

**NALSAR PROXIMATE EDUCATION
NALSAR UNIVERSITY OF LAW, HYDERABAD
P.G.DIPLOMA IN PATENTS LAW**

2014-15

Paper IV - Abuse of Patents (Practical)

Time: 2 ½ hours

Total Marks: 90

INSTRUCTIONS TO CANDIDATES

The questions to be interpreted as given and no clarification can be sought from the invigilator.

(I) CLIENT'S LETTER

Dear Patent Agent,

We are manufacturers of luggage.

We have developed a suitcase with wheels for which we have obtained Singapore Patent 500,000. The suitcase is selling very well thanks to the monopoly position that the patent gives us.

It has come to our attention that a competitor is marketing a suitcase. The competing suitcase is illustrated in document C1 and we think it is an infringement of our patent. It is certainly causing a serious drop in the sales of our product.

Please advise us. Can we use our patent to stop the competitor's sales immediately?

Not only do we need to know what we can do, we also need to know what action the competitor can take against us if we proceed against him. Further, is there anything we should do to strengthen our position?

Yours faithfully,

Client

You establish the following facts:

The client's Singapore Patent No.500, 000 is in force.

You make a search for prior art and find the Municipal News document D1 that was published before the priority date of the client's patent.

Investigations into the competing company reveal that it has very limited financial resources.

(II) Singapore Patent No 500,000

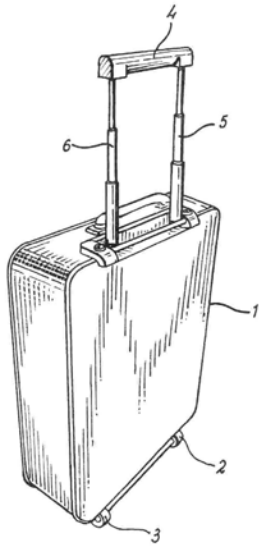
1. This invention relates to a container and more particularly an article of luggage such as a suitcase.

2. In order to avoid having to carry heavy suitcases it has become common practice to use a wheeled tubular framework, rather like a small trolley. On which the suitcase can be secured for example by an elasticated strap. The framework includes a telescopic handle by which the wheeled framework with the suitcase on it can be towed or pushed thus making it easy to move the suitcase from one place to another even when it is very heavy.
3. While this arrangement works well for suitcases that are not too large. The fact that the wheels on the framework are at a fixed distance apart means that it becomes less satisfactory to use with large suitcases, which overhang the sides of the framework.
4. Unless the weight of the suitcase is evenly distributed on the framework wheels there will be a tendency for the combined suitcase and framework to tip over on one side or the other.
5. The present invention seeks to deal with this problem and provides a container having wheels mounted on the bottom and adjacent the sides whereby the container can be tilted about the axis of the wheels so that its weight is supported by the wheels where upon the container can be towed or pushed.
6. By providing the wheels on the container itself in the position defined above the possibility of the container tipping over on one side or another is eliminated.
7. Preferably the container includes a handle by which it can be towed or pushed. The handle is preferably provided at the top of the container.
8. A specific embodiment of the invention will now be described by way of example with reference to the accompanying drawing, which is a perspective view from the rear and, one side of a suitcase.
9. Referring to the drawing a suitcase is shown which comprises a generally rectilinear body 1 having mounted on the bottom thereof and at the lower edge of the rear a pair of coaxial wheels 2, 3. The wheels are positioned close to the sides of the suitcase.
10. A handle 4 is provided at the top of the suitcase. The handle is mounted on telescopic supports 5, 6 so that the handle can be extended from the suitcase (as illustrated) for pulling or pushing it or can be collapsed into housing in the suitcase when not required.
11. In use the handle is moved into the illustrated position with the supports extended. The suitcase can then be tilted about the axis of the wheels so that its weight is supported by the wheels. In this disposition the suitcase can be pushed or pulled easily.

Claims

1. A container having wheels mounted on the bottom and adjacent the sides whereby the container can be tilted about the axis of the wheels so that its weight is supported by the wheels whereupon the container can be towed or pushed.
2. A container as claimed in claim 1, wherein a handle is provided at the top thereof.
3. A container as claimed in claim 2, wherein the handle is mounted on supports receivable in housing in the container.
4. A container as claimed in claim 3, wherein the supports are telescopically expandable and retractable.

5. A container as claimed in any preceding claim, wherein the wheels are located at the lower edge of the rear thereof.



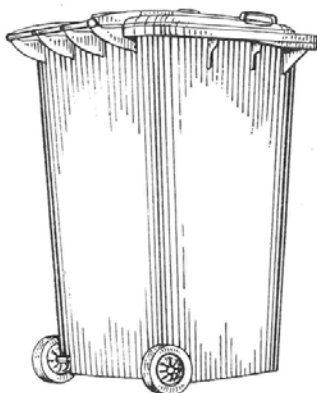
(III) D1 Extract from the Municipal News

A new garbage bin for Manchester

Manchester city council is introducing a new-wheeled garbage bin for domestic use. Householders, who will be given the new bin, will be asked to move it to the roadside on garbage collection days. This will mean that the garbage disposal operatives (known as bin men) will no longer have to carry heavy bins to the garbage disposal truck.

Residents have complained that the new bins are much bigger than the traditional Dust bins and will be difficult to move. However the council has pointed out that the fixed handle on the bin makes the wheeled bin easy to push or pull even when it is full of garbage. The new-wheeled bin for Manchester. It consists of a large open topped, boxlike container with wheels at the bottom. The axis of the wheels lies along the rear edge of the bottom.

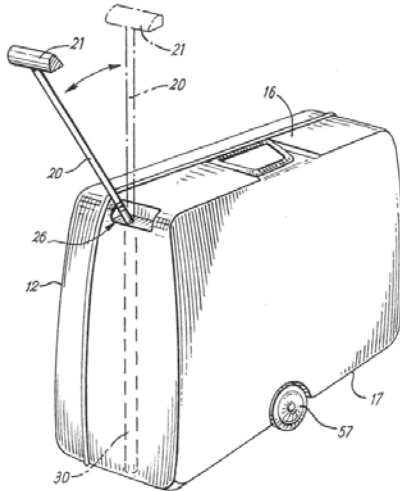
A handle is fixed along the rear edge of the top to which is hinged a lid for closing the open top. For moving, the bin it is tilted about the axis of the wheels so that the bottom is clear of the ground whereupon it can be easily pushed or pulled by the handle.



(IV) C1 Competitors Product

As shown in the attached drawing the competitor's product is a suitcase with wheels 57 mounted on an axis across the centre of the bottom 17. For towing the suitcase a handle 21 on a shaft 20 is provided. The shaft can be stowed in a channel 30 in the suitcase when the handle 21 is not required.

To make it easier to use the shaft is hinged at 26.



Advise your client by way of a descriptive note on the following:

1. Whether there is any scope of infringement- Direct or DOE - by the competitor's Product in the market? Explain the concepts of Direct Infringement and DOE to the client in that note.

(35 marks)

2. Brief your client on the claim by claim analysis of his product with that of the features of the competitor product - in advising him on the question of infringement.

(35 marks)

3. Brief him on the impact of the newly found prior art Document (D1) on his patent and whether it could be a defence by the competitor?

(20 marks)

Ack: The question paper is extracted from IPOS Singapore and is for educational purpose under fair dealing and strictly for private circulation only.