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**Datasheet for the decision
of 27 January 2025**

Case Number: T 0932/23 - 3.2.01

Application Number: 14156777.6

Publication Number: 2772682

IPC: F21S41/153, F21S41/663,
F21S41/675, B60Q1/08

Language of the proceedings: EN

Title of invention:
Vehicle lamp and vehicle lighting system

Patent Proprietor:
Koito Manufacturing Co., Ltd.

Opponent:
Valeo Vision

Headword:

Relevant legal provisions:
EPC Art. 100(c)

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

Decisions cited:

Catchword:



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Boards of Appeal
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Case Number: T 0932/23 - 3.2.01

D E C I S I O N
of Technical Board of Appeal 3.2.01
of 27 January 2025

Appellant: Valeo Vision
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Representative: Valeo Visibility
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Respondent: Koito Manufacturing Co., Ltd.
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Representative: Gill Jennings & Every LLP
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
21 March 2023 concerning maintenance of the
European Patent No. 2772682 in amended form.**

Composition of the Board:

Chairman G. Pricolo
Members: J. J. de Acha González
A. Jimenez

Summary of Facts and Submissions

- I. The opponent's appeal is directed against the interlocutory decision of the Opposition Division, according to which the patent, as amended according to auxiliary request 1 filed during the oral proceedings, complied with the requirements of the EPC.
- 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 27 January 2025.

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

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

- IV. Claim 1 according to the sole request is a combination of granted claims 1 and 4 (feature numbering according to the appellant):
- A-** *A vehicle lamp (1R, 1L) comprising:*
 - B1-** *a high resolution pixel light optical unit (Lo(R), Lo(L)) configured to illuminate a predetermined region (PLo),*
 - B2-** *wherein the pixel light optical unit (Lo(R), Lo(L)) has a road surface drawing function; and*
 - C-** *a plurality of optical units (H(R), A(R), B(R), H(L),*

A(L), B(L)) other than the pixel light optical unit (Lo(R), Lo(L)),

- D1-** *the optical units (H(R), A(R), B(R), H(L), A(L), B(L)) configured to illuminate an upper region (PHi) on or above the predetermined region,*
- D2-** *a right region (PA(R), PB(R)) to the right of the predetermined region, and*
- D3-** *a left region (PA(L), PB(L)) to the left of the predetermined region (PLo),*
- E-** *wherein a low-beam region (PLo, PB(R), PB(L)) and a high-beam region (PHi, PA(R), PA(L)) are illuminated by combining light of the pixel light optical unit (Lo(R), Lo(L)) and light of the optical units (H(R), A(R), B(R), H(L), A(L), B(L)).*

Reasons for the Decision

1. *Inadmissible extension*
 - 1.1 The subject-matter of claim 1 extends beyond the content of the application as originally filed (Article 100(c) EPC).
 - 1.2 The respondent argued that the subject-matter of claim 1 was based on claim 1 and paragraphs [0004] and [0005] of the application as originally filed (reference is made to the A2 publication of the application). In this respect, the wording of claim 1 as originally filed "an upper region, a right region, and a left region of the predetermined region" could only be interpreted in the light of the disclosure of the application as originally filed as meaning an upper region on or above

the predetermined region, a right region on or to the right of the predetermined region, and a left region on or to the left of the predetermined region. This interpretation was directly and unambiguously derived as a consequence of the subject-matter of claim 2 together with paragraphs [0005] and [0006] of the application as originally filed. In particular, the skilled person inferred from sentences 3 to 5 of paragraph [0006] that the "upper region of the low-beam region" was equivalent to the "region on or above the predetermined region", the low-beam region being the predetermined region.

In addition, paragraph [0005] appeared to be unfinished in the passage "...if the pixel light unit were to illuminate it, and light of the pixel light optical unit and...", implying an erroneous deletion of some words, as it came to an abrupt end. This deletion was clearly found in paragraph [0021] of the description application as originally filed.

1.3 The subject-matter of claim 1 includes a plurality of optical units configured to illuminate:

- an upper region on **or above** the predetermined region;
- a right region **to the right** of the predetermined region; and
- a left region **to the left** of the predetermined region.

In contrast, according to claim 1 and paragraphs [0004] and [0005] of the application as originally filed, the optical unit(s) is(are) configured to illuminate:

- an upper region **of** the predetermined region;
- a right region **of** the predetermined region; and
- a left region **of** the predetermined region.

The predetermined region is defined as the region illuminated by the pixel light optical unit.

Claim 1 thus defines, for the upper, right and left regions of the optical units, separate regions which may be located outside and specifically adjacent to the upper, right and left of the predetermined region.

These regions are distinct areas.

In contrast, claim 1 as originally filed describes the three regions of the optical unit as part of the predetermined region itself.

Consequently, the basis for the subject-matter of claim 1 cannot be paragraphs [0004] to [0006] of the application as originally filed, but rather the description of the preferred embodiment in figures 1 to 3. That the optical units illuminate outside the predetermined region of the pixel light optical unit in a vertical direction, to the right and to the left, can only be found in the disclosure of the preferred embodiment (an illumination of a region on or above the predetermined region by the optical unit alone can be found in paragraph [0004] point (3) of the application as originally filed). In this embodiment a specific combination of right and left lamps is disclosed, which is not reflected in claim 1 directed to a single lamp.

The respondent's interpretation of the wording of claim 1 of the application as originally filed is not supported by the application as originally filed.

According to paragraph [0005] of the application as originally filed, the pixel light optical unit illuminates the predetermined region, and regions that would be deficient in light from the pixel unit are compensated by light from the optical units. Further in the description, paragraph [0006] specifies that a

region on or above the predetermined region is illuminated by a high-beam optical unit, and clarifies that the pixel optical unit mainly illuminates the low-beam region which does not require a high intensity of light, and that the upper, right, and left sides of the low-beam region are illuminated by other optical units. As a result, although the pixel light optical unit mainly illuminates the low-beam region, it also illuminates other regions belonging to the predetermined area of the pixel light optical unit. This means that light from other optical units is used in those areas bordering and beyond the low-beam region that are part of the predetermined area. Accordingly, an illumination region to the right and left of the predetermined region does not derive directly and unambiguously either explicitly or implicitly from these general passages of the description, with illumination above the predetermined region (i.e. beyond the predetermined area) being the only one directly and unambiguously disclosed therein.

Accordingly, as argued by the appellant, the subject-matter of granted claim 1 constitutes an unallowable intermediate generalisation of the disclosure of a preferred embodiment of the invention (see Case Law of the Boards of Appeal of the EPO, 10th edition, 2022, II.E.1.9).

2. It follows from the above that 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