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

Case Number: T 1444 / 23 - 3.2.07

Application Number: 18710838.6

Publication Number: 3592514

IPC: B26B21/52

Language of the proceedings: EN

Title of invention:

SHAVER HANDLE, SHAVER INCLUDING SUCH A HANDLE AND METHOD OF
MANUFACTURING THE SAME

Patent Proprietor:

BIC Violex Single Member S.A.

Opponent:

Edgewell Personal Care Brands, LLC

Headword:

Relevant legal provisions:

EPC Art. 54, 56

Keyword:

Novelty - (yes) - implicit disclosure (no)
Inventive step - (yes) - could-would approach

Decisions cited:

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 1444/23 - 3.2.07

D E C I S I O N
of Technical Board of Appeal 3.2.07
of 27 February 2025

Appellant: BIC Violex Single Member S.A.
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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted on
26 May 2023 concerning maintenance of the
European Patent No. 3592514 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 (both appellants) lodged appeals within the prescribed period and in the prescribed form against the decision of the opposition division to maintain European patent No.

3 592 514 in amended form on the basis of the then auxiliary request 3.

For the sake of simplicity the parties will continue to be addressed as patent proprietor and opponent in the present communication.

II. The opposition was filed against the patent in its entirety and was based on Article 100(a) EPC (lack of novelty and inventive step).

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 reply to this communication, both parties submitted arguments in the substance, namely the opponent with letter dated 16 December 2024 and the patent proprietor with letter dated 28 January 2025.

IV. Oral proceedings before the board took place on 27 February 2025. During the oral proceedings the patent proprietor submitted amended description paragraphs in accordance with the main request. At the conclusion of the oral proceedings the decision was announced. Further details of the oral proceedings can be found in the minutes thereof.

V. The final requests of the parties are as follows:

for the patent proprietor

that the decision under appeal be set aside, and that the patent be maintained according to auxiliary request 1 filed with the patent proprietor's statement setting out the grounds of appeal (main request),

or, in the alternative,

that the patent be maintained according to any of auxiliary requests 2 to 22 filed during opposition proceedings, whereby auxiliary request 3 corresponds to the patent in the version held by the opposition division to meet the requirements of the EPC;

for the opponent

that the decision under appeal be set aside, and that the patent be revoked.

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

VII. **Claim 1** of the **main request** with the feature labelling used by the parties reads as follows:

"A handle (2) for a wet shaver, having:

- a) - a handle body (7) adapted to be held by a user; and
- b) - a head supporting portion (8) adapted to support a shaver head (3) having at least one blade (5),

- c1) wherein the handle body (7) has a cell structure (15, 16) formed by juxtaposed hollow cells (16) at least partly separated by solid walls (15),
- c2) said juxtaposed hollow cells (16) being oriented in more than one direction, characterized in that,
- d) said handle body (7) has an outside surface defining a shape of said handle body and
- e) said cell structure (15, 16) includes a grid shell structure forming a skin which continuously extends according to said outside surface and surrounds an inner volume (14),
- f) the grid shell structure forming said hollow cells (16) which are open toward the inner volume (14) and at the outside surface, and
- g) said solid walls (15) separating said hollow cells (16) parallel to said outside surface,
- h) wherein said juxtaposed hollow cells (16) have more than one shape and form".

VIII. **Claim 10** of the main request reads as follows:

"A method for reducing the amount of raw material used in manufacturing a handle (2) for a wet shaver by using a space partitioning algorithm, wherein said handle comprises:

- a handle body (7) adapted to be held by a user; and
- a head supporting portion (8) adapted to support a shaver head (3) having at least one blade (5), wherein the handle body (7) has a cell structure (15, 16) formed by juxtaposed hollow cells (16) at least partly separated by solid walls (15), said juxtaposed hollow cells (16) being oriented in more than one direction, characterized in that, said handle body (7) has an outside surface defining a shape of said handle body and said cell structure (15,

16) includes a grid shell structure forming a skin which continuously extends according to said outside surface and surrounds an inner volume (14), the grid shell structure forming said hollow cells (16) which are open toward the inner volume (14) and at the outside surface, and said solid walls (15) separating said hollow cells (16) parallel to said outside surface, and
wherein said juxtaposed hollow cells (16) have more than one shape and form."

IX. Since the wording of the claims of auxiliary requests 2 to 22 is not relevant for the present decision, there is no need to reproduce it here.

Reasons for the Decision

1. *Main request - Novelty in view of D6 and D7, Article 54 EPC*

1.1 The opponent argued that document D6 (**US 2012/0023762 A1**) anticipated the subject-matter of claim 1 of the main request, *i.e.* including feature e) that the cell structure includes a grid shell structure forming a skin which continuously extends according to an outside surface and surrounds an inner volume. In particular, the opponent indicated that there were walls surrounding the volume 11, see Figure 4A.

1.1.1 The board disagrees. As correctly found by the opposition division in point 5.3 of the reasons for the decision under appeal and as indicated by the patent proprietor, the structure of D6 does not form a skin **surrounding** an **inner volume**. Contrary to the opponent's allegation and as correctly indicated by the patent proprietor, the space 11 cannot be regarded as an inner

volume, since it is described in at least figures 4A and 4B and its corresponding passages of the description as an open space. The board thus concludes that the subject-matter of claim 1 of the main request is novel in view of D6.

1.2 With regard to document D7 (**US 950,113**), the opposition division found on page 7, second paragraph of the decision under appeal that "*a tubular form is generally understood to be open at the ends; in D7 the drawings are very detailed and nevertheless nothing can be derived either in construction or function that would teach otherwise*". Under this understanding, the opposition division concluded that the feature of claim 1 of the then auxiliary request 1, that the hollow cells have more than one shape and form was also anticipated by D7, since the inherent lower opening of D7 had the shape of a flat circle of larger diameter compared to the bent circles *b* (see reasons for the decision under appeal, page 8, first paragraph). The opponent concurred that it was the common understanding of the skilled person that a tubular body intrinsically comprises open ends, so that the lower end of the tubular handle of D7 presented an opening of different shape than the openings of the circumferential wall of the tubular handle. In addition, the opponent argued that it was clear from the cross-section of figure 4 of D7 that the handle *B* presented an upper opening resulting from the bent ears *b*¹ and *b*². Such an upper opening was close to a bent ellipse anticipating a further different form and shape than the side perforations or the bottom opening. In particular, as specified on page 1 of D7, lines 48 to 64, member *A* represented the supporting portion according to claim 1, while ears *b*¹ and *b*² belonged to the handle body *B*.

- 1.2.1 The board concurs neither with the finding of the opposition division nor with the arguments of the opponent for the following reasons. As correctly argued by the patent proprietor, there is no direct and unambiguous disclosure of any other opening apart from the perforations *b* in D7.
- 1.2.2 With regard to the alleged upper opening, the board notes, in line with the opposition division's reasoning, that the opening would be formed as part of a head supporting portion for the cartridge, even if this opening was considered as being directly and unambiguously derivable from the cross-section of figure 4A of D7. As a matter of fact, this part of the handle B of D7 is explicitly disclosed to secure the member A by means of ears *b*¹ and *b*², see page 1, lines 56 to 60, *i.e.* to be a head supporting portion. However, the subject-matter of claim 1 of the main request makes a clear distinction between a handle body comprising the cell structure with hollow cells and a head supporting portion. Therefore, even in the case that the alleged upper opening was disclosed by D7 it could not be understood as being part of the handle body as required by the claim.
- 1.2.3 Turning to the alleged lower opening, it seems to be uncontested that there is no explicit disclosure in D7 for such an opening. In the absence of an explicit disclosure of such an opening, it needs to be assessed whether this feature can be considered as implicitly disclosed, in other words, if it is immediately apparent to the skilled person that **nothing other** than the alleged implicit lower opening is given in the "tubular handle" *B* of D7. This is however not the case here. Contrary to the opposition division's finding, the board concurs with the patent proprietor that a

tubular form does not necessarily require that both ends are open. There is also no indication in D7 about the manufacturing process of the tubular handle *B* that could lead to the conclusion that the lower end is inevitably opened. The conclusion of the opposition division that a tube is generally open at the ends and that the description and the drawings do not contradict this possibility, cannot be equated with an implicit disclosure, *i.e.* that it is inevitable, since other possibilities cannot be excluded.

- 1.2.4 In sum, since D7 fails to explicitly or implicitly disclose more than one shape and form for the hollow cells, the subject-matter of claim 1 of the main request is considered new in view of D7.
- 1.3 The parties confirmed that the same arguments and conclusions above apply to the subject-matter of method claim 10 of the main request, which is therefore considered new in view of D6 or D7.

2. *Main request - Inventive step, Article 56 EPC*

- 2.1 The opponent argued that the subject-matter of claim 1 of the main request lacked an inventive step in view of D7 in combination with common general knowledge.
- 2.2 In a first line of attack, the opponent argued that if the handle of the razor of D7 was regarded as closed at its bottom, the skilled person would provide an opening at the bottom for practical reasons. Indeed, when water entered the interior of the handle, there was a need for rinsing through this water. Therefore the provision of an open-ended cylindrical handle would be obvious for the skilled person in view of the problem of rinsing through water, thereby arriving at the subject-

matter of claim 1 of the main request in an obvious manner.

2.2.1 The board disagrees. As correctly indicated by the patent proprietor, the skilled person would not be motivated to provide a further opening at the bottom of the handle since the water would already rinse through the numerous, already existing, openings *b*, so that there is no need to provide an additional opening at the bottom, let alone an opening with different shape and form from the openings *b*.

2.3 In a second line of attack, the opponent argued that D7 was directed to the same purpose as posed in paragraph [0004] of the patent in suit, namely to improve shaver handles with regard to material consumption and economy. Indeed, D7 stated on lines 13 to 16 of page 1 that its object was "to provide a safety razor which shall be simple in construction, inexpensive in manufacture, and at the same time be strong and durable".

2.3.1 The opponent further argued that no technical effect could be derived from the distinguishing feature that the openings were different in form and in shape. In particular, there was no proof that the alleged enhanced mechanical properties as put forward in paragraph [0006] of the patent in suit could be achieved over the whole breadth of the claim. According to the opponent, in some situations covered by the claim, the mechanical properties could even be compromised. Therefore, in the absence of a proven technical effect, the problem to be solved could be therefore seen as merely providing an alternative pattern for the openings. Starting from D7, the skilled person would thus consider as an obvious alternative to

provide the handle with openings with different shapes and forms, thereby arriving at the subject-matter of claim 1 in an obvious manner.

2.3.2 The board disagrees for the following reasons. As correctly pointed out by the patent proprietor, even if the objective technical problem were to be seen as providing an alternative handle for a wet shaver, the skilled person would not be prompted to provide different opening shapes or different opening forms. Especially in view of the object of D7 of providing razor blades which are inexpensive to manufacture, the skilled person would be taught away from introducing a variety of shapes and forms for the apertures at the handle portion. This would involve additional tools and operations, thereby increasing the complexity and costs of manufacture, contrary to the purpose of D7. It follows that starting from D7 as closest prior art, the skilled person would not consider the distinguishing feature of claim 1 of the main request in order to provide an alternative.

2.4 For these reasons above, the board concludes that the subject-matter of claim 1 of the main request is inventive.

2.5 The parties confirmed that the same arguments and conclusions above apply to the subject-matter of method claim 10 of the main request, which is therefore considered inventive starting from document D7 as closest prior art.

3. *Conclusions*

In view of the above considerations, the board is of the view that the subject-matter of claims 1 and 10 is

novel in view of D6 and D7 and inventive in view of D7 with common general knowledge. No other objections that could prejudice the maintenance of the patent according to the main request were raised by the opponent, nor 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 11 of the main request filed as auxiliary request 1 with letter dated 3 March 2023;

Description:

paragraphs 1 to 4, 6,
8 to 22 and
24 to 58 of the patent specification,

paragraphs 5, 7 and 23 filed as "version 2" during the oral proceedings before the board on 27 February 2025

Drawings:

figures 1 to 12 of the patent specification.

The Registrar:

The Chairman:



G. Nightigall

G. Patton

Decision electronically authenticated