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Datasheet for the decision of 16 December 2010

Case Number: T 1684/08 - 3.2.03

Application Number: 02017840.6

Publication Number: 1288378

IPC: E02F 3/36

Language of the proceedings: EN

Title of invention:
Safety device for a front loader

Applicant:
AB ALÖ-MASKINER

Headword:
-

Relevant legal provisions:
EPC Art. 54

Relevant legal provisions (EPC 1973):
-

Keyword:
"Novelty (no) - after amendment"

Decisions cited:
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Catchword:
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Case Number: T 1684/08 - 3.2.03

D E C I S I O N
of the Technical Board of Appeal 3.2.03
of 16 December 2010

Appellant: AB ALÖ-MASKINER
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Decision under appeal: **Decision of the Examining Division of the European Patent Office posted 9 April 2008 refusing European patent application No. 02017840.6 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman: U. Krause
Members: E. Frank
K. Garnett

Summary of Facts and Submissions

I. The appeal lies from the decision of the Examining Division of 9 April 2008 to refuse European Application No. 02 017 840.6 pursuant to Article 97(2) EPC. The Examining Division held that the subject-matter of claim 1 as filed did not meet the requirements of novelty over FR-A-2 785 952 (D1) and, inter alia, FR-A-2 703 113 (D4).

II. The Appellant (Applicant) filed a notice of Appeal on 9 June 2008, paying the appeal fee on the same day. The statement of grounds of appeal was filed on 6 August 2008.

III. The Appellant requested that the decision under appeal be set aside and a patent be granted on the basis of claim 1 according to the main, first, or second auxiliary requests filed on 2 December 2010.

IV. The wording of claim 1 reads as follows:

- Main request:

"1. A safety device for use with front loaders of the type having adjustable locking means for securing work tools (21) in position, wherein the safety device is mountable on an attachment means of the front loader which has adjustable locking means and an actuation device for operating the adjustable locking means, the safety device comprising a barrier (8) and a biasing means, wherein the barrier (8) has an in use position and a redundant position and the barrier (8) is normally biased into the in use position by the biasing

means, the barrier, when in its in use position, preventing the actuated adjustable locking means from adopting the locked position, the biasing force of the biasing means being overcome by a tool attachment means during attachment thereby moving the barrier (8) from the in use position to the redundant position allowing the locking means to adopt the locked position."

- First auxiliary request:

the following wording is added at the end of claim 1 of the main request:

"... locked position, wherein the moving of the barrier (8) and the actuation of the adjustable locking means are independent of each other."

- Second auxiliary request:

"1. An attachment device for use with front loaders, said attachment device (1) comprises adjustable locking means for securing work tools (21) in position, wherein a safety device is mounted on the attachment device (1) the safety device comprising a barrier (8) and a biasing means, wherein the barrier (8) has an in use position and a redundant position and the barrier (8) is normally biased into the in use position by the biasing means, the barrier, when in its in use position, preventing the actuated adjustable locking means from adopting the locked position, the biasing force of the biasing means being overcome by a tool attachment means during attachment thereby moving the barrier (8) from the in use position to the redundant position allowing the locking means to adopt the locked

position, wherein the moving of the barrier (8) and the actuation of the adjustable locking means are independent of each other."

V. The Appellant submitted the following arguments:

According to page 8, lines 33 to 37 and page 9, lines 22 to 25 of D4, the locking disk *"clavette 20"*, was pre-stressed by an elastic means, namely the *"moyens de rappel élastique 31"*. Once this locking means *"clavette 20"* was activated by lifting the barrier *"axe d'arrêt 34"*, a work tool was locked in place due to the elastic force of the *"moyens de rappel élastique 31"*, and therefore the barrier *"axe d'arrêt 34"* would not prevent the locking means *"clavette 20"* from adopting accidentally its locking position.

As opposed to this, the barrier according to claim 1 of the main and auxiliary requests, when in its in-use position, prevents the locking means from adopting a locked position at any time, that is, also when being inadvertently actuated and moved into the locking position by the operator. Moreover, although lines 30 to 32 on page 8 of D4 generally described that the *"clavette 20"* was moved by a *"système de manoeuvre 31"* operated by an operator, it was not clearly indicated that the actuation of the locking means *"clavette 20"* was actually independent from the moving of the safety barrier *"axe d'arrêt 34"*, since at line 31 of page 8 it was further stated that the *"système de manoeuvre 31"* was "associated with a securing means" (*"associé a une sécurité"*).

Therefore, the subject-matter of claim 1 according to the main and auxiliary requests differed from the disclosure of D4 in that, when the actuation of the adjustable locking means takes place, the barrier still prevents the locking means from adopting the locked position (main request), wherein the moving of the barrier and the actuation of the adjustable locking means are independent of each other (first and second auxiliary requests). Hence, claim 1 was novel over D4.

Reasons for the Decision

1. The appeal is admissible.

2. *Novelty*
(Article 54 EPC)

2.1 The document D4 describes an attachment device (*"platine 1"*), suitable for use with front loaders, and having an adjustable locking means (*"clavette 20"*) for securing work tools in position: cf. D4, page 1, first paragraph, page 6, line 32 to page 7, line 31, figures 1,4 and 7. Moreover, a barrier (*"axe d'arrêt 34"*) prevents the locking means (*"clavette 20"*) from adopting the locked position, i.e. from entering corresponding recesses (*"échancrures 23"*) of two studs (*"chapes 21"*), of a work tool plate (*"platine 3"*). This barrier (*"axe d'arrêt 34"*) is biased into its in-use position by means of a torsion spring (*"ressort 36"*): cf. D4, page 9, lines 3 to 31, figures. The disclosure of these features was not disputed by the Appellant.

2.2 On page 8, line 30 onwards, D4 discloses a general form of the actuation means for the adjustable locking means in lines 30 to 32 and a preferred form starting in line 33. The Board agrees with the Appellant that, according to the preferred form, the actuation means is an elastic element such as a gas-loaded cylinder or a pneumatic spring moving the locking means into its locked position whenever the barrier is pushed into its redundant position, whereby the actuation of the locking means is dependent on the movement of the barrier. In the more general form, however, the actuation means is described as being a two-way or double-acting cylinder (*"vérin double effect"*) and the skilled person is aware that such a double-acting cylinder cannot be operated by the same elastic element as used in the preferred form. Therefore, it would be immediately clear to the skilled person that the reference to the operation from the operator's cabin (*"commandé de la cabine de pilotage"*) refers to the activation of the double-acting cylinder, rather than to the securing means associated with the double-acting cylinder (*"un vérin double effet associé à une sécurité"*). Thus, D4 describes an actuation means (*"systéme de manoevre 31"*) formed by a two-way cylinder, which enables the adjustable locking means (*"clavette 20"*) to be actuated by the operator. This is achieved independently from the moving of the barrier (*"axe d'arrêt 34"*), which is lifted by a pin means (*"téton de déclenchement 40"*) of the work tool plate (*"platine 3"*) when the tool is being connected, cf. figures 1 and 6 of D4.

2.3 Therefore, contrary to the Appellant's view, D4 also describes a barrier that, when in its in-use position,

prevents the actuated locking means from adopting the locked position, wherein the moving of the barrier and the actuation of the locking means are independent of each other, and hence the subject-matter of claim 1 of the main and auxiliary requests is not novel over D4's disclosure.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar | The Chairman

A. Counillon | U. Krause