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**Datasheet for the decision  
of 19 June 2008**

**Case Number:** T 0719/06 - 3.2.04

**Application Number:** 95305698.3

**Publication Number:** 0726047

**IPC:** A47F 7/14

**Language of the proceedings:** EN

**Title of invention:**

Display apparatus

**Patentee:**

Bartuf Systems Ltd

**Opponent:**

HL Display AB

**Headword:**

-

**Relevant legal provisions (EPC 1973):**

EPC Art. 100(a)

**Keyword:**

"Main request - auxiliary requests 1, 6-8 - inventive step  
(no)"

"Auxiliary request 9 - inventive step (yes)"

**Decisions cited:**

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**Catchword:**

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Case Number: T 0719/06 - 3.2.04

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.04  
of 19 June 2008

**Appellant:** HL Display AB  
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**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
20 March 2006 concerning maintenance of  
European patent No. 0726047 in amended form.

**Composition of the Board:**

**Chairman:** M. Ceyte  
**Members:** C. Scheibling  
T. Bokor

## Summary of Facts and Submissions

I. In its interlocutory decision posted 20 March 2006, the Opposition Division found that, taking into consideration the amendments made by the patent proprietor, the European patent and the invention to which it relates met the requirements of the EPC. On 12 May 2006 the Appellant (opponent) filed an appeal and paid the appeal fee simultaneously. The statement setting out the grounds of appeal was received on 20 July 2006.

II. The patent was opposed on the grounds based on Articles 100(a) EPC (lack of novelty and inventive step).

III. The following documents played a role in the present proceedings:

D2: DE-U-86 27 334

D3: GB-A-1 482 997

D5: EP-A-0 295 869

IV. Oral proceedings took place on 19 June 2008 before the Board of Appeal.

The Appellant requested that the decision under appeal be set aside and that the patent be revoked.

He mainly argued as follows:

Claim 1 of the main request does not specify that the elongate article supports must be of channel section before being assembled to form the display apparatus. Therefore D2 and D3 are novelty destroying. Furthermore, the subject-matter of claim 1 of the main request and

also of auxiliary requests 1 to 8 does not involve an inventive step when starting inter alia from D5 and combining it with the teaching of D2 or D3. For the same reasons the independent method claim would not be inventive either. The subject-matter of claim 1 of auxiliary request 9 does not involve an inventive step when starting from D5 and taking into account the teaching of D3 which relates to the same technical field as the contested patent.

The Respondent (patentee) contested the arguments of the Appellant and submitted that claim 1 implies that the article supports must be of channel section even before being assembled. Furthermore, the question was not whether a skilled person could arrive at the invention but whether there was a hint in the state of the art to do so. In the present case a skilled person starting from D5 would not even take D2 into consideration, because the systems to which these display apparatuses belong are too different. But even if a skilled person would take D2 in consideration, the apparatus resulting from a combination of D5 with D2 would be unstable. A combination of D5 with D3 would not lead to the invention either, because in the display device of D3 the slots or gaps are provided on the support pieces for supporting the display device and the cooperating flanges projections are disposed on the display device instead of the reverse. Such a disposition is not just equivalent, but results in a different and more complicated manufacturing process.

The Respondent requested that the decision under appeal be set aside and that the patent be maintained on the basis of the claims of the main request alternatively

on the basis of the claims of one of the auxiliary requests 1 or 6 to 18. The main request and auxiliary requests 6 to 8 and 10 to 18 were filed with letter dated 19 May 2008 and auxiliary requests 1 and 9 in the course of the oral proceedings before the Board. The auxiliary requests 2 to 5 filed with letter dated 19 May 2008 were withdrawn during the oral proceedings.

IV. Claims 1 and 12 of the main request read as follows:

"1. A display apparatus (2) comprising:  
a support means (12; 90) which comprises a bracket means (12; 90) and  
a plurality of elongate article supports (6, 8, 10) for supporting articles to be displayed, wherein each article support is of channel section (6, 8, 10), and each has a first limb (28; 36; 42), a second limb (34; 40; 46) and a base member (32; 38; 44) having a lower surface extending between said first and second limb;  
wherein said plurality of article supports are not fixed to the bracket means;  
wherein in use, said article supports are arranged to define a tiered arrangement (4) having an upper end and a lower end, said support means being arranged to be secured relative to a fixed structure (14), wherein the apparatus is arranged such that said bracket means (12, 90) can be engaged with corresponding fixings (72) on the fixed structure (14) to secure it in position and then said article supports can be fixed to the bracket means characterised in that said support means (12; 90) is arranged to abut a lower surface (32, 38) of a said base member of a said article support and a rearwardly

facing surface (36; 42) of a said first limb of a said article support."

"12. A method of assembling a display apparatus, the method using:

a support means (12; 90) which comprises a bracket means (12; 90); and

a plurality of article supports (6, 8, 10) for supporting articles to be displayed, wherein each article support is of channel section (6, 8, 10), and each has a first limb (28; 36; 42), a second limb (34; 40; 46) and a base member (32; 38; 44) having a lower surface extending between said first and second limb; the method comprising:

engaging said bracket means (12; 90) with corresponding fixings on a fixed structure; and

fixing said plurality of article supports (6; 8; 10) to the bracket means (12; 90) thereby to define a tiered arrangement, wherein said bracket means (12, 90) supports the tiered arrangement against downwards movement, characterised in that said support means (12; 90) abuts a lower surface (32, 38) of a said base member of a said article support and a rearwardly facing surface (36; 42) of a said first limb of a said article support."

Claim 1 of the first auxiliary request differs from claim 1 of the main request by the addition of the wording "wherein said bracket means includes first means arranged to extend into a first gap defined by the article supports and second means arranged to support the article supports against pivotal movement, wherein said first means comprises a flange".

Claim 12 of the first auxiliary request is identical with claim 12 of the main request.

Claim 1 of auxiliary request 6 is identical with claim 1 of the first auxiliary request.

Claim 12 of auxiliary request 6 differs from claim 12 of the main request by the addition of the wording "wherein said bracket means includes first means arranged to extend into a first gap defined by the article supports and second means arranged to support the article supports against pivotal movement, wherein said first means comprises a flange".

Claims 1 and 12 of auxiliary request 7 differ from claims 1 and 12 of auxiliary request 6 by the addition of the wording "and wherein said first means includes a restrictor means for restricting disengagement of said first means from out of said first gap defined by the article supports".

Claims 1 and 11 of auxiliary request 8 differ from claims 1 and 12 of auxiliary request 7 in that it is further specified that the article supports are "made out of a plastics material".

Claims 1 of auxiliary request 9 reads as follows:

"1. A display apparatus (2) comprising:  
a support means (12; 90) which comprises a bracket means (12; 90) and  
a plurality of elongate article supports (6, 8, 10) for supporting articles to be displayed, wherein each article support is of channel section (6, 8, 10),

and each has a first limb (28; 36; 42), a second limb (34; 40; 46) and a base member (32; 38; 44) having a lower surface extending between said first and second limb;

wherein said plurality of article supports are separate from the bracket means;

wherein in use, said article supports are arranged to define a tiered arrangement (4) having an upper end and a lower end, said support means being arranged to be secured relative to a fixed structure (14), wherein the apparatus is arranged such that said bracket means (12, 90) can be engaged with corresponding fixings (72) on the fixed structure (14) to secure it in position and then said article supports can be fixed to the bracket means characterised in that said support means (12; 90) is arranged to abut a lower surface (32, 38) of a said base member of a said article support and a rearwardly facing surface (36; 42) of a said first limb of a said article support and in that said article supports define first and second channel sections between which a gap is defined, said support means being arranged to extend into the gap".

Claim 11 of auxiliary request 9 differs from claim 12 of the main request by the addition of the wording "and in that said article supports define first and second channel sections between which a gap is defined, said support means being arranged to extend into the gap".

## **Reasons for the Decision**

1. The appeal is admissible.



2. *Main request - Novelty:*

2.1 Novelty has been disputed with respect of D2 and D3.

2.2 In D2 each article support is of L-section. Once assembled on the bracket means to define a tiered arrangement, two successive support means form a channel section. However, each article support does not form a channel section per se, as required by the claim 1 of the main request.

2.3 Claim 1 of the main request also requires that "said bracket means (12, 90) can be engaged with corresponding fixings (72) on the fixed structure (14)". D3 does not disclose any fixings for fastening the support pieces of the display apparatus to a wall.

2.4 Accordingly, novelty of the subject-matter of claim 1 of the main request is given with respect to D2 or D3.

3. *Main request- Inventive step:*

3.1 It is undisputed that D5 acknowledged and evaluated in the introductory part of the patent specification represents the closest prior art. The parties also accepted that this citation discloses all the features of the prior art portion of claim 1 of the main request.

The display apparatus of claim 1 of the main request differs from that of D5 in that:

the support means is arranged to abut a lower surface of a said base member of a said article support and a rearwardly facing surface of a said first limb of a said article support.

3.2 As identified in paragraphs [0003] and [0004] of the patent specification, in a display apparatus according to D5, all of the weight must be supported by the hook arrangement of the uppermost channel which may be distorted over time, particularly if the unit is supporting a relatively heavy load. Another problem associated with the display unit described is that the unit may sag under heavy loads. This may be detrimental when a first display unit is fixed above a second display unit, since the sagging of the first display unit may result in articles which are displayed in an uppermost J-shaped channel of the second display unit being partially obscured by the first unit.

3.3 The problem to be solved by the invention with respect to this closest prior art can therefore be seen in providing a display apparatus which does not present the above drawbacks and which is in particular stable and able to support heavy loads without sagging while being easy to manufacture and assemble.

3.3 D2 discloses L-shaped inserts 11 having downwardly folds 27. A fold of one insert is arranged to engage a lug 25 of an insert immediately below, two adjacent L-shaped inserts forming an article support having a channel section. Brackets 10 are provided to support the assembly of L-shaped inserts. They are also arranged to abut a lower surface of the base of each channel section and a rearwardly facing surface of its first limb (that is the longer limb of the L-shaped inserts).

This display apparatus is strong and easy to assemble (page 3, lines 5 to 8; Figures).

It is immediately apparent for a skilled person that the strength and the increased stability of this displaying apparatus results from the use of this kind of stepped bracket arranged to support each channel section by abutting a lower surface of its base member and a rearwardly facing surface of its first limb.

- 3.4 The Respondent argued that the displaying apparatuses of D5 and D2 are too different, so that a skilled person would not combine these two citations.

This point of view cannot be shared. Both display apparatuses (of D5 and D2) comprise bracket means and a tiered arrangement of elongate article supports. They mainly differ by the type of support or bracket means used. The support means however, have been identified to constitute the weak point of the apparatus of D5 (see specification of the contested patent, paragraphs [0003] and [0004]). Therefore, a skilled person would be prompted by D2 (which addresses this problem) to improve the strength and stability of a display apparatus according to D5 by providing it with the brackets of D2.

The Respondent also argued that the brackets 10 of D2 comprise projections 21 which would render the display apparatus unstable.

This cannot be accepted either. Firstly, when the skilled person, in order to provide an increased stability of the D5 apparatus, combines D5 with D2 there is no need to consider the projections 21 shown in Figure 1 of D2. An increased stability is achieved

as long as the support means abuts a lower and a rearwardly facing surface of the article support of a so combined apparatus. Secondly, in the D2 apparatus the edges 19 and 20 of the support means are inclined backwards in relation to the vertical and horizontal plane respectively (D2, Figure 1 and page 4, lines 26 to 32). By this means, article supports arranged on the support means are prevented from moving forwards, by means of gravity acting of the article support. No further support in the horizontal direction is needed for achieving a satisfactory stability of the apparatus. This is also confirmed by claim 3 and page 3, lines 24 to 25 of D2, wherefrom it is clear that the protrusions 21 are optional and may be dispensed with.

Consequently, the subject-matter of claim 1 of the main request does not involve an inventive step.

4. *Auxiliary requests 1 and 6 - Inventive step:*

4.1 With respect to claim 1 of the main request, claim 1 of auxiliary requests 1 and 6 further specifies that "said bracket means includes first means arranged to extend into a first gap defined by the article supports and second means arranged to support the article supports against pivotal movement, wherein said first means comprises a flange".

4.2 D5 (Figure 1) exhibits hook shaped elongate bracket means 2 which are mounted on backing plate 1 affixed to the wall. The hook shaped brackets comprise an upwardly directed flange which extends into a gap defined by a hook provided at the upper end of the display device. The support means also comprise support rods 4. The

flange and the support rods secure the article supports against pivotal movement. Accordingly D5 already exhibits the additional feature claimed in claim 1 of the auxiliary requests 1 and 6.

The Respondent argued that according to claim 1 of these requests, the gap has to be defined by "the article supports", which implies that it is located between two successive article supports.

This point of view cannot be shared since claim 1 does not specify that the gap should be defined by two successive article supports.

The subject-matter of claim 1 according to the auxiliary requests 1 and 6 thus differs from the closest prior art D5 by the same features as claim 1 of the main request and therefore does not involve an inventive step for the same reasons as given for the subject-matter of claim 1 of the main request.

5. *Auxiliary request 7 - Inventive step:*

5.2 With respect to claim 1 of the auxiliary requests 1 and 6, claim 1 of auxiliary requests 7 further specifies: "and wherein said first means includes a restrictor means for restricting disengagement of said first means from out of said first gap defined by the article supports".

This additional feature does not contribute to solve the problem of the invention stated above, since it solves a partial, additional problem of avoiding

unwanted disengagement of the article supports from the bracket means.

- 5.3 In D3 (Figures 2a, 3b) the display device is supported by two support pieces 20a, the front edge of which is stepped to receive the elongate L-shaped members, two adjacent L-shaped members forming an article support having a channel section. The L-shaped members are provided with flanged projections that are inserted into slots or gaps in the stepped support pieces. Each flanged projection is provided with restrictor means, i.e. a barb to prevent its disengagement.

The additional partial problem of the invention is thus addressed in D3 and solved therein by providing restrictor means. It would therefore be obvious for a skilled person to use such restrictor means to prevent disengagement of the article supports from the bracket means in a display apparatus resulting from the combination of D5 and D2.

- 5.4 Accordingly, the subject-matter of claim 1 of auxiliary request 7 does not involve an inventive step.

6. *Auxiliary requests 8 - Inventive step:*

- 6.1 With respect to claim 1 of the auxiliary requests 7, claim 1 of auxiliary requests 8 further specifies that the article supports are "made out of a plastics material".

- 6.2 However, the closest prior art document D5 already specifies, column 2, lines 27 and 28 "The display unit

of the invention may be manufactured from a transparent plastics material".

Thus, D5 already discloses this additional feature.

6.3 Accordingly, for the same reasons as given in section 5 above, the subject-matter of claim 1 of auxiliary request 8 does not involve an inventive step.

7. *Auxiliary request 9:*

7.1 Claim 1 of auxiliary request 9 was filed during the oral proceedings before the Board to overcome clarity and added subject-matter objections, partly raised for the first time during the oral proceedings against claim 1 of the former auxiliary request 9. This request is thus admissible. This has not been contested by the Appellant.

7.2 Claim 1 - inventive step:

7.2.1 This claim differs from claim 1 of the main request in essence by the addition of the features of claim 2 as granted "said article supports define first and second channel sections between which a gap is defined, said support means being arranged to extend into the gap".

7.2.2 D5 discloses support means in the form of a hook arrangement disposed at the upper edge of the display device. Although the disclosed support means extend into a gap formed in the uppermost channel section, this gap is not formed between first and second channel sections.

Since the support means support the display device at a position below its upper end the claimed apparatus is

more stable and less prone to failure under heavy loads. As a consequence of the positioning of the support means relative to the display device, the display device tends not to sag under heavy loads and therefore two or more display devices may readily be arranged one above the other or side by side (see paragraph [0055] of the patent specification).

The Appellant argued that it would have been obvious for a skilled person to provide two or more support means each being arranged to extend into the gap defined by the hook of an article support.

Such a submission can only be based on hindsight. As already stated, D5 (Figure 4) discloses only one support means in the form of a hook arrangement, defining also a gap into which is inserted the hook of the uppermost article support. There is no disclosure or suggestion of providing a further hook arrangement connected to the hook of a lower article support. Furthermore, although in D5 each article support is provided with a hook on its first limb and with a flange on its second limb defining a slot or gap into which is inserted the second limb of the upper adjacent channel section, no gap remains between two adjacent channel sections, into which a flanged projection of the support means could be inserted.

7.2.3 As already stated the display device of D3 (Figure 2a) is supported by two support pieces 20a, the front edge of which is stepped to receive the elongate L-shaped members of the display device. At the rear of each step there is a slot or gap 22 into which may be inserted



the flanged projection disposed at the angle of each L-shaped member.

The Appellant argued that it was not inventive to provide the flanged projection of D3 on the bracket means and the slot or gap on the channel section formed by two adjacent L-shaped members.

However, the device of D3 does not comprise bracket means within the meaning of the invention, that is a piece of metal or plastic that is fastened to a wall in order to support the display device. The support pieces of D3 are not provided with a hook arrangement by means of which they can cooperate with suitable fixings on the wall.

Furthermore, the flanged projections in D3 are located at the angle of the L-shaped members, not at the junction between two channel sections. Accordingly, even if the skilled person would reverse the male/female connection disclosed in D3, he would not arrive at the claimed arrangement, where the support or bracket means is arranged to extend into the gap defined between the first and second channel sections.

It follows that the subject-matter of claim 1 of auxiliary request 9 involves an inventive step.

7.3 Claim 11 of auxiliary request 9 - inventive step:

Since the method according to claim 11 comprises in essence the same features as claim 1, the reasoning set out above with respect to claim 1 applies mutatis

mutandis to method claim 11, which therefore too involves an inventive step.

## Order

### For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the department of first instance with the order to maintain the patent in the following version:

Description: columns 1 to 4 as filed with letter of 19 May 2008  
columns 5 to 8 of the patent specification

Claims: 1 to 12 according to auxiliary request 9 filed during the oral proceedings before the Board

Drawings: Figures 1 to 8 of the patent specification.

The registrar:

The Chairman:

G. Magouliotis

M. Ceyte