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**Datasheet for the decision
of 1 March 2011**

Case Number: T 0790/09 - 3.2.08

Application Number: 00109653.6

Publication Number: 1050640

IPC: E05B 65/20

Language of the proceedings: EN

Title of invention:
Vehicle door handle

Patentee:
Valeo S.p.A.

Opponent:
Huf Hülsbeck & Fürst GmbH. & Co. KG.

Headword:
-

Relevant legal provisions:
EPC Art. 100(c)

Relevant legal provisions (EPC 1973):
-

Keyword:
"Added subject-matter (yes)"

Decisions cited:
-

Catchword:
-



Case Number: T 0790/09 - 3.2.08

D E C I S I O N
of the Technical Board of Appeal 3.2.08
of 1 March 2011

Appellant I: Huf Hülsbeck & Fürst GmbH. & Co. KG.
(Opponent) Steeger Strasse 17
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Appellant II: Valeo S.p.A.
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Representative: Jauregui Urbahn, Kristian
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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
9 February 2009 concerning maintenance of
European patent No. 1050640 in amended form.

Composition of the Board:

Chairman: T. Kriner
Members: M. Alvazzi Delfrate
S. Hoffmann

Summary of Facts and Submissions

- I. By its decision posted on 9 February 2009 the opposition division held that European patent No. 1 050 640 in amended form according to the second auxiliary request then on file met the requirements of the EPC.
- II. Appellant I (opponent) lodged an appeal on 9 April 2009, paying the appeal fee on 11 April 2009. The statement setting out the grounds for appeal was received on 9 June 2009.
- III. Appellant II (patent proprietor) lodged an appeal on 14 April 2009, paying the appeal fee on the same day. The statement setting out the grounds for appeal was received on 18 June 2009.
- IV. Oral proceedings before the board of appeal were held on 1 March 2011.
- V. Appellant I requested that the decision under appeal be set aside and that the patent be revoked.

Appellant II requested that the decision under appeal be set aside and the patent be maintained on the basis of the main request or auxiliary request 2, both filed on 18 June 2009.

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

"A handle assembly (1) for a vehicle door, the assembly comprising a supporting structure (2); a transmission lever (20) activated externally by means of a control

member (16) to rotate between an angular rest position, and an angular work position to open a lock on said door; and safety means (30) comprising an inertial mass (36) for keeping said lever (20) in said rest position in the event of lateral impact on the vehicle by engaging a stop mean (27) carried by said lever (20); characterized in that the inertial mass (36, 37) is mounted on the supporting structure (2) by hinge means (35) comprising a hinge axis (15) inside a seat (7) on the supporting structure to enable the inertial mass (36,37) to rotate about a hinge axis (15), that said safety means (30) also comprise fixed first stop means (9) connected integrally to said structure (2); and movable locking means (37) activated by said inertial mass (36) to firmly engage said first (9) and second (27) stop means with each other."

Claim 1 of auxiliary request 2 differs from claim 1 of the main request by the following additional feature:

"... said handle assembly comprising also elastic means (35) for keeping said inertial mass (36, 37) in a standby position in which said inertial mass (36, 37) is detached from said lever (20)."

VII. The arguments of appellant I can be summarised essentially as follows:

Claim 1 of the application as filed merely stated that the first and second stop means were firmly connected, since its text (in Italian) recited "... rendere i detti primi (9) e secondi (27) mezzi di riscontro solidali tra loro". This was different from the requirement set by claim 1 of the main request and auxiliary request 2,

according to which said stop means engaged with each other. The latter expression rather described a firm interlocking of the stop means, as was the case for cheap security means, which remained locked together after a collision. Said firm interlocking was not disclosed by the originally filed drawings and the description either, since these merely described that the stop means were connected for a short time by means of the inertial mass. Therefore, the application as originally filed did not disclose that the first and second stop means firmly engaged with each other. Hence, claim 1 according to both the main request and auxiliary request 2 contained subject-matter which extended beyond the content of the application as filed.

VIII. The arguments of appellant II can be summarised essentially as follows:

Claim 1 could not be construed as requiring that the first and second stop means firmly interlocked with each other, as was the case for cheap security means, since this was not disclosed in the figures and the description. Instead it was clear from the figures that the transmission lever was blocked by contacting both stop means with the inertial mass. This blocking was temporary, since the action of the wire spring 35 re-established the standby position. Therefore, the wording "... to firmly engage said first (9) and second (27) stop means with each other" could only mean that, thanks to the high forces applied between them and the inertial mass, the first and second stop means remained connected for a relatively long time before they were disconnected by the force of spring 35 acting on the

locking means. As this interaction was disclosed in the application as filed (Italian version), the amendment of claim 1 did not result in subject-matter extending beyond the content of application as filed.

Reasons for the Decision

1. The appeals are admissible.
2. Article 100(c) EPC
 - 2.1 Claim 1 was amended in the course of the examination procedure to recite that movable locking means activated by the inertial mass are provided to "firmly engage" the first and second stop means with each other. This feature is contained in claim 1 of the main request and of auxiliary request 2.
 - 2.2 This wording was comprised neither in the originally filed application in Italian nor in the application as published (EP -A- 1 050 640). As correctly stated by appellant I, the Italian wording "... rendere i detti primi (9) e secondi (27) mezzi di riscontro solidali tra loro" does not describe a firm engagement of the first (9) and second (27) stop means. EP -A- 1 050 640 describes that the locking means (37) defines a tongue which is interposed between appendices 9 and 27 (see paragraph [0021]).
 - 2.3 Hence, to assess whether the amendment above introduces subject-matter extending beyond the content of the application as filed, it is necessary to establish how the wording "firmly engage" can be interpreted and to

examine whether this interpretation finds a basis in the application as filed.

- 2.4 In the field of mechanical construction two parts are usually referred to as engaging with each other when they are interlocked. This interpretation is also applicable to the context of present claim 1, since in some types of vehicle handles the security means comprise stop means which remain locked together after a collision. Therefore, one technically meaningful interpretation of claim 1, albeit possibly not the only one, is that the movable locking means is activated by the inertial mass to cause firm interlocking of the first and second stop means with each other.

However, it is undisputed that a firm interlocking of the first and second stop means with each other is not disclosed in the application as filed.

- 2.5 Appellant II disagreed with the interpretation above and argued that the wording "firmly engage ... with each other", interpreted in the light of the description, could only mean that the first and second stop means were connected for a relatively long time.

However, the description of the patent does not define any time for which said stop means are to remain connected. Therefore, there is no reason why the interpretation proposed by appellant II should be the only possible one. Moreover, since the application as filed does not define any time of connection of the stop means either, said interpretation would find no basis in the application as filed either.

2.6 Since the feature according to which the movable locking means activated by the inertial mass are provided to firmly engage the first and second stop means with each other can be interpreted in at least two ways which are not disclosed in the application as filed, claim 1 of both present requests contains subject-matter which extends beyond the content of the application as filed.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairman:

V. Commare

T. Kriner