

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAMES P. BURRA,
SUSAN J. SHERMAN and
CARLOS A. CASTEREJON

Appeal 2007-1829
Application 10/098,801
Technology Center 3700

Decided: September 12, 2007

Before WILLIAM F. PATE, III, TERRY J. OWENS, and
ANTON W. FEETING, *Administrative Patent Judges*.

WILLIAM F. PATE, III, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal from the final rejection of claims 1-21. These are the only claims in the application.

We have jurisdiction under 35 U.S.C. §§ 6 and 134.

The claimed invention is directed to a transportation case for an automotive engine or transmission. The case includes a one-piece molded plastic base and a one-piece molded plastic lid. At least one of the base or lid includes a plurality of vertically extending semi-circular stiffening ribs.

Claim 1 reproduced below, is further illustrative of the claimed subject matter.

1. A transportation case for an automotive engine, transmission, or the like, comprising:

a one-piece molded plastic base including a substantially uniform wall thickness, comprising an outer peripheral wall connected to a formed bottom to provide an upwardly opening space, the formed bottom defining a wall for receiving an automotive engine, transmission, or the like, and having opposite longitudinally extending feet for resting on a support surface and a forklift opening between the feet;

a one-piece molded plastic lid including a substantially uniform wall thickness comprising an outer peripheral wall connected to a top wall, the lid outer peripheral wall being received on the base outer peripheral wall to close the upwardly opening space,

at least one of the base and lid including plural vertically extending semi-circular stiffening ribs enabling plural transportation cases to be stacked with feet of one transportation case being supported on a top wall of another transportation case.

The references of record relied upon by the examiner as evidence of obviousness are:

Maker	U.S. 4,678,084	Jul. 07, 1987
Lemery	U.S. 4,735,310	Apr. 05, 1988
Robbins, III (Robbins)	U.S. 4,890,757	Jan. 02, 1990
Kidd	U.S. 5,011,011	Apr. 30, 1991

Also of record in the appeal is a declaration filed pursuant to 37 CFR § 1.132 by an inventor, James P. Burra.

Claims 1-21 stand rejected under 35 U.S.C. § 103 as unpatentable over Lemery in view of Kidd, Maker and Robbins.

ISSUES

In addition to arguing that it would not have been obvious to combine Maker and Kidd with the disclosure of Lemery, Appellants have argued that Robbins would not have suggested to one of ordinary skill that semi-circular ribs be used on the engine transport containers. Accordingly, the sole issue for our consideration is whether the Appellant's have established that the Examiner erred in rejecting the claimed subject matter under § 103.

FINDINGS OF FACT

The following are our findings of fact with respect to the scope and content of the prior art and the differences between the prior art and the claimed subject matter.

Robbins discloses a plastic article composed of flexible non-self supporting webs disposed between adjacent pairs of ribs with the ribs and webs cooperating one with the other, to provide a self-supporting sidewall. Robbins makes clear that the webs extending between adjacent pairs of ribs are thin, non-self supporting films of plastic material. Robbins discloses that his ribs may be formed of any cross-sectional configuration. Robbins mentions rectangular, semi-circular, triangular or other shapes as long as the ribs maintain a capacity not to readily bend, deform or flex. (See col. 2, ll. 37-40.) A preferred material for Robbins is high density polyethylene. The web portions of the articles made according to the Robbins disclosure are on the order of 1-40 mils. See col. 6, l. 21.

It is undisputed that Lemery, Kidd and Maker disclose plastic transportation cases for transporting large objects such as engines, transmissions, drive belts, and turbochargers. All three disclosures illustrate that it is common in the art of plastic shipping containers to utilize ribs of rectangular or trapezoidal cross section.

OPINION

We are in agreement with Appellants that the disclosure of Robbins would not have taught one of ordinary skill to make the reinforcing ribs in a plastic engine container of semi-circular rather than rectangular or trapezoidal cross section as disclosed in Lemery, Kidd or Maker. We must

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emphasize that the Robbins disclosure is directed to reinforcing webs of plastic material that are not self-supporting and are merely films. It is our view that a teaching for reinforcing webs with a material thickness of preferably about 1-40 mils is not readily applicable to reinforcing the structural plastic used to manufacture engine containers. For this reason, one of ordinary skill would not have found it obvious to modify the rectangular or trapezoidal ribs of the engine containers to form the ribs of a semi-circular cross section based on the disclosure of Robbins.

CONCLUSION

The examiner has failed to establish a prima facie case of obviousness of claims 1-21. The rejection of all of the claims on appeal is reversed.

REVERSED

vsh

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