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# Datasheet for the decision of 23 March 2021

**Case Number:** T 0219/19 - 3.2.01

**Application Number:** 12790451.4

**Publication Number:** 2773541

**IPC:** B60S3/04, B60S3/06, B05B13/04

**Language of the proceedings:** EN

**Title of invention:**
IMPROVED DEVICE FOR THE WASHING OF THE WHEELS OF A VEHICLE IN A VEHICLES WASHING INSTALLATION AND RESPECTIVE NEW WASHING CYCLES PERFORMED WITH THIS DEVICE

**Patent Proprietor:**
Autoequip Lavaggi S.p.A.

**Opponent:**
WashTec Holding GmbH

**Headword:**

**Relevant legal provisions:**
EPC Art. 100(a), 54, 56

**Keyword:**
Novelty - (yes)
Inventive step - (yes)

**Decisions cited:**

**Catchword:**

Europäisches Patentamt
European Patent Office
Office européen des brevets

**Beschwerdekammern**

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**Case Number: T 0219/19 - 3.2.01**

# D E C I S I O N
# of Technical Board of Appeal 3.2.01
# of 23 March 2021

| | |
|---|---|
| **Appellant:** (Opponent) | WashTec Holding GmbH<br>Argonstrasse 7<br>86153 Augsburg (DE) |
| **Representative:** | Winter, Brandl - Partnerschaft mbB<br>Alois-Steinecker-Straße 22<br>85354 Freising (DE) |
| **Respondent:** (Patent Proprietor) | Autoequip Lavaggi S.p.A.<br>Zona Industriale<br>14059 Vesime (AT) (IT) |
| **Representative:** | Leoncini, Alberto<br>A.Bre.Mar. s.r.l.<br>Consulenza in Proprietà Industriale<br>Via Servais, 27<br>10146 Torino (IT) |
| **Decision under appeal:** | **Decision of the Opposition Division of the European Patent Office posted on 26 November 2018 rejecting the opposition filed against European patent No. 2773541 pursuant to Article 101(2) EPC.** |

**Composition of the Board:**

| | |
|---|---|
| **Chairman** | G. Pricolo |
| **Members:** | J. J. de Acha González |
| | S. Fernández de Córdoba |

## Summary of Facts and Submissions

I. The opponent has lodged an appeal against the decision of the Opposition Division to reject the opposition filed against European patent n° 2773541.

II. In its decision the Opposition Division found that the grounds for opposition under novelty and inventive step pursuant to Article 100(a) EPC did not prejudice the maintenance of the patent as granted. In particular, it decided among others that the subject-matter of granted claim 1 was new in view of CN 10 1214813 A (**D11**; together with its machine-generated translation **D11T**) and involved an inventive step in view of the following combinations of prior art:

- US 3 496 908 A (**D2**) with common general knowledge, or D11; and
- WO 02/30575 A1 (**D9**) with FR 2 660 611 A1 (**D1**).

The following documents were also submitted in support of the common general knowledge of the skilled person:

**D4**: DE 10 2009 008 423 A1;
**D5**: CN 2007/10131857 A;
**D6**: DE 3 844 662 A1;
**D7**: DE 4103 376 C1;
**A**: Wikipedia extract "Drehdurchführung";
**B**: Wikipedia extract, "Rotary union";
**C**: Extract from a catalogue of the company Deublin;
**D**: US 2005/0071944 A1.

The Opposition Division did not admit evidence according to A, B, C and D in the opposition proceedings.

III. Oral proceedings by videoconference were held before the Board on 23 March 2021.

IV. The appellant (opponent) requested that the decision under appeal be set aside and that the European patent be revoked.

The respondent (patent proprietor) requested that the appeal be dismissed.

V. Claim 1 as granted read as follows (feature numbering according to the impugned decision):

**1** Washing device (10) for washing the wheels of a vehicle (V) in an installation (1, 20) for the washing of vehicles, comprising:

**1.1** - a rotating member (11) comprising at least one first rotating arm (12) for dispensing water under pressure (HP) on a wheel (R) of the vehicle (V)

**1.1.1** by means of one or more nozzles (13) provided on said first rotating arm (12),

**1.2** and at least one second rotating arm (16) for dispensing, on the same wheel (R), a specific chemical product (P) for the washing of the wheels of the vehicle,

**1.2.1** by means of one or more nozzles (17) provided on said second rotating arm (16);

**1.3** an electric motor assembly (18, 18a, 18b), for driving the rotation of said rotating member (11 );

**1.4** a first hydraulic supply circuit (31) for supplying the water under pressure (HP) to said rotating member (11, 12);

**1.5** a second hydraulic supply circuit (32) for supplying said specific product (P) to said rotating member (11, 16), and

**1.6** a rotating distributor (19) for connecting said first

(31) and said second (32) supply circuits to said rotating member (11) and distributing the water under pressure (HP) and the specific product (P) respectively to said first rotating arm (12) and to said second rotating arm (16);

**1.6.1** wherein said first and said second supply circuits (31, 32) are reciprocally distinct without having any conduit in common

**1.6.2** and are configured, together with said rotating distributor (19), in such a way as to supply and distribute, one separately from the other, the water under pressure (HP) and the specific chemical product (P), respectively to said first (12) and to said second (16) rotating arm of the rotating member (11).

## Reasons for the Decision

1. *Novelty in view of D11 - Articles 100(a) and 54 EPC*

1.1 The subject-matter of granted claim 1 is new in view of the washing device disclosed in D11.

1.2 The appellant argued that the subject-matter of granted claim 1 did not exclude washing devices in which any or all of the first arm(s) and the second arm(s) dispensed water under pressure as well as the specific chemical product, as long as the supply circuits of each fluid were distinct without any conduit in common. Claim 1 specified the minimum requirement of features that defined the washing device according to the invention of the contested patent. However, claim 1 encompassed a device in which the first arm dispensed water and, additionally, another fluid such as a specific chemical

product, and the second arm dispensed the specific chemical product, and, additionally another fluid such as water, independently from each other. Consequently, the washing device disclosed in D11 (see figures 2 to 5; see also the drawings relating to D11 shown by the appellant during the oral proceedings, where the two arms are on each side of the liquid transfer valve, respectively, as alleged by the appellant), in which the first arm (201) and the second arm (202) each dispensed the specific chemical product and low pressure water or high pressure water respectively, anticipated the subject-matter of granted claim 1.

1.3 According to the wording of claim 1, feature 1.6, the device comprises a rotating distributor for connecting said first and said second supply circuits to said rotating member and distributing the water under pressure and the specific product respectively to said first rotating arm and to said second rotating arm. This wording makes clear that the first rotating arm receives water under pressure and the second rotating arm receives the specific product. Further according to the wording of claim 1, features 1.6.1 and 1.6.2, said first and said second supply circuits are reciprocally distinct without having any conduit in common and are configured, together with said rotating distributor, in such a way as to supply and distribute, one separately from the other, the water under pressure and the specific chemical product, respectively to said first and to said second rotating arm of the rotating member. This wording further makes clear that not only the supply but also the distribution of water under pressure and of the specific chemical product to the first and said second arms respectively is done separately, and specifically separately for each (first and second) rotating arm. Hence, in the Board's view

the wording of the claim makes clear that water from the first hydraulic supply circuit is supplied to the at least one first rotating arm only and the chemical product from the second hydraulic supply circuit is supplied to the second arm only. Moreover, this reading of the claim is fully supported by the description and figures of the patent (see in particular Figs. 2 and 3 and par. [0032] in which the second rotating arm only dispenses the specific chemical product). A reading of the claim, as done by the appellant, in which the water under pressure and the specific chemical product are supplied and distributed one separately from the other respectively to the first and second rotating arms, but at the same time the first and/or the second rotating arms can also be supplied respectively with the specific chemical product and water under pressure, is, in the Board's judgment, at odds with the definition of the claim and with the disclosure of the patent as a whole.

It follows from the above that the subject-matter of granted claim 1 is new in view of D11 because at least one of the rotating arms (201, 202) in D11 dispenses both water and a specific chemical product (washing fluid).

2. *Inventive step - Articles 100(a) and 56 EPC*

2.1 The subject-matter of granted claim 1 is not rendered obvious by the following combinations of prior art:

(i) D11 with common general knowledge of the skilled person;

(ii) D2 with common general knowledge, or D11; and

(iii) D9 with D1.

2.2 When considering the washing device disclosed in D11 as the starting point for assessing inventive step, the subject-matter of claim 1 differs therefrom in that the at least one first rotating arm dispenses water only and the at least second rotating arm dispenses only the specific chemical product for washing the wheels of a vehicle (see point 1 above).

2.2.1 The appellant considered that the problem solved by the invention according to the contested patent, namely to prevent contamination between the two fluids, was already solved by the washing device of D11 since the supply circuits for the different fluids were totally independent. Consequently, the objective technical problem to be solved could be formulated as how to configure each rotating arm as needed. This kind of adaptation fell within the knowledge of the skilled person since it did not represent any technical hurdle and it would not affect the design of the washing device. The skilled person could without any undue burden simply provide one of the fluids to one rotating arm only and the other fluid to the other rotating arm only. The subject-matter of granted claim 1 was thus obvious.

2.2.2 The Board agrees with the appellant that the skilled person when confronted with the disclosure of D11 *could* dispense only water from one arm and washing from the other. This represents indeed no technical hurdle. However, the question to be answered when assessing inventive step is whether the skilled person *would* carry it out bearing in mind the disclosure and purpose of the device shown in D11. This amounts to evaluate whether the skilled person has any motivation to proceed so. The Board in line with the view of the respondent is persuaded that the skilled person has no

motivation to limit the rotating arms of D11 in such a way. In fact, the whole system disclosed in D11 aims at washing a vehicle positioned within the washing device as shown in figure 1. The arms comprising the nozzles rotate with respect to a vertical axis at reference number 50 in figures 2 and 3. Consequently, the rotation is such that the upper horizontal rotating arm (201) swivels on a horizontal surface and the vertical arm (202) according to a surface of revolution around the vertical axis. Due to the configuration of the arms and the rotation, the position of the nozzles are aimed at covering all the surfaces of the vehicle to be cleaned and accordingly the skilled person would not provide only water or washing liquid exclusively to one arm since by doing so the complete vehicle would not be cleaned as intended.

2.3 When starting from the washing device of D2, both parties agreed that the subject-matter of claim 1 differed therefrom in that it did not disclose features 1.6.1 and 1.6.2.
The Board shares this view. These differentiating features have the effect of keeping the various cleaning fluids separate, solving the problem of preventing cross contamination of the fluids in the device.

2.3.1 The appellant argued that the skilled person, who was aware of the existence of multiple channel rotary unions (evidenced by A, B, C, D and D4 to D7), would have replaced the one channel rotary union in the device of D2 by a two channel rotary union in order to keep the water under pressure and the specific chemical product separated from each other thereby solving the problem posed without exercising an inventive step. Connecting such a rotary union to the hydraulic system

of D2 or connecting the separate outlets of a two channel rotating union to different rotating arms of the rotating element represented a routine action for the skilled person that did not require any special skill. In particular, no major design changes would be necessary for this. Instead, only the lines 78 and 86 of the hydraulic system according to D2 (see figure 7) would have had to be connected to the separate inlets of the two-channel rotary union and separate arms of the rotary element 38 of D2 would have had to be connected respectively to the outlets of the two-channel rotary union in order to supply the nozzles 40 with different fluids through completely separate lines.

The appellant in another line of attack starting from D2 considered that the skilled person when trying to solve the posed objective technical problem would have looked into D11 and found obvious to connect the lines 78, 86 and 104 in the hydraulic system according to D2 to the inlets 643A, 644A and 645A of the rotary union 64 according to figure 5 of D11 and to connect each outlet 643, 644 and 645 of the rotary union 64 to a separate arm of the rotating element 38 of D2 in order to supply the nozzles 40 with different fluids by separate lines.

2.3.2 The Board agrees with the appellant that two-channel rotary unions are known to the skilled person. However, this fact alone is not sufficient for the skilled person to arrive at the subject-matter of granted claim 1 without exercising an inventive step departing from the washing device disclosed in D2. The skilled person lacks in this common general knowledge approach any motivation and teaching that would lead him to provide such a multiple-channel rotary union in the rotary union of D2 connecting the line 60 to the swivel 38 and

at the same time extend the lines of wash fluid (86), wax (104) and rinse fluid (78) up to the rotary union and further connect them respectively to separate and distinct swivel arms to dispense only one of the fluids. In the device of D2 each of the nozzles 40 of the different rotating arms is intended to dispense the same type of fluid at a time. In the Board's view any hint is lacking as to why the skilled person would limit this kind of distribution to only one arm of the swivel 38, as well as to why the skilled person would selectively apply it to swivel 38 and not also to swivel 42 since the distribution junction 82 would not be present anymore. Such an integration of multiple-channel rotary unions would require a complete modification of the device shown in D2 and a hint therefor is missing. The Board, in line with the Opposition Division in its decision, considers the argumentation of the appellant based on hindsight.

The Board notes at this point that the question of the admissibility of the evidence according to A, B, C and D can be left aside since the line of attack is, as explained above, not persuasive.

Regarding the combination with D11, the Board follows the view of the Opposition Division and that of the respondent. The device of D11 is structurally and functionally so different to that of D2 that the rotating arms shown therein are clearly incompatible with the washing device of D2. The skilled person has moreover no hint to take in isolation the fluid circuitry of D11 including the rotary union and provide it in the washing device of D2 since this is disclosed in structural and functional relationship with the other parts of the device shown in D11. Additionally, as pointed out above under novelty, the rotating arms

together with the rotating distributor of D11 do not equate to those claimed since they provide water and product at the same time.

2.4 Considering the embodiment disclosed in figure 8A of D9 as the closest prior art for assessing the obviousness of the subject-matter of granted claim 1, the appellant argued that claim 1 differed therefrom only in that the different nozzles were arranged directly in a cylindrical rotating element and not in different rotating arms. The objective technical problem could be formulated as to provide an optimal and uniform dispensing of the specific chemical product on the entire surface of the wheel and of the respective rim to be washed. The skilled person would take the feature of the rotating arms in an obvious manner from D1. The subject-matter of granted claim 1 differed functionally from the device of D9 primarily in that the nozzle for the specific chemical substance was radially spaced from the axis of rotation, whereas in the apparatus of D9 it was arranged coaxially with the axis of rotation. D1 taught that a uniform washing of the wheels could be achieved due to the rotation and inclination of the water jets. The skilled person would have been prompted from this teaching to arrange the spray nozzles on rotating arms instead of in a rotating drum and would thus have arrived at the object of the invention in an obvious way. In support to moving the central nozzle for the chemical product the appellant referred to the embodiment of figure 2A to 2C where the nozzles for this product were not central and still arranged in distinct hydraulic circuits as in the embodiment of figure 8A. Further, in contrast to the decision of the Opposition Division, figure 8B of D9 disclosed indeed a rotating distributor (rotary swivel 870), that implied

a two channel rotating distributor when considering the embodiment of figure 8A.

2.4.1 The Board disagrees and shares the view of the Opposition Division in its decision and that of the respondent. Even if the rotations arms of D1 were to be implemented in the device of D9 no rotating arm for the soap line would be selected since according to figure 8A it is positioned in D9 in the center of the rotating nozzle assembly. Moreover, D1 only discloses the distribution of only a fluid through a single channel rotary distributor. The combination of D9 and D1 fails thus to hint how to dispense through different arms of the same rotating member two different fluids (water and soap) from two independent supply circuits. The view of the Opposition Division in its decision is thus shared (see point 2.3.5) as regards how to modify the center nozzle to mount it on an arm. Regarding the reference to the embodiment of figures 2A to 2C of D9, the view of the respondent is shared. This embodiment is different from that of figure 8A since the drum is not able to rotate but merely to tilt due to the arrangement of the different fluid supplying pipes. Consequently, the two embodiments cannot be combined together since they represent alternative solutions within the disclosure of D9.

2.5 Accordingly, the Board shares the view of the respondent that all lines of attack from the appellant are not convincing.

3. It follows from the above that none of the grounds for opposition prejudices the maintenance of the patent as granted. Consequently, the decision of the Opposition Division is to be confirmed.

**Order**

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

The appeal is dismissed.

The Registrar: The Chairman:

D. Magliano G. Pricolo

Decision electronically authenticated