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D E C I S I O N
of 23 February 1999

Case Number: T 0520/97 - 3.2.1

Application Number: 93500073.7

Publication Number: 0573381

IPC: B65D 5/32, B65D 5/44, B65D 21/02

Language of the proceedings: EN

Title of invention:
Stackable cardboard tray

Applicant:
Videcart, S.A.

Opponent:
-

Headword:
-

Relevant legal provisions:
EPC Art. 56, 111(1)

Keyword:
"Inventive step (yes)"
"Decision re appeals - remittal (yes)"

Decisions cited:
-

Catchword:
-



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Boards of Appeal

Chambres de recours

Case Number: T 0520/97 - 3.2.1

D E C I S I O N
of the Technical Board of Appeal 3.2.1
of 23 February 1999

Appellant: Videcart, S.A.
ES-31486 Ibiricu de Egües
Navarra (ES)

Representative: Carpintero Lopez, Francisco
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Decision under appeal: Decision of the Examining Division of the European Patent Office posted 24 January 1997 refusing European patent application No. 93 500 073.7 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: F. Gumbel
Members: M. Ceyte
J.-C. Saisset

Summary of Facts and Submissions

- I. European patent application No. 93 500 073.7 (publication number: 0 573 381) was refused by a decision of the Examining Division posted 24 January 1997.

The reason for the refusal was that the subject-matter of claim 1 filed on 13 December 1997 did not involve an inventive step having regard to:

D1: GB-A-783 801

D2: FR-A-836 645

In the course of the examination and appeal proceedings, the following further documents were considered:

D3: ES-U-252 456

D4: US-A-4 105 153

- II. On 21 March 1997 the appellant (applicant) lodged an appeal against the decision and paid the prescribed appeal fee.

The statement of grounds of appeal was filed on 6 May 1997.

- III. In response to two communications of the Board, the appellant filed on 9 February 1998 and on 18 September 1998, respectively, a revised description together with amended claims and drawings.

It was requested that the decision under appeal be set aside and a patent be granted on the basis of the following documents:

Claims: 1 to 6 as filed 18 September 1998 (with letter dated 16 September 1998)

Description: pages 1 to 3 and 4 to 21 filed 9 February 1998
page 4 filed 18 September 1998

Drawings: Figures 1 to 16 filed 9 September 1998

Claim 1 reads as follows:

"1. A stackable tray for carrying goods, especially for perishable goods, such as fruits and vegetables, of the type having a bottom wall (11) and a peripheral wall comprising two side walls (16) and two end walls (17), the end walls being higher than the side walls, characterised in that it is made of compact cardboard parts joined with glue and the bottom wall (11) is provided with marginal flanges (14, 15) at its four sides, which marginal flanges are folded substantially perpendicular to the plane of the bottom wall (11), the parts (16) and (17) making up the peripheral wall of the tray being secured to the marginal flanges (14, 15) of the bottom wall, so that the bottom wall lies flush with the lower edges of the peripheral wall, in that the parts making up the side walls are provided on their upper edge with flanges (18) which are folded and secured to the inner side of said side walls, the said parts being also provided with end flaps (20) which are folded substantially perpendicular to the plane of said

side walls and secured to the end walls, covering them entirely and thereby defining end walls of double thickness."

Reasons for the Decision

1. The appeal is admissible.
2. Claim 1 is based in its pre-characterising portion on the disclosure of prior art document D3.

The known stackable tray for carrying goods, especially perishable goods such as fruit and vegetable is of the type having a bottom wall and a peripheral wall including two side walls and two end walls which are higher than the side walls. It is in essence made from a single cardboard blank.

From the introductory part of the European patent application, it can be deduced that the technical problem to be solved by the present invention is to provide a stackable tray of the type stated in the pre-characterising part of claim 1, which is of improved strength without using additional elements such as corner posts and which can be readily and economically manufactured, while providing advantages with respect to its printability and its ability to be recycled.

This problem is in essence solved by the following features stated in the characterising part of claim 1:

- (i) it is made of compact cardboard parts joined

with glue,

- (ii) the bottom wall is provided with marginal flanges at its four sides, which are folded substantially perpendicular to the plane of the bottom wall, the parts making up the peripheral wall of the tray being secured to the marginal flanges of the bottom wall,
- (iii) the parts making up the side walls are provided on their upper edge with flanges which are folded and secured to the inner side of said side walls,
- (iv) the parts making up the side walls are also provided with end flaps which are folded substantially perpendicular to the plane of said side walls and secured to the end walls, covering them entirely and thereby defining end walls of double thickness.

3. The examination as to whether the stackable tray according to claim 1 is disclosed in any of the prior art documents D1 to D4 leads to the conclusion that the subject-matter of claim 1 is novel (Article 54 EPC), due to the fact that they all fail to disclose the above characterising feature (iv).

4. It remains to be examined whether the subject-matter of claim 1 involves an inventive step. In this respect the question arises whether there is any suggestion in the cited prior art as to the claimed double wall construction of the end walls.

Document D1 shows a tray made of five cardboard pieces or panels: a bottom wall with marginal flanges at its four sides, two side wall panels and two end wall panels which are assembled together with metal staples. The side wall panels are provided with end flaps which are bent and secured to the end walls.

However, these end flaps cover only the corner portions of the end wall panels so that each end wall panel and the two associated end flaps do not form a double end wall.

Document D2 shows a box made of corrugated cardboard not of compact cardboard. The end flaps of the side walls are bent at right angles and secured to the end wall panels. They overlie each end wall only in its corner portions. The end walls comprise overlapping panels so that the height of the end walls of the box is greater than that of the inner end wall panels. It follows that the bottom portion of the end walls is only made from the marginal flange of the bottom piece, bent along a transverse edge thereof.

Document D3 is concerned with a tray which is formed from a single cardboard blank and which is not provided with double end walls.

The object of document D4 is a cardboard bin of a two-piece construction, one piece of which forms the peripheral wall, whilst the other forms the bottom wall. Thus, the alternating, foldably connected side and end walls are formed from a single cardboard bulk, the end portions of which are adhesively bonded together.

Therefore, there is no suggestion or teaching in these citations of the claimed double wall construction of each end wall, one wall of which is formed by the end wall panel whilst the other is formed by the two end flaps of the side panels which overlap entirely the end wall panel, these parts and the corresponding marginal flange of the bottom wall being adhesively bonded together.

Thus, in the Board's judgement the subject-matter of claim 1 cannot be derived in an obvious manner from the available prior art and consequently involves an inventive step (Article 56 EPC).

6. In order to examine whether the revised description and the amended sub-claims of the patent application meet the requirements of the EPC, in particular with that of Article 84, the case is remitted to the Examining Division pursuant to Article 111(1) EPC for further prosecution.

Order

For these reasons it is decided that:

1. The decision of the Examining Division is set aside.
2. The case is remitted to the Examining Division for further prosecution.

The Registrar:

The Chairman:

S. Fabiani

F. Gumbel