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**Datasheet for the decision
of 11 February 2025**

Case Number: T 1270/23 - 3.2.07

Application Number: 14815889.2

Publication Number: 3221054

IPC: B02C17/16

Language of the proceedings: EN

Title of invention:

VERTICAL GRINDING MILL WITH AN AGITATOR MEANS

Patent Proprietor:

Metso Minerals Industries, Inc.

Opponent:

Maschinenfabrik Gustav Eirich GmbH & Co KG

Headword:

Relevant legal provisions:

EPC Art. 56

Keyword:

Main request - no objections - inventive (yes) - allowable
(yes)

Decisions cited:

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
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Case Number: T 1270/23 - 3.2.07

D E C I S I O N
of Technical Board of Appeal 3.2.07
of 11 February 2025

Appellant: Metso Minerals Industries, Inc.
(Patent Proprietor) 20965 Crossroads Circle
Waukesha, WI 53186 (US)

Representative: AWA Sweden AB
Box 5117
200 71 Malmö (SE)

Respondent: Maschinenfabrik Gustav Eirich GmbH & Co KG
(Opponent) Walldürner Strasse 50
D-74736 Hardheim (DE)

Representative: WSL Patentanwälte Partnerschaft mbB
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65185 Wiesbaden (DE)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
12 May 2023 concerning maintenance of the
European Patent No. 3221054 in amended form.**

Composition of the Board:

Chairman G. Patton
Members: A. Cano Palmero
E. Mille

Summary of Facts and Submissions

- I. The patent proprietor and the opponent lodged appeals within the prescribed period and in the prescribed form against the decision of the opposition division to maintain European patent No. 3 221 054 in amended form on the basis of the then auxiliary request 2.
- II. The opposition was filed against the patent in its entirety and was based on Article 100(a) EPC (lack of inventive step) and Article 100(b) EPC (insufficiency of disclosure).
- III. In preparation for oral proceedings requested by the parties, the board communicated its preliminary assessment of the case in a communication pursuant to Article 15(1) RPBA. In response to this communication, the opponent filed arguments in the substance with letter dated 5 December 2024.
- IV. Oral proceedings before the board took place on 11 February 2025. In the course of the oral proceedings the opponent withdrew its appeal and so became the respondent.
- V. At the conclusion of the oral proceedings the decision was announced. Further details of the proceedings can be found in the minutes thereof.
- VI. The final requests of the patent proprietor (appellant) are as follows:

that the decision under appeal be set aside and that the patent be maintained in amended form on the basis of the set of claims according to the

main request, filed as auxiliary request 2 with the patent proprietor's statement setting out the grounds of appeal (letter dated 12 September 2023).

As a result of the opponent's withdrawal of its appeal the patent proprietor's remaining auxiliary requests are irrelevant to the decision since they concern the claims of the patent as upheld by the opposition division or more limited claims thereof (prohibition of the *reformatio in peius*).

VII. The final position of the opponent (respondent) was that it had no objections against the main request.

VIII. The lines of argument of the parties relevant for the present decision are dealt with in detail in the reasons for the decision.

IX. **Claim 1** of the main request (*i.e.* according to auxiliary request 2 filed with the patent proprietor's statement setting out the grounds of appeal) reads as follows:

"A vertical grinding mill (1) comprising an agitator means (12), comprising a screw flight system (121) having a shaft (123a, 123b) and at least one screw flight (124a, 124b), characterised in that said screw flight system (121) is provided in at least two segments (121a, 121b), wherein each segment comprises at least one screw flight section (124a1, 124a2, 124b1, 124b2) integral to a shaft section (123a, 123b), wherein said at least two segments (121a, 121b) are arranged for assembling to one another to form said screw flight system (121), and wherein said each shaft section (123a, 123b) has at least one assembling flange (125a, 125b) for assembling to another adjacent shaft

section (123a, 123b) to form said screw flight system (121), wherein said each segment (121a, 121b) comprising at least one screw flight section (124a1, 124a2, 124b1, 124b2) integral to a shaft section (123a, 123b) is casted, molded and/or forged as one integral segment (121a, 121b)."

Reasons for the Decision

1. *Main request (filed as auxiliary request 2 with the patent proprietor's statement setting out the grounds of appeal) - Inventive step, Article 56 EPC*
- 1.1 At the oral proceedings before the board it was found to be common ground among the parties and the board that the term "**integral**", such as "at least one screw flight section integral to a shaft section" in claim 1 of the main request was to be understood in the light of paragraph [0024] of the patent in suit, namely that the at least one screw flight section is manufactured in one piece together with the shaft section, by casting, molding, and/or forging the shaft section and the at least one screw flight section into one piece of material.
- 1.2 In view of this uncontested interpretation, the respondent confirmed that it had no objections against the main request.
- 1.3 The board, in view of the parties' submissions and after considering all relevant circumstances surrounding the case, shares the parties' views and considers that the subject-matter of claim 1 of the main request is inventive contrary to the conclusion of the decision under appeal, point II.9, taking into consideration that the above interpretation of the term

"integral" is not dealt with in the decision under appeal. No other objections that could prejudice the maintenance of the patent according to the main request are apparent to the board. The decision under appeal is thus to be set aside and the patent is to be maintained on the basis of the main request.

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 with the order to maintain the patent as amended in the following version:

Claims:

nos. 1 to 7 of the main request filed as auxiliary request 2 with letter dated 12 September 2023;

Description:

paragraphs 1 to 12,
14 to 23,
25 to 32 and
34 to 44 of the patent specification,
paragraphs 13, 24 and
33 filed during the oral proceedings before the board on 11 February 2025

Drawings:

figures 1 to 6 of the patent specification.

The Registrar:

The Chairman:



G. Nachtigall

G. Patton

Decision electronically authenticated