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**Datasheet for the decision  
of 12 December 2014**

**Case Number:** T 1209/12 - 3.2.01

**Application Number:** 04731673.2

**Publication Number:** 1625027

**IPC:** B60B15/24

**Language of the proceedings:** EN

**Title of invention:**

WHEEL STUDS

**Patent Proprietor:**

Hedgehog Golf Company Limited

**Opponent:**

Golf Innovations Limited

**Headword:**

**Relevant legal provisions:**

EPC Art. 56

**Keyword:**

Inventive step - (no)

**Decisions cited:**

**Catchword:**



**Beschwerdekammern  
Boards of Appeal  
Chambres de recours**

European Patent Office  
D-80298 MUNICH  
GERMANY  
Tel. +49 (0) 89 2399-0  
Fax +49 (0) 89 2399-4465

Case Number: T 1209/12 - 3.2.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.01**  
**of 12 December 2014**

**Appellant:** Hedgehog Golf Company Limited  
(Patent Proprietor) 10 Southway  
Newhaven  
East Sussex BN9 9LL (GB)

**Representative:** Sayer, Robert David  
Agile IP LLP  
Airport House  
Purley Way  
Croydon, Surrey CR0 0XZ (GB)

**Respondent:** Golf Innovations Limited  
(Opponent) 24c-24d Holmethorpe Avenue  
Redhill  
Surrey RH1 2NL (GB)

**Representative:** Sayer, Robert David  
Agile IP LLP  
Airport House  
Purley Way  
Croydon, Surrey CR0 0XZ (GB)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
29 March 2012 concerning maintenance of the  
European Patent No. 1625027 in amended form.**

**Composition of the Board:**

**Chairman** G. Pricolo  
**Members:** W. Marx  
D. T. Keeling

## Summary of Facts and Submissions

I. The appeal is from the interlocutory decision of the Opposition Division posted on 29 March 2012 concerning the maintenance in amended form of European patent No. 1 625 027.

II. In the decision under appeal the Opposition Division considered that the subject-matter of claim 1 of the patent as granted lacked an inventive step in view of the combination of document

E12: US 4,802,547 with document

E1: US 2,400,428.

The Opposition Division further considered that the patent as amended in accordance with the first auxiliary request met the requirements of the EPC.

III. The patentee lodged an appeal, received at the EPO on 21 May 2012, against this decision and paid the appeal fee on 25 May 2012. With the statement setting out the grounds of appeal, received at the EPO on 23 July 2012, the appellant requested that the decision under appeal be set aside and that the patent be maintained as granted. The appellant further requested oral proceedings if this request could not be granted.

IV. Claim 1 as granted reads as follows:

"1. A vehicle wheel (1) provided with a plurality of studs (2) which extend radially from a rim (3) of the wheel (1), in which at least some of the studs (2) are parabolic or substantially parabolic in cross-section

in a plane normal to the axis of the rotation of the wheel (1) and generally parallel to the rolling direction of the wheel (1), characterised in that the studs (2) are provided on an elongate base (4) comprising a strip of resilient material which is adapted to be held in position against the rim (3) of the wheel (1), and in which the vehicle wheel (1) is used with a golf trolley, buggy or cart."

- V. In the statement of grounds of appeal, the appellant disputed the conclusion of the Opposition Division in respect of the patent as granted. The arguments of the appellant can be summarised as follows:

Document E12 disclosed a golf cart which included a front steering wheel and two driven rear wheels, each wheel including a pneumatic tyre. The pneumatic tyre of the front wheel was of a cross-ply construction including narrow and shallow parallel grooves which extended circumferentially around the tyre. The tyre of each rear wheel was of a radial construction and included a plurality of spikes which projected from the tread surface of the tyre. Spikes used conventionally for golf shoes were said to be suitable. E12 taught that it was the combination of the different tyre treads of the front and rear wheels and the low pressures of these tyres which reduced lateral dragging of the spikes and consequent damage to a lawn surface. At no time did E12 suggest that the spikes contributed to reducing damage to a lawn surface; quite the reverse. The skilled reader of E12 would conclude that addition of spikes might well be useful for operating on steep slopes, but presented a problem in that they were likely to damage fairways and greens; the solution to reducing damage to fairways and greens of a golf course in periods of inclement weather was to use a

combination of cross and radial ply pneumatic tyres inflated to a low pressure. Therefore, the skilled person, presented with solving the objective technical problem as formulated by the Opposition Division, of reducing or obviating damage that might be caused by the spikes, would not look to modifying the spikes in any way to provide an answer to the known problem of golfers being denied use of golf buggies, carts and trolleys on fairways during periods of inclement weather for the reason that E12 suggested that they contributed to the problem. With this background, document E1 would not be considered.

In any case, the skilled person seeking a solution to the problem of reducing damage to a fairway or lawn surface would, having read E12, not consider a document such as E1 relating to a farm tractor as likely to provide the solution. In the unlikely event that the skilled person was to do so, the solution offered would not succeed for reason that E1 did not disclose parabolic or substantially parabolic studs. It was the parabolic or substantially parabolic shape of the studs claimed in the subject patent which enabled the studs to exit the turf substantially without removing material from the turf.

- VI. In a communication pursuant to Rule 100(2) EPC posted on 12 May 2014 the Board expressed the preliminary opinion that the decision under appeal appeared to be correct and gave reasons in support of the opinion.
  
- VII. The appellant responded to the communication of the Board with letter dated 8 July 2014. The appellant stated that it maintained the requests on file but did not provide arguments in reply to the reasoning of the Board. The Board subsequently issued summons for oral

proceedings to be held on 10 December 2014. These were cancelled following the letter of the appellant dated 2 December 2014 informing the Board that the appellant would not be attending the oral proceedings and that the appellant requested a decision on the basis of the papers on file.

VIII. The respondent (opponent), being represented by the same representative as the appellant, did not file any submissions in the appeal proceedings.

### **Reasons for the Decision**

1. The appeal is admissible.
2. The Board maintains its position that the subject-matter of claim 1 is not inventive in view of E12 combined with E1 (Article 56 EPC). The reasoning given by the Board in its communication dated 12 May 2014 was not contradicted by the appellant, who stated that it would not be attending the oral proceedings and did not file further arguments or requests. Accordingly, the grounds for this decision follow the reasoning of the communication. These are as follows.
3. The analysis of document E12 made by the Opposition Division (see pages 7 and 8 of the decision under appeal) was never contested by the appellant and is correct in the Board's judgment. Hence, the subject-matter of claim 1 is distinguished from the wheel according to E12 in that at least some of the studs are parabolic or substantially parabolic in cross-section in a plane normal to the axis of the rotation of the wheel and generally parallel to the rolling direction of the wheel.

4. The appellant contests that the skilled person, presented with solving the objective technical problem as stated by the Opposition Division, namely to improve the shape of the studs such that soil will not stick and the golf course will remain intact, would not look to modifying the spikes of the wheel according to E12, the spikes/studs of E12 being provided simply to enable the golf cart to operate on steep slopes, not to minimise surface damage.

The Board agrees with the appellant that E12 essentially teaches reducing damage to the grass by selecting specific tyre constructions and low inflating pressure (see in particular col. 2, lines 32 to 42 and 50 to 65). It is also agreed that the explicit disclosure of E12 is that the spikes serve to increase traction (col. 2, lines 53 to 55) and that suitable spikes are those used conventionally for golf shoes (see col. 2, lines 23,24).

5. The Board further notes that the problem as formulated by the Opposition Division does not appear to be entirely correct, as by referring to the need to "improve the shape of the studs" it includes a pointer to the solution. A more objective formulation of the problem, assuming that the technical effect of the distinguishing features (see point 3 above) is to reduce damage to the fairway or lawn surface (as submitted by the appellant), would be that of reducing damage to fairway or lawn surface.
6. The Board disagrees with the appellant's assertion that the skilled person would not consider improving the shape of the studs when facing the above-mentioned objective problem. As a matter of fact, the skilled person would immediately recognise that, even if E12

teaches that lawn damage is reduced by the disclosed tyre construction and pressure, the spikes still constitute a cause of damage to the lawn. Therefore, the skilled person, when presented with the objective technical problem, would also consider modifying the spikes. He would look for improved spikes not only among the variety of spikes used conventionally for golf shoes, but also among the variety of spikes used generally for wheels which are intended to reduce damage to lawns. Accordingly, he would consider the teaching of document E1, which is specifically related to a tyre, and which seeks to avoid damage to a lawn (see page 2, line 1).

One of the features of the tyre according to E1 that clearly contributes to preventing damage to the lawn is the acorn-like shape of the spikes, or plugs (see page 1, lines 30 to 35). Therefore, the skilled person would regard it as obvious to provide acorn-like shaped spikes in the wheel of E12 in order to solve the above-mentioned objective technical problem.

7. The appellant submits that the disclosure of acorn-like shaped plugs in E1 does not amount to the disclosure of parabolic or substantially parabolic studs. It is accepted that the cross-section of the plugs of E1, as can be best seen e.g. in Fig. 3, is not a parabola in mathematical terms. However, it is approximately a parabola, i.e. it is substantially parabolic as required by claim 1 of the patent in suit. It is noted that the term "substantially parabolic" is in the preamble of claim 1, and the latter is based upon the disclosure of FR-A-502138 (see par. [0005] of the patent in suit; the document is referred to as E2 in the impugned decision), which discloses shapes very similar to that of E1. There is therefore no basis in



the patent in suit for an interpretation of the term "substantially parabolic" such as to exclude the plugs according to E1.

8. Therefore, the combination of E12 with E1 would lead the skilled person to the subject-matter of claim 1 in an obvious manner.

### **Order**

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

The appeal is dismissed.

The Registrar:

The Chairman:



A. Vottner

G. Pricolo

Decision electronically authenticated