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**Datasheet for the decision  
of 16 February 2022**

**Case Number:** T 0661/20 - 3.2.01

**Application Number:** 13154673.1

**Publication Number:** 2626167

**IPC:** B23P6/00, F01D5/00

**Language of the proceedings:** EN

**Title of invention:**

Method for reconditioning a blade of a gas turbine and also a reconditioned blade

**Patent Proprietor:**

Ansaldo Energia IP UK Limited

**Opponent:**

Siemens Aktiengesellschaft

**Headword:**

**Relevant legal provisions:**

EPC Art. 52(1), 54, 111(1)

RPBA 2020 Art. 11

**Keyword:**

Novelty - main request (yes)

Remittal - special reasons for remittal (yes)

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
**Chambres de recours**

Boards of Appeal of the  
European Patent Office  
Richard-Reitzner-Allee 8  
85540 Haar  
GERMANY  
Tel. +49 (0)89 2399-0  
Fax +49 (0)89 2399-4465

Case Number: T 0661/20 - 3.2.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.01**  
**of 16 February 2022**

**Appellant:** Ansaldo Energia IP UK Limited  
(Patent Proprietor) 5th Floor, North Side  
7/10 Chandos Street  
Cavendish Square  
London W1G 9DQ (GB)

**Representative:** Bernotti, Andrea  
Studio Torta S.p.A.  
Via Viotti, 9  
10121 Torino (IT)

**Respondent:** Siemens Aktiengesellschaft  
(Opponent) Werner-von-Siemens-Straße 1  
80333 München (DE)

**Representative:** Siemens Aktiengesellschaft  
Postfach 22 16 34  
80506 München (DE)

**Decision under appeal:** **Decision of the Opposition Division of the  
European Patent Office posted on 3 February 2020  
revoking European patent No. 2626167 pursuant to  
Article 101(3) (b) EPC.**

**Composition of the Board:**

**Chairman** G. Pricolo  
**Members:** V. Vinci  
O. Loizou

## **Summary of Facts and Submissions**

I. The appeal filed by the appellant (patent proprietor) is directed against the decision of the opposition division to revoke the European patent No. 2 626 167.

In its decision the opposition division held that the ground of opposition under Article 100(a) in combination with Article 54 EPC was prejudicial to the maintenance of the patent as granted as well as in amended form. In particular, the opposition division held that the subject-matter of independent claims 1 and 12 as granted and of the sole independent claim 1 according to any of the auxiliary requests 1, 2, 4 and 5 lacked novelty in view of the following prior art:

D7: DE 199 615 65 A

With the communication according to Article 15(1) RPBA dated 18 February 2021 the Board informed the parties of its preliminary assessment of the case.

With the letter dated 24 February 2021 the respondent (opponent) withdrew their request for oral proceedings and confirmed on 8 February 2022 that they would not attend oral proceedings.

Oral proceedings pursuant to Article 116 EPC were held before the Board on 16 February 2022 by videoconference.

II. The appellant (patent proprietor) requested that the decision under appeal be set aside and the patent be maintained on the basis of the main request (filed as auxiliary request 1) or in the alternative on the basis

of one of the auxiliary requests 2 to 4 all requests filed with the statement of the grounds of appeal.

The respondent (opponent) requested in writing that the appeal be dismissed.

III. Independent claim 1 of the main request at stake, corresponding to claim 1 as granted and according to the auxiliary request 1 underlying the decision under appeal, reads as follows:

*"A method for reconditioning a blade (10) of a gas turbine, which blade (10) comprises a blade airfoil (11), with a pressure side (14) and a suction side (15), which extends in the blade longitudinal direction between a platform (18) and a blade tip (17), has a leading edge (12) and a trailing edge (13), and is outwardly delimited by a pressure-side wall (14a) and a suction-side wall (15a) which converge at the trailing edge (13) of the blade airfoil (11), forming discharge openings (21) for cooling air which are arranged in a distributed manner along the trailing edge (13) between the walls (14a,15a), characterized in that a cutout (20) is introduced into the pressure-side wall (14a) along the trailing edge (13), and starting from said trailing edge (13), in such a way that the trailing-side edge of the pressure-side wall (14a) is cut back compared with the trailing-side edge of the suction-side wall (15a)."*

## Reasons for the Decision

### MAIN REQUEST

#### Novelty: Articles 52(1) and 54 EPC

1. The subject-matter of claim 1 according to the main request is novel over the prior art in the meaning of Articles 52(1) and 54 EPC.
- 1.1 Th appellant did not contest the finding of the opposition division that document D7 discloses a method for reconditioning a blade for a gas turbine according to the preamble of claim 1 at stake (see col. 3, lines 18 to 31).
- 1.2 In the decision under appeal the opposition division, referring in particular to the embodiment of Fig. 9, further stated that the reconditioning method disclosed in D7 also comprised the step of introducing a cut-out according to the characterizing portion of claim 1 as granted, thereby concluding that its subject-matter lacked novelty over this prior art document.
- 1.3 This conclusion was contested by the appellant (patent proprietor) for the reason that, contrary to the view of the opposition division and the respondent (opponent), the person skilled in the art would unambiguously derive from the wording of the characterizing portion of claim 1 read as whole the limitation that the cut-out is introduced by a cutting action. The appellant (patent proprietor) further explained that this interpretation of claim 1 was fully supported by the description of the attacked patent, paragraphs [0008] and [0019]. The appellant (patent

proprietor) put forward that in D7, on the contrary, the recess resulting from the removal of the insert (3) from the body of the blade, that the opposition division equated with a cut-out in the meaning of claim 1, was manufactured together with the body of the blade by molding (reference was made to claim 9 of D7). In their reply to the statement of the grounds of appeal of the appellant (patent proprietor), the respondent (opponent) replied that the statement in claim 1 that the trailing-side edge was "*cut-back*" had to be interpreted as a mere consequence of the introduction of the cut-out into the pressure-side wall and thus, as such and contrary to the view of the appellant (patent proprietor), did not directly and unambiguously imply the execution of a cutting step.

1.4 The Board does not follow the assessment of the opposition division and the interpretation of claim 1 given by the respondent (opponent) and shares the view of the appellant (patent proprietor) for the following reasons:

1.5 The Board agrees with the opposition division that the step of disassembling the insert (3) from the blade body (1) disclosed in D7 results in the introduction of a cut-out into the pressure side-wall along the trailing edge according to the first feature of the characterizing portion of claim 1. In this respect the Board does not share the view of the patent proprietor who, referring to the disclosure in claim 18 of D7 according to which the reconditioning method started after said disassembling step, asserted that D7 does not disclose the feature of claim 1 that the introduction of the cut-out was a step of the reconditioning method. In fact the Board considers that, irrespective of what is specifically disclosed as

being the starting point of the reconditioning method in D7, in general terms a reconditioning method can be seen as starting with the provision of a blade to be reconditioned with the insert still brazed thereto, whereby disassembling the insert is a preliminary and required step belonging to the reconditioning method itself.

- 1.6 However, while it is true that the expression "*a cut-out is introduced*" per se only indicates that an opening or recess is provided onto the pressure-side wall of the blade without thereby imposing any restriction as to how said opening or recess is obtained (thus encompassing the provision of a cut-out by disassembling the insert as in D7), the Board is convinced by the argument of the appellant (patent proprietor) that, contrary to the view of the respondent (opponent), the person skilled in the art, reading this expression in combination with the subsequent wording of the characterizing portion stating that "*in such a way that the trailing-side edge .... is cut back .....*" directly and unambiguously realizes that the introduction of the cut-out is the result of a cutting action entailing removal/cutting away of material from the pressure-side wall along the trailing edge. As correctly pointed out by the appellant (patent proprietor), this is not the case of the cut-out resulting from the disassembling of the insert (3) from the blade body (1) of document D7, which does not provide any information as to how the brazed insert is removed (and in any case not by cutting the insert as the latter is to be reinserted, see claim 18). Therefore, contrary to the view of the respondent (opponent), the expression "*is cut back*" does not merely indicate the result of the introduction of the cut-out, but rather implies that the cut-out is

obtained by a cutting action which is not directly and unambiguously derivable from document D7. Therefore, for the reasons above and contrary to the assessment of the opposition division in the appealed decision, the disclosure of D7 is not prejudicial to the novelty of claim 1.

- 1.7 As no further novelty attack has been raised, the main request at stake meets the requirements of Articles 52(1) and 54 EPC in respect of novelty.

**Remittal of the case: Article 111(1) EPC**

2. The opposition division has dismissed the main request and the auxiliary requests submitted by the appellant (patent proprietor) only on the ground pursuant to Article 100(a) in combination with Article 54 EPC, whereby inventive step has not been discussed at all in the contested decision. The Board considers this circumstance to represent "special reasons" in the meaning of Article 11 RPBA 2020 justifying the remittal of the case to the department of first instance by making use of the discretion provided by Article 111 EPC. In this respect it is observed that the appellant (patent proprietor) did not raise any objection to the remittal of the case to the opposition division for further prosecution.

**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 for further prosecution.

The Registrar:

The Chairman:



A. Vottner

G. Pricolo

Decision electronically authenticated