

Commissioner's Decision #1237  
Décision du Commissaire #1237

TOPIC: B00; OO  
SUJET: B00; OO

Application No: 2,183,473  
Demande No: 2,183,473

COMMISSIONER'S DECISION SUMMARY

C.D. 1237 ....Application No. 2,183,473 (B00; OO)

Application rejected on the grounds that the subject matter disclosed was obvious in view of a cited reference and the claims were rejected on the grounds that they were considered to be indefinite.

The application discloses a money belt containing a compartment in which valuables can be stored. The application was rejected on the grounds that the subject matter disclosed was obvious in view of a cited reference and the claims were rejected on the grounds that they were considered to be indefinite. The Board recommended that the rejection of the application on the grounds of obviousness be reversed and that the application be returned to the examiner with a view to arriving at a set of allowable claims, a recommendation which was accepted by the Commissioner of Patents.

IN THE CANADIAN PATENT OFFICE

DECISION OF THE COMMISSIONER OF PATENTS

Patent application number 2,183,473 having been rejected under Rule 30(4) of the Patent Rules, the Applicant asked that the Final Action of the Examiner be reviewed. The rejection has consequently been considered by the Patent Appeal Board and by the Commissioner of Patents. The findings of the Board and the ruling of the Commissioner are as follows:

Applicant

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This decision deals with the Applicant's request for a review by the Commissioner of Patents of the Examiner's Final Action dated August 13, 1998, on application 2,183,473 (International Classification A45C-001/00), filed on September 24, 1996 and entitled "The Travel Safe Money Belt". The applicant and inventor is Mr. Paul Burnock who has prepared, filed and prosecuted his own application without the assistance of a registered patent agent.

The application relates to a money belt containing a compartment in which valuables can be stored. When the belt is worn, the opening to the compartment is concealed. Figure 1 of the application shows a man's belt while Figure 2 shows a woman's belt. Both figures are shown below

Applicant's money belt comprises a standard belt with a first portion comprising a buckle at one end and holes at the second end. A second portion is attached to the belt between its first end and its second end on the surface which is closest to the wearer. The second portion is secured to the belt only at its outer edges, leaving a space between the belt and the second portion. A slit in the second portion allows access to the space. The slit can be closed by a slide fastener to form a pouch or compartment in which, besides money or traveller's cheques, could be hidden credit cards or keys.

During the prosecution of the application, the Examiner cited French patent application number 2,334,318 dated 1977 to De Neuville to reject both the claims of the application and the application itself for failing to disclose anything inventive. This patent application shows a money belt designed to be worn under the wearer's clothing which comprises a narrow elastic band to which is attached a number of pockets. One of the pockets is located near the middle of the elastic band and has an access opening on the side of the belt nearest the wearer. The opening can be closed by

a slide fastener. Figures 1 and 2 of the reference are reproduced below.

In the Final Action, the Examiner stated, in part, that:

It is maintained that the present application does not comply with Subsection 28.3 of the Patent Act. All of the subject matter described and claimed in this application would have been obvious on the claim date to a person skilled in the art or science to which it pertains having regard to DeNeufville.

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It is further held that the differences between the belt disclosed in DeNeufville and the belt disclosed and claimed by the applicant could have been made using the ordinary skill of one versed in the art. The alleged invention disclosed and claimed by the applicant differs from DeNeufville in that the alleged invention does not have external pockets attached to a belt strap, and the internal compartment of the alleged invention appears to be longer than that disclosed in DeNeufville. However, it is maintained that it would be an obvious step for one skilled in the art to omit the external pockets to arrive at that disclosed and claimed in the present application. It is held that if the omission of the external pockets on the DeNeufville belt was made using the ordinary skill of one versed in the art, that omission would not result in a new mode of operation of the DeNeufville belt. DeNeufville clearly describes a belt having a compartment, adapted to be closed by a slide fastener, located on the side of the belt facing the back on the wearer. Furthermore, it cannot be considered inventive to increase the length of the internal compartment nor the size of the belt. It has been held by the courts to be obvious to merely change the size or dimension of an object. Therefore, in view of the foregoing, it is maintained that the claims in the present application do not define anything that does not fall within the skill of the artisan and the application does not disclose anything of a patentable significance.

It is further maintained that claims 1 and 2 are indefinite and do not comply with Subsection 27(4) of the Patent Act for being directed to the desired result rather than to the combination disclosed to achieve that result. The aforesaid claims do not define distinctly and in explicit terms the subject matter of the alleged invention.

In reply to the Final Action the Applicant argued that the belt shown in De Neufville was very cumbersome and could not be made inconspicuous without omitting many of the prominent features shown in the reference. Accordingly the first question which must be considered by the Board is whether or not the money belt shown in the instant application is inventive over the De Neufville money belt.

When studying the prior art, the first impression one gathers is that the De Neufville belt looks very bulky. Even though the De Neufville belt is worn under the wearer=s clothing it clearly cannot be worn in any manner which would disguise the fact that one is wearing a special belt. Although the exact construction of the De Neufville belt is not described in great detail in the disclosure, it appears that it consists of a regular belt and a series of different sized pocket elements. Each element has a loop through which the belt slides. Even if one were to modify the De Neufville belt by removing all of the pocket elements except element 4, it would still be possible for a potential thief to see element 4 because the belt goes through the loops on the pocket element and the outside of the loop is visible on the outside of the belt.

In contrast, the pocket of Applicant=s belt is secured to the belt on the inner face of the belt and therefore cannot be seen when the belt is being worn, even though the belt is worn over the wearer=s clothing. The Board has concluded that in order to arrive at the Applicant=s belt, one would have to completely redesign the money belt shown in De Neufville. The Board is therefore of the opinion that the Applicant=s belt is not obvious over the cited reference.

The Board now turns its attention to the form of the claims. There are two claims in the application which read as follows:

1. The Travel Safe Money Belt is an apparel belt that is designed to inconspicuously provide concealment of money, travellers cheques , credit cards and I.Ds. by having what could be regarded as a slimline wallet attached to the side of the apparel belt facing the wearer in a manner that would not be obvious to anyone of its existence.
2. Whereas the Travel Safe Money Belt has the appearance of being just an apparel belt, - hence its appearance gives no indication to a would be robber that it is a money belt, unlike existing belts that have been patented and are being marketed, thereby the safety feature of the Travel Safe Money Belt is far superior to any Belt Bag or the DeNeufville harness.

It is clear that these claims are not in proper form for allowance. As the Examiner stated in the Final Action, they claim the desired result rather than setting out the essential elements and the manner in which these elements cooperate with each other to obtain the desired result. The claims must be amended to indicate what the Board considers to be the inventive features of Applicant=s belt, namely that Applicant=s belt is designed to be worn over the wearer=s clothing in place of a normal belt and that a pouch or compartment in the belt is formed on the inside of the belt and closed with a slide fastener. In amending the claims the Applicant is strongly advised to obtain the assistance of a registered patent agent to ensure that the claims of the application are written in such a way as to ensure that the Applicant obtains the maximum protection to which he is entitled for his invention.

Accordingly the Board recommends that the rejection of the claims and application on the grounds of obviousness over the De Neufville reference be withdrawn and that the application be returned to the Examiner for further prosecution aimed at arriving at a set of allowable claims.

M. Howarth  
Member

M. Wilson  
Member

I concur with the findings and the recommendations of the Patent Appeal Board and therefore return the application to the Examiner for further prosecution consistent with the recommendations.

P.J. Davies  
Acting Commissioner of Patents

dated at Hull, Quebec  
this 19th day of April, 1999