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**Datasheet for the decision
of 13 September 2012**

Case Number: T 0611/10 - 3.2.03

Application Number: 98957087.4

Publication Number: 961900

IPC: F21V 7/10

Language of the proceedings: EN

Title of invention:

UNIT OF ELECTRIC LAMP AND REFLECTOR

Patentee:

Koninklijke Philips Electronics N.V.

Opponent:

Iwasaki Electric Co., Ltd.

Headword:

-

Relevant legal provisions:

EPC Art. 54, 56

Keyword:

"Novelty (yes)"

Decisions cited:

-

Catchword:

-



Case Number: T 0611/10 - 3.2.03

D E C I S I O N
of the Technical Board of Appeal 3.2.03
of 13 September 2012

Appellant: Koninklijke Philips Electronics N.V.
(Patent Proprietor) Groenewoudseweg 1
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Representative: Jones Day
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Respondent: Iwasaki Electric Co., Ltd
(Opponent) 12-4 Shiba 3-chome
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Representative: von Hellfeld, Axel
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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
18 November 2009 concerning maintenance of
European patent No. 961900 in amended form.

Composition of the Board:

Chairman: U. Krause
Members: C. Donnelly
I. Beckedorf

Summary of Facts and Submissions

- I. The appeal lies from the decision of the opposition division, posted on 18 November 2009, maintaining European Patent no. EP-B-0 961 900 in amended form.
- II. In its decision the opposition division held that the subject-matter of claim 1 as granted lacked novelty in view of US-A-5205642 (01).
- III. The patentee (hereinafter: the "appellant") filed a notice of appeal on 20 January 2010 and paid the fee the same day. The grounds of appeal were received on 22 March 2010.
- IV. The opponent withdrew its opposition by letter of 18 January 2010.
- V. In a communication dated 23 April 2012, pursuant to Article 15(1) RPBA annexed to the summons to oral proceedings, the Board informed the parties of its provisional opinion.
- VI. Oral proceedings before the Board were held on 13 September 2012.
- VII. The appellant (patentee), after having withdrawn all its auxiliary requests submitted during the written proceedings, requested that the decision under appeal be set aside and that the patent be maintained as granted.

VIII. Claim 1 as granted reads:

"A unit of an electric lamp and a reflector, comprising a reflector body (1) including a reflector part (2) with a concave reflecting surface (3) having an optical axis (4), and a hollow neck-shaped portion (5) and a light emission window (28) surrounding said optical axis and integral with said reflector body;
an electric lamp (10) comprising a light-transmitting lamp vessel (11) sealed in a vacuum tight manner, enclosing a cavity (12) and having, a first (14) and a second (15) mutually opposing sealed end portion, an electric element (13) arranged in the cavity (12) and respective current conductors (16,17) connected to the electric element (13), extending through said sealed end portions and issuing from the lamp vessel (11) to the exterior,
the electric lamp (10) being fixed in the reflector body (1) with the first end portion (14) inside the neck-shaped portion (5), while the cavity (12) lies within the reflecting portion (2) and the electric element (13) is on the optical axis (4),
characterised in that
the reflector body (1) has lugs (22) on the side of the light emission window (28) that is turned away from the reflecting surface."

IX. The arguments of the appellant can be summarised as follows:

US-A-5205642 (01) does not disclose a unit of an electric lamp and a reflector where the reflector body has lugs on the side of the light emission window that is turned away from the reflecting surface. In

particular, the opposition division's assertion that "there is no clear limitation about the dimensions requirements in the expression "lug" " (see the contested decision page 4, second paragraph, is incorrect since according to Websters Third New International Dictionary of Merriam-Webster a "lug" is defined as "A small projecting part of a larger member" or "something that projects like an ear".

This understanding is also supported by the description of the contested patent in paragraphs [0009] to [0011] and paragraph [0019] as well as the figures. In order to serve as markers for positioning, lugs cannot be merely elevated portions of the edge but must form "landmarks" within the edge as projections. At the same time, the lugs according to the invention form part of the edge.

The higher (7) and lower (5) portions of the reflector shown in 01 are equal in length. Therefore they cannot be interpreted as lugs. In the device according to 01 the question of alignment is not an issue since it has been solved by a known technique shown in figure 6. The proposed stepped edge is not related to positioning at all and is intended to improve handling and cooling. (see column 1, lines 34 to 38). Additional features (projections 8 and groove 6) are required to ensure correct positioning. The projections 8 are not positioned on the side of the light emission window that is turned away from the reflecting surface. Figure 6 only shows a single locating element 303 such that there can be no question of a direct and unambiguous disclosure of a plurality of lugs.

Reasons for the decision

1. The appeal is admissible.

2. Novelty
 - 2.1 The only issue at stake is whether document O1 discloses or renders obvious the characterising portion of claim 1.

 - 2.2 In answering this question it is first necessary to establish what is meant by the term "lug" within the context of the contested patent as read by the skilled person.

 - 2.3 The appellant has cited a definition given by Websters Third New International Dictionary of Merriam-Webster according to which a "lug" is a "small projecting part of a larger member" or "something that projects like an ear". The Board sees no reason not to accept this definition which provides at least some broad limitations to the possible dimensions that a lug may possess even if it does not set out exact boundaries.

 - 2.4 The appellant has also alluded to the necessity of a lug to have a positioning function. The notion that a lug must have some kind of technical function is supported by common sense and other dictionary definitions (see for example Collins English Dictionary, 7th Edition 2005) which rely on the functional characteristics in describing a lug to be "a projecting piece by which something is connected, supported, or lifted". In the Board's opinion, this confirms that a lug is not a decorative appendage and is added to a

component for a technical purpose in particular to solve a mechanical problem. As pointed out by the appellant, in the case of the contested patent the skilled person would see that the required function can only be that of positioning since this is described in detail (see paragraphs [0009] to [0011] whereas lifting and supporting are not generally considered to be technical problems associated with light-weight reflector bodies.

2.5 Thus, the term "lug" in claim 1 defines a specific type of projection which is small relative to the reflector body and projects like an ear from the side of the light emission window that is turned away from the reflecting surface to aid connection or positioning. The lugs 22 shown in the figures of the contested patent fulfil these requirements.

2.6 The raised edge portions 7 of the device according to O1 cannot be said to be small compared with the overall peripheral edge of the reflector body and do not themselves have a positioning function since this is achieved with the projections 8 and the groove 6. The stepped edge of the device according to O1 is in fact intended to improve cooling by providing a clearance 24 between the mirror and the mounting plate 22 which communicates with the ventilation hole 11 (see column 3, lines 22 to 28). The extended flange surface on the raised edge 7 would require precise machining over a large area to ensure a flat level surface for it to be used as a positioning aid (see contested patent paragraph [0005], lines 47 to 50).

2.7 The precise nature of the projections 8 is difficult to decipher from the drawings. Figure 1(a) gives the impression that they are in fact ribs placed on the outside of the reflector body which provide a localised increase in wall-thickness in the radial direction whereas figure 1(b) appears to show some kind of pin-like structure which does not however project beyond the upper side of the raised edge 7. Thus, the projections 8 seem to be ribs projecting radially outwardly from the reflector body and which do not protrude above the top surface of raised edge 7. Thus, they are not lugs on the side of the light emission window that is turned away from the reflecting surface.

2.8 Projection 303 shown in figure 6 is used for positioning (see column 1, lines 31 to 33. However, there is only one projection shown and its exact nature is not described in the description nor is it clear from the figures.

2.9 Thus, the feature wherein the reflector body has lugs on the side of the light emission window that is turned away from the reflecting surface is not unambiguously and directly derivable from 01.

3. Inventive step

3.1 There is also no hint or incentive for the skilled person to modify the stepped structure of the device according to 01 in order to obtain the subject-matter of claim 1 since it already provides a solution to the problem of positioning and alignment.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The case is remitted to the department of first instance with the order to maintain the patent as granted.

Registrar:

Chairman:

D. Hampe

U. Krause