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**Datasheet for the decision
of 15 January 2025**

Case Number: T 0177/23 - 3.2.01

Application Number: 15382307.5

Publication Number: 3103663

IPC: B60H1/00

Language of the proceedings: EN

Title of invention:

HEATING VENTILATION AND AIR CONDITIONING UNIT FOR CONDITIONING AN AIR FLOW, WITH AT LEAST ONE AIR TREATMENT DEVICE AND A HOUSING FOR SUCH AN HEATING UNIT

Patent Proprietor:

VALEO CLIMATIZACION S.A.

Opponent:

MAHLE International GmbH

Headword:

Relevant legal provisions:

EPC Art. 100(c)

Keyword:

Grounds for opposition - extension of subject-matter (yes)

Decisions cited:

Catchword:



Beschwerdekammern
Boards of Appeal
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Case Number: T 0177/23 - 3.2.01

D E C I S I O N
of Technical Board of Appeal 3.2.01
of 15 January 2025

Appellant: MAHLE International GmbH
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Decision under appeal: **Decision of the Opposition Division of the European Patent Office posted on 29 November 2022 rejecting the opposition filed against European patent No. 3103663 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's appeal is directed against the decision of the Opposition Division rejecting the opposition to European patent No. 3103663.
- II. The Opposition Division decided among others that the subject-matter of granted claim 1 did not extend beyond the content of the application as originally filed.
- III. Oral proceedings before the Board were held on 15 January 2025 as a videoconference without the appellant, who informed the Board that they could not attend for medical reasons.

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

The respondent (patent proprietor) requested that the appeal be dismissed as the main request, or, in the alternative, that the patent be maintained in amended form according to the auxiliary request 1 filed on 26 April 2021 during opposition proceedings.

- IV. Granted claim 1 reads as follows (feature numbering according to the decision under appeal):
- 1- *Heating Ventilation and Air Conditioning (HVAC) unit (1)*
 - 2- *for conditioning a flow of air,*
 - 3- *with at least one air treatment device (6) and*
 - 4- *a housing (3, 5)*
 - 5- *for receiving said at least one air treatment device*

- (6),
- 6- the housing (3, 5) having a housing wall (3)
 - 7- with a defined removable wall part (10)
 - 8- located between a first (20) and a second (30) determined score line,
 - 9- the first (20) and the second (30) determined score line providing a guide for cutting the housing wall (3)
 - 10- to allow removal of the removable wall part (10),
 - 11- wherein the at least one air treatment device (6) and the removable wall part (10) are mutually positioned
 - 12- to allow access to the at least one air treatment device (6) from the exterior of the HVAC unit (1) after removal of the removable wall part (10),
- characterized in that**
- 13- said HVAC unit (1) comprises a blower unit (2)
 - 14- surrounded by a scroll wall (3) and
 - 15- a heater core (6)
 - 16- surrounded by a wall element (5),
 - 17- said at least one treatment device being the heater core (6), and
 - 18- said removable wall part (10) being a part of the scroll wall (3).

Claim 1 of auxiliary request 1 differs from claim 1 of the main request in that feature 12 reads as follows (additional features underlined by the Board):

- 12- to allow access to the at least one air treatment device (6) from the exterior of the HVAC unit (1) **and removal of said at least one air treatment device (6)** after removal of the removable wall part (10),

Reasons for the Decision

1. *Main request - inadmissible extension*
- 1.1 The subject-matter of granted claim 1 extends beyond the content of the application as originally filed (Article 100(c) EPC).
- 1.2 It is common ground between the parties as well as of the Opposition Division in their decision that the subject-matter of granted claim 1 is based on originally filed claim 1 (corresponding to the preamble of granted claim 1) with features taken from the disclosure of the preferred embodiment presented in figures 1 to 10 together with their corresponding passages of the description (the characterizing part of granted claim 1). In particular, the scroll wall, the blower unit and the heater core.
- 1.3 Accordingly, it must be determined whether the subject-matter of claim 1 generalises the disclosure of this preferred embodiment of the invention as originally filed, i.e. whether the subject-matter of claim 1 represents an unallowable intermediate generalisation of the disclosure of that embodiment (see Case Law of the Boards of Appeal of the EPO, 10th edition, 2022, II.E.1.9).
- 1.4 The respondent argued that the subject-matter of claim 1 of the application as filed was clear on the fact that the feature of prior removal of the blower was optional in relation to the air treatment device and that the only air treatment device described in the application as filed was the heater core. It was therefore clear that the generalisation in claim 1 as

filed also applied to the heater core, which was the only air treatment device described. In fact, there was a support in the description as originally filed that generalised the invention as being the removal of a part of a scroll wall that impeded the removal of the heater core (see paragraphs [0019-0021] of the A1 publication). Furthermore, paragraph [0031] of the application as originally filed mentioned the removal of the blower unit only as an explanation of what could be seen in figures 8 and 9. The application as filed as a whole disclosed the removable part as being a part of the scroll wall and did not present this feature as being necessarily related to the access of the blower unit.

In its decision, the Opposition Division took the view that features 13 to 18 were based on paragraphs [0003], [0022], [0020-0023], [0024-0028] and [0030-0035] of the application as originally filed. In particular, it considered that feature 12 did not preclude the existence of additional conditions to the removal of the wall part to allow access to the heater core as being the air treatment device. Further, the relative arrangement between the heater core and the removable part of the scroll wall, as recited in granted claim 1, did not depend on the location of the blower unit, which may or may not be in the path of the heater core during its extraction movement. It concluded that the removal of the heater core was not related or inseparable from the location or to the removal of the blower unit.

- 1.5 However, and as pointed out by the appellant, according to the disclosure of the embodiment, the access to the heater core (the air treatment device to be serviced) is only possible after removal of the part of the

scroll wall (the removable wall part of the housing). The latter is only accessible to allow its removal by cutting operation of the first and second score lines once the blower has been removed (see paragraphs [0030] to [0033] of the A publication). Consequently, the removal of the wall part for access to the heater is in structural and functional relationship with the blower, since the blower must first be removed in order to gain access to the scroll wall for the cutting operation using the first and second score lines and the removal of the wall part for access to the heater. It should also be noted that feature 12 of claim 1 is directed to providing access to the heater core and not, contrary to the Opposition Division's reasoning, to removing the heater core.

Since claim 1 was amended to include the blower unit, the heater as the air treatment device and the scroll wall surrounding the blower unit, the respondent chose to limit the subject-matter of claim 1 to the specific embodiment disclosed in the application as originally filed. Consequently, the omission of the feature relating to the removal of the blower unit constitutes an unallowable intermediate generalisation of the disclosure of this preferred embodiment of the invention.

2. The subject-matter of claim 1 of auxiliary request 1 suffers from the same problem of unallowable intermediate generalisation since it does not either include the omitted feature relating to the removal of the blower.
3. For the above reasons, the appeal of the opponent is allowable.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairman:



M. Schalow

G. Pricolo

Decision electronically authenticated