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**Datasheet for the decision
of 14 January 2020**

Case Number: T 0144/17 - 3.2.01

Application Number: 11425131.7

Publication Number: 2522550

IPC: B60R5/04, B62D25/08

Language of the proceedings: EN

Title of invention:
Trunk of a motor vehicle

Patent Proprietor:
Fiat Group Automobiles S.p.A.

Opponent:
Volkswagen Aktiengesellschaft

Headword:

Relevant legal provisions:
EPC Art. 54, 56

Keyword:
Novelty (yes)
Inventive step (yes)

Decisions cited:

Catchword:



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Case Number: T 0144/17 - 3.2.01

D E C I S I O N
of Technical Board of Appeal 3.2.01
of 14 January 2020

Appellant: Volkswagen Aktiengesellschaft
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 22 November
2016 rejecting the opposition filed against
European patent No. 2522550 pursuant to Article
101(2) EPC.**

Composition of the Board:

Chairman H. Geuss
Members: C. Narcisi
O. Loizou

Summary of Facts and Submissions

I. The opposition was rejected and the European patent No. 2 522 550 was maintained as granted by the decision of the Opposition Division posted on 22 November 2016. Against this decision an appeal was lodged by the Opponent in due form and in due time pursuant to Article 108 EPC.

II. Oral proceedings were held on 14 January 2020. The Appellant (Opponent) requested that the decision under appeal be set aside and that the patent be revoked. The Respondent (Patentee) requested that the appeal be dismissed (main request) or, alternatively that the patent be maintained in amended form on the basis of the claims of the first or the second auxiliary request filed with the reply or the third auxiliary request filed with letter dated 3 January 2020.

III. Granted claim 1 reads as follows:

"A trunk of a motor vehicle (2), the trunk (1) having an opening (6) accessible from outside and comprising a floor (4), two side walls (5) extending upwards from the floor (4), and a load platform (20) having a first edge (21) facing the opening (6) and extending substantially perpendicular to the side walls, a second edge (22) substantially parallel to the first edge (21) and two side edges (23) parallel to each other and substantially transversal to the first (21) and second (22) edge; the trunk (1) also comprising two first shelves (30), each of which is integral with a respective side wall (5), the first shelves (30) having respective top surfaces (29) defining a resting plane

for the load platform (20) in a first raised position; and being characterized in that each said first shelf (30) has a respective groove (37) facing the groove (37) of the other first shelf (30) and adapted to be slidably engaged by a respective said edge (23) to result in the load platform (20) being arranged and maintained in a stable tilted position, with respect to the floor (4), with the second edge (22) resting on the floor (4)".

IV. The Appellants' arguments may be summarized as follows:

The subject-matter of claim 1 (main request) lacks novelty in view of the public prior use "Seat Altea" based on documents D4 (Seat Altea Handbook, cover page), D5 (Seat Altea Handbook, page with date), D6 (Seat Altea Handbook, page describing boot/trunk), D7 (Seat Altea, photograph of boot/trunk), D8 (Seat Altea, photograph of boot/trunk with false floor), D9 (Seat Altea, photograph of sticker on component), D4a (Seat Altea Handbook, Spanish, cover page), D5a (Seat Altea Handbook, Spanish, page with date), D6a (Seat Altea, photograph of boot/trunk, Spanish), D10 (Seat Altea, vehicle registration documents, front side) and D11 (Seat Altea, vehicle registration documents, rear side)).

In effect, disputed feature M7 ("each first shelf being adapted to be slidably engaged by a respective said side edge to result in the load platform being arranged and maintained in a stable tilted position, with respect to the floor") is known from said prior use, given that (see appealed decision, Facts and Submissions, point 7.5.6), contrary to the opinion of the Opposition Division, the load platform could be inserted (with some play) into the vertical slots

formed in the shelf and it was stable and slightly inclined with respect to the vertical direction. In particular, a portion or section of the foldable load platform was inserted (with play) into said slots, this portion or section of the load platform having a "stable tilted position". Therefore, the requirements of feature M7 are fulfilled, said feature not requiring the load platform to be tilted in its entirety, i.e. that all portions of said foldable platform have a "stable tilted" position.

It is concluded that said prior use anticipates the subject-matter of claim 1, the further claimed features being undisputedly disclosed by the prior use.

The subject-matter of claim 1 lacks novelty over D12/D12a (JP-A-2000-108788 with English translation D12a). In particular, D12/D12a discloses a load platform which in a specific configuration is arranged in a stable and tilted position (as defined by feature M7) (see figures), said second edge of the load platform resting on the floor (as defined by feature M8 of claim 1). The further claimed features are likewise evidently disclosed in D12/D12a.

The subject-matter of claim 1 lacks novelty over D13 (EP-A2-1 876 056). In particular, D13 discloses feature M5 (i.e. "first shelves (30) having respective top surfaces (29) defining a resting plane for the load platform (20) in a first raised position") and feature M6 (i.e. "each said first shelf (30) has a respective groove (37) facing the groove (37) of the other first shelf (30)"), as derivable from the figures and the corresponding parts of the description (e.g. [0023], figures 1 to 5).

The subject-matter of claim 1 lacks an inventive step in view of the public prior use in conjunction with D12/D12a or D13.

On the assumption that feature M7 is not disclosed by the prior use, the skilled person would face the objective problem of facilitating and rendering easier the user's access to the trunk's floor (e.g. in order to gain access to the spare wheel).

The skilled person (starting from the prior use) would retain document D12/D12a, belonging to the same technical field as the invention, additionally disclosing and dealing with the same or an equivalent technical problem. D12/D12a particularly discloses (as part of the proposed solution) a load platform being able to be positioned and held, by means of slots or grooves, in a stable tilted position. The skilled person would therefore in an obvious manner adopt the teaching of D12/D12a and correspondingly adapt the slots or grooves shown in the trunk according to the prior use, thus arriving at the subject-matter of claim 1.

Similarly, the skilled person (starting from the prior use) would retain document D13, likewise illustrating grooves or slots formed in opposed shelves located in the vehicle's trunk for holding the load platform in a stable tilted position, thus improving ease of handling of the load platform. In the same way as discussed above, the skilled person would adopt this teaching to arrive in an obvious manner at the subject-matter of claim 1.

V. The Respondent's arguments may be summarized as follows:

The subject-matter of claim 1 is new over the public prior use. Indeed, it does not disclose feature M7, neither in a first configuration where the (completely) folded load platform is inserted in said slots formed in the trunk's shelves (see Minutes Inspection of the Seat Altea; see appealed decision, Facts and Submissions (points 7.5.3, 7.5.6), Reasons (point 3.1.2)), nor in a second configuration (as submitted by the Appellant in its statement of grounds of appeal and during oral proceedings before the Board) where only a portion or section of said load platform is inserted (with play) in said slots, the other portions being located outside the slots and covering part of the trunk's floor. In the first configuration the folded load platform fits nicely into the vertical slots and is in a vertical (not tilted) position (see cited passages in appealed decision and said Minutes). In the second configuration, only a portion or section of the load platform is tilted at an angle, evidently not the entire load platform. In both cases feature M7 is not fulfilled.

The subject-matter of claim 1 is new over D12/D12a, considering that this document does not disclose a load platform within the meaning of the invention, grooves formed in said first and second shelves and a stable tilted position of the load platform. Similarly, D13 does not disclose a load platform, grooves formed in said shelves maintaining the cover in a stable tilted position.

Starting from the prior use, the skilled person would disregard D12/D12a and D13 since they belong to a different technical field, i.e. they relate to a luggage compartment cover and not to a trunk's load platform as illustrated in the present invention.

Reasons for the Decision

1. The appeal is admissible.

2. The subject-matter of claim 1 is new (Article 54 EPC) over the public prior use "Seat Altea", at least feature M7 not being derivable therefrom. According to the appealed decision and to the "Minutes Inspection of the Seat Altea" the Opposition Division visually inspected the vehicle, which "showed a boot with boot floor, two sides, shelves on each side and slits in the shelves. A foldable luggage compartment cover was provided. The cover could be folded and inserted into the slots as well as between the front end of the shelves and the rear of the back seats" (see said Minutes). Thus, the Opposition Division noted that the load platform could be folded and inserted in a vertical position into said slots (corresponding to Respondent's aforementioned first configuration; see also appealed decision, Facts and Submissions, points 7.5.3, 7.5.6), the folded load platform being in a vertical and not tilted, though stable position (see decision, Facts and Submission, point 7.5.6). This is confirmed in point 3.1.2 of the "Reasons for the decisions", stating that "while the nice fit of the load platform in the grooves allowed the load platform to be maintained in a stable position, this position was not tilted with respect to the floor".

It ensues that the Appellant's contention implying the load platform being configured in a slightly tilted, stable position is unfounded.

Indeed, the Opposition Division has verified by visual inspection that in said first configuration (i.e. folded platform inserted into the grooves) the folded

load platform forms a vertical angle with the trunk's floor, any deviation from said vertical angle -if at all present- necessarily being within a very small range due to a minimal play between the platform and the grooves, and therefore being negligible and insignificant. Any statement to the contrary should therefore be corroborated by further evidence proving that the Opposition Division erred. No such evidence was provided by the Appellant.

In said second configuration (i.e. wherein only a portion or section of the load platform is located (with play) in the grooves) evidently (and by the Appellant's own admission) the (first) portion of the load platform inserted into the grooves shows a tilted position with respect to the trunk's floor. The other portions or sections of the load platform (being connected in a foldable manner to said first portion) are freely disposed on the trunk's floor, hanging down freely from the (folding edge) of said first portion, necessarily forming further inclined angles with respect to the floor. Hence, the load platform in its entirety does not form a tilted configuration, the entire load platform not having an overall planar shape or conformation in this situation, sections or portions thereof having different inclination angles (in relation to the floor). Moreover, for these same reasons this second configuration likewise cannot be regarded as being stable.

It is therefore concluded that feature M7 is not known from the prior use.

3. The subject-matter of claim 1 is new (Article 54 EPC) over D12/D12a, given that at least feature M7 cannot be deduced from this document. In effect, none of the

figures shown in D12/D12a (e.g. neither figure 8 nor figure 12) discloses that the load platform is tilted in relation to the trunk's floor, the figures showing that only a portion of the load platform is tilted, see e.g. figure 8, where moreover the tilted portion additionally does not have a second edge resting on the floor (contrary to feature M8 of claim 1).

Alternatively the figures show that (see e.g. figure 12) only a portion (not the entirety) of the load platform is disposed at a vertical angle in respect of the floor (thus not even this portion being tilted). It is emphasized, that none of the embodiments of D12/D12a thus anticipates that the entirety of the load platform is tilted, it being completely arbitrary to regard a single portion or section as representing the load platform, the proper functioning of the load platform being obtained exclusively using the entire load platform and not just a portion.

4. The subject-matter of claim is new over D13 (Article 54 EPC), this document failing to disclose feature M6 (see above) of claim 1. In particular, there is no indication, let alone suggestion, in D13 concerning the guiding portions or slots 22 being formed as grooves in constructional parts 30 (see figures 1 to 5). Indeed, the description (see paragraph [0023]) and the figures both do not disclose, either explicitly or implicitly, that any grooves are formed in said constructional parts 30, the guiding portions being rather apparently obtained by parallel arrangement of parts protruding from the side walls delimiting the trunk's interior volume.
5. The subject-matter of claim 1 is not rendered obvious for the skilled person starting from the public prior use in view of D12/D12a or D13.

To begin with, it is doubtful whether the skilled person would at all consider these documents, given they both concerning objects different from that of the invention, i.e. platforms located at the top of the luggage room, delimiting and covering the trunk's interior volume in an upward direction.

On the assumption that the skilled person would nevertheless consider these documents, it would not arrive at the subject-matter of claim 1 for the following reasons.

The trunk of prior use "Seat Altea" has a non-operating storage position (see photograph D7, see said Minutes: "the cover could be folded and inserted ... between the front end of the shelves and the rear of the back seats")) allowing access to the trunk's floor, and a deployed operating position carrying the load. The same holds for D12/D12a or D13, wherein the tilted position of said portion or section (D12/D12a see figures 8, 12; D13, figure 3) of the platform constitutes said non-operating storage position. The skilled would have no motivation to implement such a tilted position in the trunk of the prior use, as a storage position is already provided there (permitting access to the trunk's floor and the spare wheel), and moreover by means of a load platform with multiple folded portions advantageously utilizing minimum space and volume.

Such a tilted position of the load platform would likewise require a trunk with corresponding configuration (e.g. sufficient height, not exceedingly large width and length, parallel vertical side walls allowing insertion of the load platform), thus implying requirements which are not readily and easily met in any given vehicle. In particular, the replacement of the specific foldable platform (of the prior use) with a rigid one, would also not be possible for platforms

having considerable widths and lengths (i.e. large vehicle trunks), due to the difficulty in handling such large platforms.

Finally, the load platforms according of D12/D12a and D13 are supported by guiding means provided on the trunk's side walls and extending along a significant part of their height and length, such guiding means being not provided in the trunk of the prior use. Contrary to the Appellant's view, there is no hint or suggestion for the skilled person to use for this purpose the vertical slots formed in the longitudinal shelves located on the trunk's floor (see D7, D8), these slots being intended for insertion of a vertical separating panel (dividing the trunk into different portions), distinct from said load platform. Even if there were any suggestion in the prior art to form these slots in an oblique and inclined direction (quod non), these slots would anyway not be apt to support the load platform in a stable tilted manner during motion of the vehicle, given their extremely short length, as compared to the overall length of the platform (equivalent to the length of the trunk's longitudinal side walls).

In summary, it is concluded that for the above reasons the subject-matter of claim 1 is inventive over the public prior use in view of D12/D12a or D13 (Article 56 EPC).

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



A. Vottner

H. Geuss

Decision electronically authenticated