

**Internal distribution code:**

- (A) [ - ] Publication in OJ
- (B) [ - ] To Chairmen and Members
- (C) [ - ] To Chairmen
- (D) [ X ] No distribution

**Datasheet for the decision  
of 19 March 2024**

**Case Number:** T 0738/21 - 3.2.08

**Application Number:** 15770185.5

**Publication Number:** 3124821

**IPC:** F16F1/12, B60G11/16, F16F9/32,  
B60G11/52, B60G15/06

**Language of the proceedings:** EN

**Title of invention:**  
SUSPENSION COIL SPRING

**Patent Proprietor:**  
NHK Spring Co., Ltd.

**Opponent:**  
Verband der Deutschen Federnindustrie e.V. (VDFI)

**Headword:**

**Relevant legal provisions:**  
EPC Art. 123(2)

**Keyword:**  
Amendments - extension beyond the content of the application  
as filed (yes)



**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 0738/21 - 3.2.08**

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.08**  
**of 19 March 2024**

**Appellant:** Verband der Deutschen Federnindustrie e.V. (VDFI)  
(Opponent) Goldene Pforte 1  
58093 Hagen (DE)

**Representative:** Haverkamp Patentanwälte PartG mbB  
Gartenstraße 61  
58636 Iserlohn (DE)

**Respondent:** NHK Spring Co., Ltd.  
(Patent Proprietor) 3-10, Fukuura  
Kanazawa-ku  
Yokohama-shi, Kanagawa 236-0004 (JP)

**Representative:** AWA Sweden AB  
Junkersgatan 1  
582 35 Linköping (SE)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
30 March 2021 concerning maintenance of the  
European Patent No. 3124821 in amended form.**

**Composition of the Board:**

**Chairwoman** P. Acton  
**Members:** M. Foulger  
K. Kerber-Zubrzycka

## **Summary of Facts and Submissions**

I. With the decision posted on 30 March 2021 the opposition division decided that the patent and the invention to which it related according to the main request met the requirements of the EPC.

They found that the subject-matter of claim 1 of the main request filed on 8 January 2021 did not extend beyond the content of the application as originally filed, that the patent disclosed the invention in a manner sufficiently clear and complete for it to be carried out by the skilled person and that the subject-matter of claim 1 involved an inventive step with regard to D2 or D1 either in combination with D5 or the common general knowledge.

II. The opponent filed an appeal against this decision.

III. Oral proceedings before the Board took place on 19 March 2024.

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

V. The respondent (patent proprietor) requested that the appeal be dismissed or in the alternative that the patent be maintained on the basis of the auxiliary request 1, re-filed with the reply to the grounds of appeal and originally filed as auxiliary request 3 on 26 March 2020.

VI. Claim 1 of the main request reads:

"(1) A suspension coil spring (12)  
(1.2) which is mountable on a vehicle body (10) in such a state that it is compressed between a lower spring seat (13) and an upper spring seat (14),  
(2) the suspension coil spring (12) comprising  
(2.1) a lower end turn portion (12a) formed at a lower end of a wire (40) which is helically wound,  
(2.2) and an upper end turn portion (12b) formed at an upper end of the wire,  
(3.1) the lower end turn portion (12a) comprising a first portion (12a1)  
(3.1.1) which ranges from the lower end (40a) of the wire (40) to a point exceeding 0.5 turns  
(3.1.2) and which is always in contact with the lower spring seat (13) irrespective of magnitude of a load,  
(3.2) a second portion (12a2)  
(3.2.1) which extends from an end of the first portion (12a1) to a point that is less than one turn from the lower end portion (40a) of the wire (40)  
(3.2.2) and which contacts the spring seat (13) or is separated from the same in accordance with the magnitude of the load,  
(3.3) and a third portion (12a3) which extends upward from an end of the second portion (12a2) and  
(3.3.1) which is always separated from the spring seat (13) irrespective of the magnitude of the load;  
characterized in that  
(4) at least the second portion (12a2) of the lower end turn portion (12a) is provided with an insulating sheet (50)  
(4.1) which is made of a material having rubber elasticity  
(4.2) and is attached to a lower surface of the wire (40) by adhesive bonding

**(4.3)** the insulating sheet (50) being configured to cover the lower surface of the wire (40) of the lower end turn portion (12a)

**(4.4)** and not to cover an upper surface of the wire (40), and

**(5)** a taper portion (50c) whose thickness is reduced toward the first portion (12a1) from the second portion (12a2) is formed at an end portion of the insulating sheet (50)."

VII. Auxiliary request 1 has the following features added to claim 1 of the main request:

"the insulating sheet (50) comprises both side edges (50d, 50e) which are shaped to extend vertically so that foreign matter such as sand and dust does not accumulate."

VIII. The appellant argued essentially that the subject-matter of claim 1 of both the main request and the auxiliary request went beyond that of the application as originally filed.

IX. The respondent argued that the subject-matter of claim 1 of both the main and the auxiliary request was derivable from the application as originally filed.

## Reasons for the Decision

1. Main request - Added subject-matter

1.1 Claim 1 according to the main request differs from claim 1 of the application as originally filed by features 4.3, 4.4 and 5.

It is common ground that claim 1 relates to the fourth embodiment which is shown in Figures 10 and 11. These figures show a spring with an insulating sheet whose end is tapered. A tapered end of the insulating sheet was also the subject-matter of claim 6 as originally filed.

1.2 Even assuming in favour of the respondent that feature 5 was per se originally disclosed, claim 1 of the main request has further been modified over claim 1 as originally filed by the addition of feature 4.3, according to which the insulating sheet is configured to cover the lower surface of the wire of the lower end turn portion.

According to features 3.1, 3.2 and 3.3, the lower end turn portion is made up of first, second and third portions. Thus feature 4.3 requires that the lower surfaces of all of the first, second and third portions are covered by the insulating sheet.

This is not the case with the embodiment of Figs. 10 and 11, on which the amendment is based, as these figures show that only the second portion is covered by the insulating sheet. The description of these figures confirms this understanding on page 13, lines 6 to 8 by stating that "The insulating sheet 50 shown in FIG. 10 is provided in substantially only a second portion

12a".

- 1.3 The respondent argued that feature 4.3 needed to be read in conjunction with feature 4.4 and that the combination of these two features described the extension of the sheet in cross section and not in longitudinal direction.

The Board agrees that features 4.3 and 4.4 have to be read in conjunction but considers that feature 4.3 does not relate exclusively to the extension of the sheet in cross section but also in longitudinal direction. Therefore, the respondent's argument does not change the fact that feature 4.3 requires that all parts of the lower end turn portion are covered, i.e. the first, second and third portions and that this is not disclosed in figures 10 and 11, nor in the corresponding description on page 13. .

- 1.4 Moreover, the respondent argued that with the modifications to the description carried out during examination and opposition proceedings the meaning of the claims was clear and no new subject-matter had been introduced.

The Board considers, however, that amendments to the description cannot change the meaning of the claims with the result that their subject-matter was encompassed by the application as originally filed.

Given the above, the combination of features 4.3 and 5 was not disclosed in the application as originally filed contrary to Article 123(2) EPC.

2. Auxiliary request 1

It was not disputed that, for the same reasons, the above conclusion applies to auxiliary request 1 which is therefore also not allowable.

**Order**

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

The decision under appeal is set aside and the patent is revoked.

The Registrar:

The Chairwoman:



C. Moser

P. Acton

Decision electronically authenticated