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**Datasheet for the decision  
of 27 November 2020**

**Case Number:** T 1298/18 - 3.2.01

**Application Number:** 12748337.8

**Publication Number:** 2747597

**IPC:** A47B13/00, A47C15/00

**Language of the proceedings:** EN

**Title of invention:**

FURNITURE HAVING LOAD-BEARING OR NON-LOAD BEARING STRUCTURES  
FOR STORAGE OF WATER OR OTHER MATERIAL

**Applicant:**

Walstad Miller, Tonia

**Headword:**

**Relevant legal provisions:**

EPC Art. 54(2)

**Keyword:**

Novelty - (no)

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
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Case Number: T 1298/18 - 3.2.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.01**  
**of 27 November 2020**

**Appellant:** Walstad Miller, Tonia  
(Applicant) 4617 Bayswater Road  
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**Representative:** Rupprecht, Kay  
Meissner Bolte Patentanwälte  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 10 January 2018  
refusing European patent application No.  
12748337.8 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** G. Pricolo  
**Members:** S. Mangin  
O. Loizou

## **Summary of Facts and Submissions**

- I. The appeal contests the decision of the Examining Division to refuse European patent application No. 12 748 337.8.
- II. The Examining Division held, *inter alia*, that the subject-matter of claim 1 of both the main and the auxiliary request was not novel 1 in view of document D8: US5060580.
- III. With the statement of grounds of appeal, the appellant (applicant) requested the contested decision to be set aside and a patent be granted on the basis of the main request or of the auxiliary request, both requests underlying the decision of the examining division. The appellant further requested oral proceedings as an auxiliary measure.
- IV. In a communication of the Board of appeal pursuant to Article 15(1) RPBA accompanying summons to oral proceedings, the Board expressed the preliminary opinion that claim 1 of both requests did not appear to be novel over document D8 and explained why the arguments of the appellant did not appear to be convincing.
- V. With letter filed on 18 August 2020 the appellant, in response to the summons to oral proceedings, withdrew the request for oral proceedings and requested a decision on the state of the file.

VI. Claim 1 of the main request reads as follows:

"A table having integrated storage capacity characterized in that: said table comprises a removable tabletop which is supported by a load bearing frame (1002); said load-bearing frame defines a recessed area (1004) fully overlaid by said tabletop, said recessed area housing an emergency water store comprising one or more non-load bearing storage containers (1006), each of which includes a spout or inlet (1008), wherein said emergency water store is accessed by removing said tabletop; and four load-bearing legs (1010) for supporting said tabletop, load-bearing frame and emergency water store above a floor surface".

Claim 1 of the auxiliary request differs from claim 1 of the main request in that it is directed to "A piece of indoor household furniture in the form of a table" instead of "A table".

### **Reasons for the Decision**

1. The Board judges that the findings of the Examining Division, according to which the subject-matter of claim 1 of the main and of the auxiliary request is not novel over D8, are correct.
2. Indeed, as pointed out by the Examining Division (see points 1.1 to 1.3 of the contested decision), D8 discloses:

a table (10) having integrated storage capacity wherein: said table comprises a removable tabletop (32) which is supported by a load-bearing frame (Fig. 1);

said load-bearing frame defines a recessed area (14) fully overlaid by said tabletop (32), said recessed area housing an emergency water store (column 3, lines 8, 9) comprising one or more non-load bearing storage containers (26), each of which includes a spout or inlet, wherein said emergency water store is accessed by removing said tabletop (32); and four load-bearing legs (Fig. 1) for supporting said tabletop, load-bearing frame and emergency water store above a floor surface.

D8 also discloses a piece of household furniture in the form of a table.

3. As pointed out in the communication of the Board of appeal pursuant to Article 15(1) RPBA, the appellant's arguments regarding novelty over D8 are not convincing, for the following reasons:

3.1 The appellant is of the opinion that document D8 does not disclose "an emergency water store comprising one or more non-load bearing storage containers (1006), each of which includes a spout or inlet (1008)". In particular the appellant is of the opinion that the "emergency water store" is a structural limitation which is not disclosed in D8.

However, the examining division's interpretation of this feature, as set out in point 1.3 of the decision under appeal, is correct. The feature of claim 1 "emergency water store" relates to the intended use of the container. As the claim is directed to a product, the limitation imparted by this feature is that the containers should be suitable for storing water in case of emergency (see Case law 9th edition, I.C.8.1.5). The recessed area 14 on figures 1-3 is suitable to hold

containers that may be filled with water. Therefore figures 1-3 of document D8 disclose "an emergency water store".

- 3.2 Furthermore the appellant is of the opinion that D8 does not disclose one or more non-load bearing storage containers, each of which includes a spout or inlet. In particular the appellant is of the opinion that the contents 26 can solely consist of picnic supplies and other articles in containers or boxes without a spout or inlet: closed cardboard containers with pre-packaged food, for example, that do not have an inlet or other opening. The user would have to rip open the container to access the packaged food.

However D8, column 3, lines 8-10, discloses that the content 16 of the internal storage area 14 can include any articles such as picnic supplies, food stuff and ice. D8, column 3, lines 41-43 further discloses "various contents 26, such as food stuffs, paper plates or other items are placed in the internal storage area". In addition figures 2 and 3 depict contents 26 which have the shape of a cup and a bowl. While there is no explicit disclosure of the storage containers including a spout or inlet, a cup or a bowl necessarily has an inlet. Also, the "contents 26" depicted in figures 2 and 3, typically made of plastic, holding picnic supplies, food stuffs or other items, must have an inlet to receive said items, irrespective of whether this inlet is open, tapped with a lid, or covered and sealed. The argument of the appellant, that the picnic supplies would be pre-packaged in cardboard boxes, is not plausible especially in view of figures 2 and 3, depicting a cup and a bowl and other round shapes and considering the problem to be solved by the invention according to D8, namely to provide a table to secure

food stuff from insects and other small animals. If the food were pre-packaged in boxes as alleged by the appellant then there would be no need for a table according to the invention of D8.

- 3.3 As regards claim 1 of the auxiliary request, directed to "A piece of household furniture in the form of a table", instead of being directed to "A table" as claim 1 of the main request, the Board considers that this additional definition, contrary to the appellant's view, does not imply any clear structural delimitation over the table of D8. The appellant's argument that the picnic table of D8 is for outdoor use and thus is not a household furniture, which is for indoor use, is moot, since the table of D8 can be used indoors as well without any structural modifications needed for such use.

## Order

### **For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chairman:



D. Magliano

G. Pricolo

Decision electronically authenticated