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**Datasheet for the decision  
of 7 August 2018**

**Case Number:** T 0571/16 - 3.2.01

**Application Number:** 09804071.0

**Publication Number:** 2396267

**IPC:** B66D1/30, B66D1/34, B66D1/48,  
A47C17/84, A61G7/012, G05D3/20

**Language of the proceedings:** EN

**Title of invention:**  
DEVICE FOR LIFTING BED STRUCTURES

**Patent Proprietor:**  
Nardini, Davide

**Opponent:**  
ST.LA. S.R.L.

**Headword:**

**Relevant legal provisions:**  
EPC Art. 54

**Keyword:**  
Novelty - (yes)

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
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Case Number: T 0571/16 - 3.2.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.01**  
**of 7 August 2018**

**Appellant:** Nardini, Davide  
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**Respondent:** ST.LA. S.R.L.  
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**Representative:** Gritschneider, Martin  
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**Decision under appeal:** **Decision of the Opposition Division of the  
European Patent Office posted on 12 January 2016  
revoking European patent No. 2396267 pursuant to  
Article 101(3) (b) EPC.**

**Composition of the Board:**

**Chairman** G. Pricolo  
**Members:** J. J. de Acha González  
P. de Heij

## **Summary of Facts and Submissions**

- I. The appeal of the proprietor is directed against the decision of the Opposition Division to revoke European Patent No. 2 396 267.
- II. The Opposition Division held that the subject-matter of claim 1 of the main request filed during the oral proceedings was not new with regard to US 6 983 979 B2 (D5).
- III. In its communication of 28 June 2018 in preparation for the scheduled oral proceedings, the Board expressed its preliminary view of the case. In particular, the Board indicated that the subject-matter of claim 1 according to the appellant's main request was not novel over D5, in accordance with the findings of the Opposition Division, and that claim 1 according to the second auxiliary request filed by the appellant with the statement of grounds of appeal appeared to define novel subject-matter. The Board however objected to claim 1 according to the second auxiliary request in view of deficiencies under Rule 80 EPC, due to amendments to the wording of claim 1 as derived from granted claim 1 that were apparently not occasioned by a ground for opposition.
- IV. With letter of 5 July 2018 the appellant filed a new main request based on the second auxiliary request filed with the statement of grounds of appeal, amended to address the deficiencies pursuant to Rule 80 EPC pointed out by the Board.
- V. Oral proceedings were held on 7 August 2018, the respondent (opponent) not being represented as announced with letter dated 19 July 2018.

The appellant requested to set aside the decision of the Opposition Division and to maintain the patent on the basis of the set of claims of the main request, submitted with its letter dated 5 July 2018, with the description and the drawings of the patent as granted. The appellant withdrew all other requests.

VI. Apart from informing the Board that it would not attend the oral proceedings, the respondent did not file any submission or request in the appeal proceedings.

VII. Claim 1 of the sole request reads as follows:

"Lifting device for bed structures comprising a shaft (1) operated by at least one speed reducer (10), wherein the said shaft operates two pairs of belts (20, 30, 40, 50), and an "L" shaped bracket (23, 33, 43, 53), on which the bed net (R) is positioned, is mounted on each of said belts (20, 30, 40, 50) so that, by operating the at least one speed reducer (10), that is to say by rotating the shaft (1) in the clockwise and counterclockwise direction about its longitudinal axis, the belts are wound or unwound with the consequent lifting or lowering of said brackets (23, 33, 43, 53), i.e. lifting or lowering of the bed net (R), and wherein at the ends of said shaft (1) there are provided two pairs of coaxial pulleys (2, 3, 4, 5) onto each of them it is wound a corresponding belt (20, 30, 40, 50) featuring one end anchored on the surface of the corresponding pulley and the other end joined to a corresponding fixed point or anchorage (21, 31, 41, 51) i.e. fixed to a point positioned at a predetermined height, corresponding vertical guides (22, 32, 42, 52) being also fixed under said anchorages such that by rotating the shaft (1) in the clockwise and counter-

clockwise direction about its longitudinal axis, the belts are wound around their corresponding pulleys or unwound from them so as to obtain the lifting and lowering of the brackets (23, 33, 43, 53) along the said guides (22, 32, 42, 52), and each belt (20, 30, 40, 50) slides inside a loop or eyelet offered by the respective "L"-shaped bracket (23, 33, 43, 53)."

Dependent claims 2 to 5 correspond to claims 2 to 5 as granted.

### **Reasons for the Decision**

1. Claim 1 according to the sole request comprises claim 1 as granted and it further includes the following additional feature:

"...and each belt (20, 30, 40, 50) slides inside a loop or eyelet offered by the respective "L"-shaped bracket (23, 33, 43, 53)."

This added feature finds its basis on page 4, lines 12 to 17 of the application as originally filed.

The subject-matter of claim 1 is thus directly and unambiguously disclosed for the skilled person in the application as originally filed.

As a consequence, the patent has not been amended in such a way that it contains subject-matter which extends beyond the content of the application as filed (Article 123(2) EPC).

Furthermore, claim 1 overcomes the objections under

Rule 80 EPC raised by the Board in its communication, as it reinstates the exact wording of claim 1 as granted.

2. The above mentioned feature of claim 1 is not disclosed in D5. In particular, none of the embodiments of the lifting assembly for beds described in D5 includes "L"-shaped brackets comprising each a loop or eyelet inside which slides the corresponding belt on which each bracket is mounted. D5 discloses "L"-shaped brackets (see figures 152 - 154, mounting member 840) mounted on cables 1102a, b, c and d, but each cable slides inside a hole provided in each moving member 620 to which the "L"-shaped bracket 840 is mounted.

Furthermore, none of the prior art at hand discloses a lifting device for bed structures wherein each belt slides inside a loop or eyelet offered by respective "L"-shaped brackets.

Therefore, the subject-matter of claim 1 is novel (Article 54 EPC).

3. Lack of novelty being the sole ground for the revocation of the patent, this has as a consequence that the decision under appeal must be set aside.
4. In the absence of any observations from the respondent with respect to the amended patent documents as filed by the appellant, the Board itself having no objections, the patent as amended in accordance with the sole request forms a suitable basis for the maintenance of the patent in amended form.

## **Order**

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

1. The decision under appeal is set aside.
2. The case is remitted to the Opposition Division with the order to maintain the patent as amended in the following version:

Description:

Columns 1 to 7 of the patent specification;

Claims:

No. 1 to 5 of the main request filed with letter of 5 July 2018;

Drawings:

Figures 1 to 24 of the patent specification.



The Registrar:

The Chairman:



A. Vottner

G. Pricolo

Decision electronically authenticated