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**Datasheet for the decision  
of 20 January 2022**

**Case Number:** T 1197/19 - 3.2.07

**Application Number:** 00970518.7

**Publication Number:** 1234285

**IPC:** B27G19/00, B27G19/02,  
B23D47/08, B23D59/00, B27B5/38,  
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**Language of the proceedings:** EN

**Title of invention:**  
Table saw safety system

**Patent Proprietor:**  
SawStop Holding LLC

**Opponent:**  
Robert Bosch Tool Corporation

**Headword:**

**Relevant legal provisions:**  
EPC Art. 113(1), 116(1), 123(2)  
EPC R. 103(4) (c)  
RPBA 2020 Art. 12(8)

**Keyword:**

Decision in written proceedings after withdrawal of all requests for oral proceedings  
Amendments - extension beyond the content of the application as filed (yes)  
Reimbursement of the appeal fee - at 25% after withdrawal of request for oral proceedings

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**

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**Case Number: T 1197/19 - 3.2.07**

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.07**  
**of 20 January 2022**

**Appellant:** Robert Bosch Tool Corporation  
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**Respondent:** SawStop Holding LLC  
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**Representative:** HGF  
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**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
13 February 2019 concerning maintenance of the  
European Patent No. 1234285 in amended form.**

**Composition of the Board:**

**Chairman** I. Beckedorf  
**Members:** S. Watson  
A. Cano Palmero

## **Summary of Facts and Submissions**

- I. The opponent (appellant) lodged within the prescribed time limit and in the prescribed form an appeal against the decision of the opposition division to maintain European patent 1 234 285 in amended form on the basis of the single auxiliary request.
- II. The opposition division found that the then auxiliary request did not contain subject-matter which extended beyond the application as originally filed (Article 123(2) EPC); did not extend the scope of protection of the patent (Article 123(3) EPC); was clear (Article 84 EPC); was sufficiently disclosed (Article 83 EPC) and was inventive (Article 56 EPC).
- III. In preparation for oral proceedings scheduled at the request of both parties, the Board gave its preliminary assessment of the case by means of a communication pursuant to Article 15(1) RPBA 2020 dated 16 September 2021. The Board indicated its preliminary opinion that the subject-matter of claim 1 of the sole request did not fulfil the requirements of Article 123(2) EPC.
- IV. Both parties withdrew their requests for oral proceedings in their written submissions in response to the preliminary opinion, the appellant with letter of 29 September 2021 and the patent proprietor (respondent) with letter of 13 January 2022. Neither party made any further substantive submissions.

V. The final requests of the parties are as follows:

for the appellant

- that the decision be set aside and
- that the patent be revoked in its entirety;

for the respondent

- that the appeal be dismissed, *i.e.* that the patent be maintained in the amended form held by the opposition division to meet the requirements of the EPC.

VI. Independent claim 1 of the respondent 's sole request reads as follows, the feature analysis used in the decision under appeal is repeated here:

- M1.1 A table saw (10) for woodworking comprising:
- M1.2 a rotatable blade (14) adapted to raise and lower,
- M1.3 where the blade is mounted on an arbor (382);
- M1.4 an arbor block (381) adapted to hold the arbor, and further adapted to retract the arbor and blade upon the occurrence of a specified event;
- M1.5 a detection system (22) and a reaction system (24) associated with the detection system (22) and the rotatable blade (14), where the reaction system (24) includes a retraction mechanism,
- M1.6 the table saw being characterised in that: the rotatable blade is electrically conductive, electrically isolated from electrical ground
- M1.7 and is adapted to raise and lower around a pivot point,
- M1.8 and in that the detection system (22) is

- adapted to detect contact between a person and the rotatable blade,
- M1.9 where the detection system is adapted to capacitively impart an electric signal on the rotatable blade and to detect the occurrence of a change in the electric signal on the rotatable blade (14),
- M1.10 and in that the reaction system is adapted to pivot the rotatable blade about the pivot point away from the cutting region upon detection of contact between the person and the rotatable blade by the detection system.

VII. The lines of argument of the parties are dealt with in detail in the reasons for the decision.

## **Reasons for the Decision**

### 1. *Procedural matters*

1.1 The present proceedings are governed by the revised version of the Rules of Procedure which came into force on 1 January 2020 (Articles 24 and 25(1) RPBA 2020). except for Article 12(4) to (6) RPBA 2020 instead of which Article 12(4) RPBA 2007 remains applicable (Article 25(2) RPBA 2020).

1.2 The present decision is taken in written proceedings without holding oral proceedings.  
Both parties were informed of the Board's preliminary opinion that the decision under appeal could be set aside and the patent revoked. Both parties then withdrew their requests for oral proceedings

(Article 116(1) EPC) without making any further substantive submissions.

The principle of the right to be heard according to Article 113(1) EPC has been observed since the parties' submissions have been fully taken into account.

In view of the fact that the case is ready to be decided on the basis of the reasoned findings of the opposition division and of the parties' written submissions, the Board issues this decision in written proceedings in accordance with Article 12(8) RPBA 2020 and cancels the oral proceedings arranged for 25 February 2022.

2. *Article 123(2) EPC - sole request - claim 1*

2.1 The opposition division found that the requirements of Article 123(2) EPC with respect to claim 1 were fulfilled (decision under appeal, pages 6 to 9). It found independent claims 38 and 61 as originally filed; claim 40 as originally filed (which was dependent on claim 38); together with page 9, lines 10 to 12 and page 29, lines 6 to 7, of the application as published formed the basis for claim 1.

2.2 With its statement of grounds of appeal the appellant argued that the decision was incorrect, as claim 1 comprised an arbitrary combination of features taken out of context from separate parts of the application documents as originally filed. According to the appellant there was no disclosure of the features M1.1 and M1.10 together in an embodiment with only the other further features of claim 1 (statement of grounds of appeal points I.1., I.3. to I.5.).

2.3 The following points were all considered by the Board in its preliminary opinion (point 10 thereof), to which neither party substantively responded. The Board therefore sees no reason to deviate from its original opinion, but confirms it as expressed in points 2.4 to 2.6 below.

2.4 It is established jurisprudence that the content of an application cannot be considered to be a reservoir from which features pertaining to separate embodiments of the application can be combined in order to create a particular embodiment. A specific embodiment must be directly and unambiguously derivable from the application as originally filed (see Case Law of the Boards of Appeal [CLB], 9th edition 2019, II.E.1.6.1).

It therefore needs to be assessed whether the application as a whole, directly and unambiguously, discloses an embodiment having the combination of features of claim 1 of the sole request.

2.5 *Feature M1.1 'table saw for woodworking'*

2.5.1 The appellant argued that the introduction of the feature M1.1 extends the subject-matter beyond the application as originally filed as claim 38 was directed to a woodworking machine not to a table saw for woodworking. According to the appellant, the opposition division was incorrect in finding that claim 38 together with page 9, lines 10 to 17, of the application as published, formed the basis for the introduction of this feature.

2.5.2 The Board finds that feature M1.1 in combination with the further features of claim 1 is not directly

derivable from claim 38 and page 9, lines 10 to 17, of the application as published.

The embodiment disclosed in figure 1 and in the description on page 9, line 9, to page 10, line 32, comprises many other additional features which are not present in claim 38 (for example the operative structure 12, motor assembly 16, power source 20, control subsystem 26, brake mechanism 28, biasing mechanism 30, restraining mechanism 32, release mechanism 34). Further, this embodiment does not comprise features which are found in claim 38, such as an electrically conductive cutter and a detection system adapted to capacitively impart an electrical signal on the cutter, and to detect the occurrence of a determined change in the electric signal on the cutter. There is no indication in the original application as published that the specific embodiment of claim 38 and parts of the embodiment of figure 1 are to be combined to form another embodiment.

2.5.3 The respondent argues that the feature a "table saw for woodworking" is based on claims 38 and 61, together with page 9, lines 10 to 17 (reply to the statement of grounds of appeal, page 1, fifth paragraph and page 2, first and second paragraphs). According to the respondent the skilled person would have been aware that a saw (as claimed in claim 61) was an example of a woodworking machine (as claimed in claim 38) as the passage on page 9, lines 10 to 17, disclosed that a table saw is an example of a woodworking machine.

2.5.4 The Board however, in addition to not seeing a link between the embodiment of claim 38 and the embodiment described in figure 1 and associated parts of the description (see point 2.5.2 above), does not see any

link between the embodiment of a saw as disclosed in claim 61 as originally filed and a woodworking machine as disclosed in claim 38 as originally filed.

The features of original claims 38 and 61 are completely different and there is no indication that would lead the skilled person to directly and unambiguously derive a common embodiment. In addition, neither claim mentions a table saw.

It is established jurisprudence that the common general knowledge of the skilled person should be used when determining the disclosure of an application as originally filed, however, this is for the purpose of determining any features which are inherent, not features which are possible (CLB, *supra*, II.E.1.3.3).

The Board accepts that the skilled person knows that a saw or a table saw could be used to cut wood. This is however not sufficient to lead to the skilled person directly and unambiguously determining that the saw of original claim 61 or the woodworking machine of original claim 38 is a table saw for woodworking. The application as a whole differentiates between a number of types of saw (table saw, miter saw, chop saw, radial arm saw, circular saw, band saw). In the application as originally filed two independent claims were present which were directed specifically to a table saw (claims 57 and 58) and both included features not found in claim 61. The passage on page 9, lines 10-12, only discloses that the invention relates to machines adapted for cutting workpieces such as "wood, plastic, etc., including a table saw, miter saw, chop saw...". It cannot be seen as inherent that the saw of claim 61 is a table saw or that it is a woodworking machine.

- 2.5.5 In addition, the Board also follows the argumentation of the appellant that the opposition division was incorrect in finding that the introduction of "for woodworking" was sufficient to overcome the objection to the then main request (decision under appeal, page 4, second and third paragraph). A suitability 'for woodworking' is not considered equivalent to a 'woodworking machine', which must necessarily be adapted specifically to work wood (see statement of grounds of appeal, paragraph bridging pages 4 and 5).
- 2.6 *Feature M1.10 'the reaction system is adapted to pivot the rotatable blade about the pivot point away from the cutting region upon detection of contact between the person and the rotatable blade by the detection system'*
- 2.6.1 The appellant also argued that the decision was incorrect in finding that the feature that the 'reaction system is adapted to pivot the rotatable blade about the pivot point away from the cutting region' was explicitly disclosed by a combination of the features 'blade adapted to raise and lower about a pivot point' from original claim 61 and 'a table saw' (see decision under appeal, page 6, final paragraph).
- 2.6.2 According to the appellant (statement of grounds of appeal, point I.4.), the feature in claim 61 that the blade is adapted to raise and lower around a pivot point is not mentioned in conjunction with the reaction system but rather appears to be part of the normal operation of the saw. The general disclosure of a table saw cannot be said to disclose a reaction system adapted to pivot a blade away from the cutting region. The second feature of claim 61 that the arbor block is 'adapted to retract the arbor and blade upon occurrence

of a specified event' is not an explicit disclosure of the blade pivoting away from the cutting region as the retraction could be translatory.

The Board follows the argumentation of the appellant.

Original claim 61 does not explicitly disclose a reaction system adapted to pivot the rotatable blade away from the cutting region upon detection by the detection system of contact between the person and the rotatable blade. The feature that the arbor block is adapted to retract the arbor and blade is not connected in the claim to the feature that the blade is adapted to raise and lower around a pivot point. The retraction is not necessarily a pivoting motion nor is a direction specified.

2.6.3 The respondent argued in its reply to the statement of grounds of appeal (page 2, fifth paragraph) that feature M1.10 is derivable by the skilled person when reading claim 61 as originally filed and in view of the three embodiments of the application which show table saws, *i.e.* the embodiments shown in figures 29 to 30; 36 to 38 and 150 to 153 of the application as published.

2.6.4 The Board notes however, that all three embodiments disclose a table saw with a specific reaction system.

The embodiments of figures 29 to 30 and figures 150 to 153 clearly show that the pivoting of the rotatable blade about the pivot point, away from the cutting region is functionally linked with a specific braking mechanism (see application as published, page 35, lines 35 to 36, and page 110, lines 15 to 19).

As argued by the appellant (statement of grounds of appeal, page 9, second paragraph), the only disclosure in the application as originally filed of a retraction system which pivots a rotatable blade about a pivot point away from the cutting region, without using a braking mechanism, is found in the embodiment described in conjunction with figures 36 to 38. This embodiment however shows a specific reaction system with a number of components including a spring; a segment gear, coupled to the arbor block by a compound linkage; and a fusible member.

2.6.5 In the decision under appeal (page 7, final paragraph), the opposition division found that the spring was not essential as the application as published disclosed on page 40, lines 4 to 8, that a "spring or some other force" may be used to retract a blade. The opposition division found that this disclosed that the spring was optional in this type of system.

2.6.6 The Board disagrees. A disclosure of one specific example (such as shown in figures 36 to 38) together with a very general reference to the possibility of another force being used cannot be seen as a direct and unambiguous disclosure of a table saw with a reaction system adapted to pivot the rotatable blade of a table saw about a pivot point away from the cutting region upon detection of contact between the person and the rotatable blade by the detection system. Even if the general disclosure were to be regarded as sufficient to allow a generalisation from the specific "spring", this would lead only to a replacement of the spring by another force of some kind but still within the embodiment shown in figures 36 to 38. There is no disclosure that the other features of the embodiment

may be replaced or omitted whilst still being able to pivot the blade away from the cutting region.

The Board finds that the feature that the reaction system of a table saw is adapted to pivot the rotatable blade about the pivot point away from the cutting region has only been disclosed in conjunction with further components such as a braking mechanism and associated components, as detailed in the embodiments disclosed in figures 29-30 and 150-153, or with the spring mechanism and associated components disclosed in the embodiment of figures 36-38. There is no general disclosure of a table saw with a 'reaction system adapted to pivot the rotatable blade about the pivot point away from the cutting region'.

2.6.7 The opposition division further found that the passages on page 100, lines 5 to 9, of the application as published, made clear that the braking mechanism is optional (decision under appeal, page 7, fourth paragraph).

2.6.8 The Board, however, agrees with the appellant (statement of grounds of appeal, page 9, first paragraph) that the passage on page 100, lines 5 to 9, refers to saws in which a cutting tool moves down onto or across a workpiece (miter saw, chop saw, radial arm saw) and which include translational motion stops (see page 94, lines 30-34). This passage therefore cannot be considered as providing a basis for an embodiment directed to a table saw with a reaction system adapted to pivot a rotatable blade about the pivot point away from the cutting region upon detection of contact between the person and the rotatable blade.

3. The appellant has therefore convincingly shown that the decision under appeal was incorrect in finding that the subject-matter of claim 1 as maintained by the opposition division did not extend beyond the content of the application as originally filed.
4. As the single request of the respondent is not allowable, the patent has to be revoked.
5. The appellant withdrew its request for oral proceedings within one month of notification of the communication issued by the Board in preparation for the oral proceedings and no oral proceedings took place. Therefore, pursuant to Rule 103(4)(c) EPC, the appeal fee is to be reimbursed at 25%.

## Order

### For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.
3. The appeal fee paid by the opponent is reimbursed at 25%.

The Registrar:

The Chairman:



G. Nachtigall

I. Beckedorf

Decision electronically authenticated