

COMMISSIONER'S DECISION

OBVIOUSNESS: Necked-in Can Body

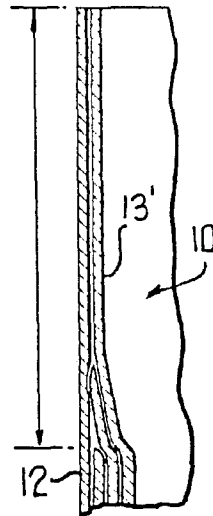
Two claims were rejected for being indefinite and too broad in scope.

Final Action: Affirmed - amendment accepted

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This decision deals with a request for review by the Commissioner of Patents of the Examiner's Final Action dated December 30, 1975, on application 113,864 (Class 190-83). The application was filed on May 25, 1971, in the name of George W. Thompson et al, and is entitled "Necked-In Can Body And Method And Apparatus For Making Same." An amendment to this application, dated May 27, 1977, was presented to the Patent Appeal Board just prior to the Board's consideration of this case. The examiner is of the opinion that this amendment overcomes the objections made in the Final Action. This amendment will now be considered by the Board.

This application relates to necked-in can bodies and more particularly to can bodies wherein at least the end portions of the side seams are of a lapped construction in conjunction with a deformable bonding material. Figure 5, shown below, depicts that arrangement:



In refusing claims in the Final Action the examiner had this to say (in part) as follows:

Claim 4 is again rejected as indefinite since it sets forth a desired result - the side seam thickness being uniform. After a very careful consideration of this application by the present examiner it has been concluded that the invention in this application involves the features outlined at page 9 lines 7-19. This required a statement in claim 4 like that in claim 2 to the effect that there is a die ring 17 a floating post 18 plus three can body wall thicknesses plus the normal thickness of bonding material. When the lap joint is formed the desired result is achieved, and it is the means and function noted above which are crucial, essential and necessary to so achieve it. Thus these essentials must appear in claim 4 for it to become allowable.

Claim 1 is rejected for failing to define the inventive method as disclosed. It is held that this method, according to page 9 lines 7-19, requires the features of present claim 2. The compressing feature of present claim 1 is not seen to be essential to the invention but is seen to be an additional feature outlined at page 9 line 20- page 10 line 6. Thus this feature can be removed in any broadest method claim.

The applicant submitted an amendment, dated April 30, 1977, to the Final Action. The examiner did not accept that amendment as overcoming the objections in the Final Action. In support of the allowance of the claims the applicant submitted a second amendment (May 27, 1977) and stated his position (in part) as follows:

Cancel claims 1 to 11 presently on file and substitute therefor amended claims 1 to 11 enclosed herewith in duplicate.

Claim 1 presently on file has been amended at line 8 by inserting the word "floating" before the word "post". Claims 2 to 5 presently on file remain unaltered. Claim 6 presently on file has been rewritten in order to recite that the thickness of the side seam along the necked-in end portion is made uniform by forcing one end portion of the can body around a floating post and into an externally confined space of a diameter equal to a diameter of the post plus three times the can body wall thickness plus the predetermined thickness of the bonding material.

Claims 7 to 11 presently on file remain unaltered.

The above amendment is in addition to the amendments made to the claims in the amendment of April 30, 1976. Amended claim 1 now reads:

A method of forming a can body having a necked-in end, the necked-in end having a bonded lapped seam of a predetermined uniform thickness, the method comprising the following steps:

(a) forming a can body having a side seam, at least one end portion of which is of a lapped construction with a deformable bonding material therein;

(b) forcing said at least one end portion around a floating post of a necking-in die, the necking-in die having a radial clearance around the post equal to three times wall thickness of the can body plus the predetermined uniform thickness of the deformable bonding material, thereby deforming the deformable bonding material in the at least one end portion of the can body so as to reshape the same, whereby the deformed bonding material in the at least one end portion is of uniform thickness, with the wall thickness of the remainder of the end portion of the can body remaining undiminished, the uniform thickness of the deformable bonding material adapted to facilitate formation of a tight double seam between the can body and an end unit adapted to be attached to the end portion of the can body.

Claim 1 was rejected for failing to define the inventive method as disclosed.

Amended claim 1 above however, overcomes that objection and the claim should be allowed.

In the Final Action claim 4, now claim 6, was also rejected for being indefinite.

Amended claim 6 reads:

A can body having a side seam and at least one necked-in end portion, said side seam being of a lapped construction at least along said necked-in end portion and including a deformable bonding material, and the thickness of said side seam along said necked-in end portion being uniform to facilitate formation of a tight double seam between the can body and an end unit adapted to be attached to the end portion of the can body, the thickness of the side seam along the necked-in end portion being made uniform by forcing said one end portion around a floating post and into an externally confined space of a diameter equal to a diameter of said post plus three times the can body wall thickness plus the predetermined thickness of said bonding material.

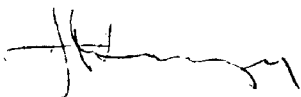
The examiner stated that he was prepared to accept this amended claim as overcoming the objection of the Final Action. We are also satisfied that this claim now overcomes the rejection under Section 36 of the Patent Act. The claim is now in condition for allowance.

In summary, we are satisfied that the present claims overcome the rejection of the Final Action. We recommend that these claims be accepted.



J.F. Hughes  
Acting Chairman  
Patent Appeal Board, Ottawa

Having studied the prosecution of this application and reviewed the recommendation of the Patent Appeal Board I have decided to accept the amended claims. The application is returned to the examiner for resumption of prosecution.



J.H.A. Gariépy  
Commissioner of Patents

Agent for Applicant

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Dated at Hull, Quebec

this 15th day of June, 1977