

COMMISSIONER'S DECISION

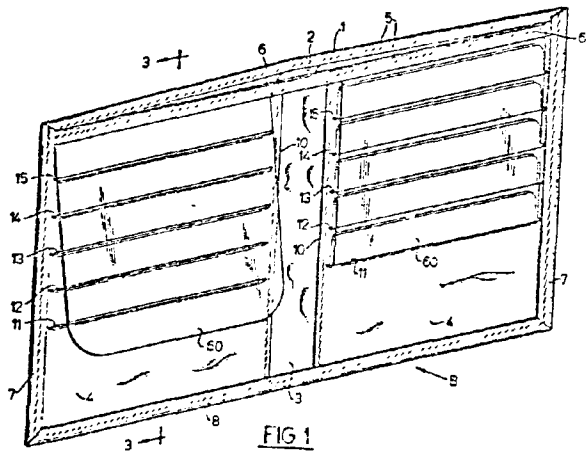
OBVIOUSNESS; Anticipation; Sec. 28 & 43 - CREDIT CARD BILLFOLD

It was concluded that the art cited related to a different invention than applicants invention but other uncited art should be applied. The rejection was withdrawn, and the application returned to the examiner to consider the other art.

Final Action: Withdrawn

Patent application 246898 (Class 215-51), was filed on March 2, 1976 for an invention entitled "Credit Card Billfold And A Flexible Card Protecting Flap." The inventor is John P. Reis, assignor to Amity Leather Products Co. The Examiner in charge of the application took a Final Action on January 16, 1978 refusing to allow it to proceed to patent. In reviewing the rejection, the Patent Appeal Board held a Hearing on Sept. 5, 1979 and at which the Applicant was represented by Mr. A.R. Campbell.

The subject matter of this application relates to a billfold or wallet for carrying credit cards in shingled relationship, with a transparent flexible flap member covering the cards to protect them. Figure 1 of the application illustrates what is involved.



In the Final Action the Examiner cited U.S. patent 3,856,063 - December 24, 1974 to Dengel as one of the primary references. Section 28(2) of the Patent Act was applied using the filing date of Dengel which is April 2, 1973. Amity Leather Products Co. owns both the Dengel United States patent and this application.

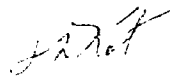
At the Hearing Mr. Campbell argued that Dengel is not citable under Section 28 or 43 of the Patent Act since it is directed to a different invention, and does not anticipate what is claimed.

We agree that the subject matter claimed is not anticipated by Dengel, since Dengel does not include the protective flap. The other references cited, in particular United States 2,886,907 to Stephenson do show protective flaps, but not in foldable billfolds. We have subsequently found, however, that the shingle stacking feature in wallets is known as displayed in United States patents 3,659,640 of May 12, 1972 and 3,777,795 dated December 11, 1973. We believe that these additional references should be considered before final disposition of the matter.

Consequently we recommend that decision in the Final Action to reject the application be withdrawn, and the application be returned to the Examiner to assess the pertinency of these and any other references that should be considered.

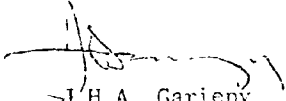


G.A. Asher
Chairman
Patent Appeal Board, Canada



S.D. Kot
Member

I have reviewed the prosecution of this application and I concur with the recommendations of the Patent Appeal Board. Accordingly I withdraw the Final Action and the application is being returned to the Examiner for resumption of prosecution.



J.H.A. Gariepy
Commissioner of Patents

Dated at Hull, Quebec

this 19th. day of November, 1979

Agent for Applicant

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