implicit disclosure of the feature involved cannot be recognised in the original disclosure then its

incorporation into the claim should nevertheless be allowed, having regard to what is said in point 2 of the answer given by the Enlarged Board of Appeal in decision G 1/93 (supra) on the question referred to it concerning the "conflict" between Articles 123(2) and 123(3) EPC. Specifically, reference is made there to a feature which "without providing a technical contribution to the subject-matter of the claimed invention, merely limits the protection conferred by the patent as granted by excluding protection for part of the subject-matter of the claimed invention as covered by the application as filed" and accordingly "is not to be considered as subject-matter which extends beyond the content of the application as filed in the sense of Article 123(2) EPC."

The appellants argue that the requirement that the lugs be "integrally formed in said plates" is a feature of the class referred to above. In particular, they argue that since the original application covered both integrally formed lugs and separately formed lugs subsequently attached to the plates then all they are doing is limiting the scope of protection of the patent by means of a non-inventive selection. Furthermore, in their submissions of 1 September 1997 they have developed the argument that the term "technical contribution" as used by the Enlarged Board of Appeal in the passage quoted above has to be understood as meaning a "relevant or substantial technical contribution", which they contend the limitation to integrally formed lugs does not make to the subject-matter of the invention.

At first sight it is somewhat puzzling that the appellants wish to add a feature to the claim which on one hand is argued not to add any subject-matter to it but on the other hand is intended to provide an inventive distinction over the state of the art.

However, as the Board understands it, it seems that what the appellants are contending is that although on an objective basis the integral form of the lugs makes no significant technical contribution to the subject-matter of the claim, this feature nevertheless provides a distinction over what would result from a direct combination of the teachings of documents E1 and E6.

In its decision G 1/93 the Enlarged Board of Appeal did not give any examples of the type of feature which can be considered as not providing a technical contribution to the subject-matter of a claim. Instead, there is merely a reference in point 16 of the reasons to an example of a feature which would make a technical contribution, namely one creating an inventive selection. After the issue of decision G 1/93 the question of what constitutes a technical contribution was considered in decision T 384/91 (OJ EPO 1995, 745) in relation to the case that had generated the referral to the Enlarged Board of Appeal. The present Board agrees with what is said in point 5 of the reasons of decision T 384/91 that the assessment of whether the exception provided for in the decision of the Enlarged Board applies in a particular case should only rely on the technical relationship of the added feature with the content of the application as originally filed and that a feature at least then goes beyond providing a mere limitation which does not involve a technical contribution if it interacts with the way in which the other features of the claim solve the technical problem as it is understood from the original application.

Applying this criterion to the present case it can be seen that the feature in question does indeed make a technical contribution to the subject-matter of the claim since forming the lugs integrally with the plates leads to a more simple and cheaper construction of cover which, at least by implication, was the technical

problem which the invention set out to solve. Thus the Board comes to the conclusion that the addition of this feature to claim 1 of the third auxiliary request offends against Article 123(2) EPC.

7. *Fourth auxiliary request*

Claim 1 according to the fourth auxiliary request has been derived from claim 1 according to the second auxiliary request by the addition of the feature that the lugs have "a substantially cuboid shape".

Although the respondents expressed reservations as to the exact scope of the term "substantially cuboid", they did not dispute that the lugs shown in Figure 10 of the drawings could be described in this way. For the investigation of inventive step the exact scope of the term is not in any case of real importance since, as the appellants expressly confirmed, the only point of defining the lugs in this way was to make clear that they were of substantially the same cross-section along their length, i.e. did not have a head such as the rivets of document E6, no particular significance being attached to them being "cuboid".

The relevance of this feature to the question of inventive step has already been dealt with in effect when considering the second auxiliary request, see point 5 above. As already indicated there the Board is of the opinion that the person skilled in the art, when applying the teachings of document E6 to complement the disclosure in document E1 of the multi-plate embodiment, would recognise that headed rivets were not necessary and that simple lugs or projections would do. It is open to him to choose between various shapes available to him, be it for example cylindrical, prismatic or cuboid.

Thus the subject-matter of claim 1 according to the fourth auxiliary request also does not involve an inventive step.

Order

For these reasons it is decided that:

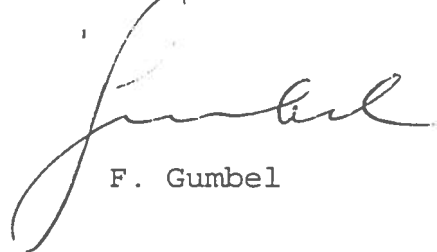
The appeal is dismissed.

The Registrar:



S. Fabiani

The Chairman:



F. Gumbel

