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Datasheet for the decision of 14 December 2018

Case Number: T 1006/16 - 3.2.01

Application Number: 07108812.4

Publication Number: 1859972

IPC: B60G17/052, B60T17/06

Language of the proceedings: EN

Title of invention:
Pneumatic spring installation for commercial vehicles

Patent Proprietor:
IVECO MAGIRUS AG

Opponents:
Knorr-Bremse Systeme für Nutzfahrzeuge GmbH
Daimler AG

Headword:

Relevant legal provisions:
EPC Art. 123(2)

Keyword:
Added subject-matter (yes)

Decisions cited:

Catchword:

Europäisches Patentamt
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Boards of Appeal

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Case Number: T 1006/16 - 3.2.01

D E C I S I O N
of Technical Board of Appeal 3.2.01
of 14 December 2018

Appellant: (Patent Proprietor)	IVECO MAGIRUS AG Nicolaus-Otto-Strasse 27 89079 Ulm (DE)
Representative:	Ter Meer Steinmeister & Partner Patentanwälte mbB Artur-Ladebeck-Strasse 51 33617 Bielefeld (DE)
Respondent: (Opponent 1)	Knorr-Bremse Systeme für Nutzfahrzeuge GmbH Moosacher Str. 80 80809 München (DE)
Representative:	Wiedemann, Markus Patentanwalt Ludwigstrasse 1 86150 Augsburg (DE)
Respondent: (Opponent 2)	Daimler AG Mercedesstrasse 137 70327 Stuttgart (DE)

Decision under appeal:	**Decision of the Opposition Division of the European Patent Office posted on 17 February 2016 revoking European patent No. 1859972 pursuant to Article 101(3)(b) EPC.**

Composition of the Board:

Chairman	G. Pricolo
Members:	C. Narcisi
	O. Loizou

Summary of Facts and Submissions

I. European patent No. 1 859 972 was revoked by the decision of the Opposition Division posted on 17 February 2016. Against this decision an appeal was lodged by the Patentee in due form and in due time pursuant to Article 108 EPC.

II. Oral proceedings were held on 14 December 2018. The Appellant (Patentee) requested that the impugned decision be set aside and that the patent be maintained as granted (main request) or, in the alternative, that the patent be maintained in amended form according to the first or second auxiliary request (filed on 17 June 2016). The Respondents (Opponent 1 and 2) requested that the appeal be dismissed.

III. Claim 1 of the main request reads as follows:

"Commercial vehicle having
- a compressed air-operated brake system with service brake and parking brake having compressed air reservoirs (16, 18),
- the parking brake system being integrated in the pneumatic system of the service brake,
- a pneumatic spring installation (24, 26, 32, 34) connected to said compressed air reservoirs (16, 18) of the brake system for the supply of compressed air
- a smaller reservoir (20) for ancillary consumer devices
- a compressor (10) delivering compressed air via a pressure controller/air drier (12) and a safety valve (14) towards said air reservoirs (16, 18) for the brake circuit as well as said smaller reservoir (20) for ancillary consumer device, where by the supply to the

parking system takes place via the safety valve (14) and a pipeline (22)
characterised in that said compressor (10) delivers compressed air via the pressure controller/air drier valve (12) directly to the safety valve (14), and the pneumatic spring installation (24, 26, 32, 34) is connected both to the compressor (10) as well as to the compressed air reservoirs (16, 18, 20) via the safety valve (14) to be supplied with compressed air via the safety valve (14) alternatively from the air reservoirs (16, 18, 20) when the compressor (10) is switched off or from the compressor (10) when the compressor (10) is switched on,
that the activation of the compressor (10) is carried out automatically at a predetermined loss of air pressure in the reservoirs(16, 18, 20).”

Claim 1 of the first auxiliary request 1 differs from claim 1 of the main request in that the wording “said compressor (10) delivers compressed air via the pressure controller/air drier valve (12) directly to the safety valve (14)” is replaced by “said compressor (10) delivers compressed air via the pressure controller/air drier valve (12) and a separate connection (28) on the safety valve directly to the safety valve (14)”.

Claim 1 of the second auxiliary request 2 differs from claim 1 of the first auxiliary request in that the wording “and the pneumatic spring installation (24, 26, 32, 34) is connected both to the compressor (10) as well as to the compressed air reservoirs (16, 18, 20) via the safety valve (14)” is replaced by “and the pneumatic spring installation (24, 26, 32, 34) is connected both to the compressor (10) as well as to the

compressed air reservoirs (16, 18, 20) via the separate connection (28) on the safety valve (14)".

IV. The Appellant's arguments may be summarized as follows:

The subject-matter of claim 1 of the main request does not contravene Article 123(2) EPC, for the feature "said compressor (10) delivers compressed air via the pressure controller/air drier valve (12) directly to the safety valve (14)" (hereinafter designated as feature (i)) does not extend beyond the content of the application as originally filed (see published patent application (hereinafter designated as EP-A), paragraph [0018]), stating that "the compressor delivers compressed air via a pressure controller/air drier 12 and a safety valve 14". The figure in EP-A confirms that there is a direct air flow between the pressure controller/air drier 12 and the safety valve 14. No inconsistencies or ambiguities do arise from paragraph [0020] in EP-A, disclosing that "the pneumatic bellows are filled with compressed air via a separate connection 28 on the safety valve 14" and that "during this operation of filling the pneumatic bellows 24, 26 compressed air reaches the pneumatic bellows via the pressure controller and air drier 12 and a pipeline 30, emanating from connection 28". These passages merely imply that constructional element 28 is a connecting element formed on and being part of the safety valve, e.g. an aperture such as an air inlet or outlet, which is necessarily present on the safety valve to deliver air from the compressor to the pneumatic spring installation according to claim 1. Nowhere in EP-A it is disclosed that connection 28 is separate and distinct from safety valve 12, thus allowing air flow control and valving functions distinctly and separately from safety valve 12. Therefore connection 28 only

represents a subunit of the larger unit constituted by safety valve 12.

The subject-matter of claim 1 of the first auxiliary request likewise does not extend beyond the content of EP-A. The amendment now clearly specifies that air is delivered via the pressure controller/air drier 12 and connection 28 directly to the safety valve 12, as is illustrated in the figure. Thus, even if the connection 28 were construed as a separate and distinct valving or flow control element, the amended feature would nevertheless not extend beyond the content of EP-A.

The subject-matter of the second auxiliary request does not extend beyond the content of EP-A. The amendments further specify that the pneumatic spring installation is supplied with air from the compressor or alternatively from the air reservoirs 16, 18, 20, however always through the connection 28.

V. The Respondents' arguments may be summarized as follows:

The subject-matter of claim 1 of the main request extends beyond the content of EP-A. Feature (i) is not disclosed in EP-A, for EP-A does not mention that compressed air from the compressor is delivered "directly" to the safety valve, via pressure controller/air drier 12. In effect, according to paragraph [0020] in EP-A "the pneumatic bellows are filled with compressed air via a separate connection 28 on the safety valve 14". In the figure of EP-A connection 28 is likewise shown as a constructional element which is clearly distinct from valve 14. Therefore, the Appellant's contention that connection 28 constitutes a part of safety valve 14 is not

supported by the disclosure of EP-A, the mentioned passages and the figure rather indicating that a distinct and separate constructional element (e.g. a valving or flow control element) is implied.

The amendments to claim 1 according to the first and second auxiliary request cannot overcome the above objections, for similar reasons as already stated above.

Reasons for the Decision

1. The appeal is admissible.

2. The subject-matter of claim 1 of the main request contravenes Article 123(2) EPC since aforementioned feature (i) extends beyond the content of the application as filed (EP-A).
EP-A does not disclose clearly and unambiguously that compressed air is delivered by the compressor "directly" to the safety valve 14 via the pressure controller/air drier 12. Indeed, according to aforesaid paragraph [0020] in EP-A compressed air is supplied by the compressor to the pneumatic bellows "via a separate connection 28 on the safety valve 14", as likewise illustrated in the figure (see EP-A). In particular, the figure (which is only schematic) depicts "separate connection 28" and "safety valve 14" as being contiguous and adjacent, but nevertheless separate and distinct physical and constructional entities, as shown by a separation or border line.

This is confirmed by paragraph [0022] in EP-A, disclosing that "if the compressor 10 has been switched on again, the supply of the pneumatic bellows takes

place directly via the pipeline 30", "emanating from connection 28" (see paragraph [0020]).

Hence, the actual structural and functional relation between "separate connection 28" and "safety valve 14" is not disclosed in EP-A. Thus, the Appellant's contentions, implying separate connection 28 being only an aperture (e.g. inlet or outlet) in safety valve 14, do not have any support in the disclosure of EP-A, for no specific structural or fluidic connections between "safety valve 14" and "separate connection 28" are specifically described in EP-A.

The general statement in paragraph [0018], e.g. "the compressor delivers compressed air via a pressure controller/air drier 12 and a safety valve 14" cannot serve as a basis for feature (i) either, as the word "directly" is obviously missing here and as paragraph [20] (see above) specifies that air flow occurs via "separate connection 28".
For these reasons feature (i) extends beyond the content of the application as filed (EP-A).

For the same reasons as above the subject-matter of claim 1 of the first and second auxiliary request extends beyond the content of the application as filed. Indeed, the amended feature reading "said compressor (10) delivers compressed air via the pressure controller/air drier valve (12) and a separate connection (28) on the safety valve directly to the safety valve (14)" is not disclosed in EP-A, considering that, as already discussed, no specific structural or fluidic connections between "separate connection 28" and "safety valve 14" are described in EP-A.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

A. Vottner G. Pricolo

Decision electronically authenticated