

Internal distribution code:

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

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

Case Number: T 2035/23 - 3.4.01

Application Number: 18213507.9

Publication Number: 3672361

IPC: H05B6/10

Language of the proceedings: EN

Title of invention:

HEATING DEVICE

Patent Proprietor:

Aptiv Technologies Limited

Opponent:

Valeo Systèmes d'Essuyage

Headword:

Heating Device / Aptiv Technologies

Relevant legal provisions:

EPC Art. 83, 123(2)

Keyword:

Amendments - added subject-matter (no)
Sufficiency of disclosure
Added subject-matter versus sufficiency of disclosure



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

Case Number: T 2035/23 - 3.4.01

D E C I S I O N
of Technical Board of Appeal 3.4.01
of 11 April 2025

Appellant: Aptiv Technologies Limited
(Patent Proprietor) The Financial Services Centre
Bishop's Court Hill
St. Michael (BB)

Representative: Manitz Finsterwald
Patent- und Rechtsanwaltspartnerschaft mbB
Postfach 31 02 20
80102 München (DE)

Respondent: Valeo Systèmes d'Essuyage
(Opponent) 8 Rue Louis Lormand
CS 90581 La Verrière
78322 Le Mesnil-Saint-Denis (FR)

Representative: Valeo Visibility
Service Propriété Industrielle
c/o Valeo Vision
34, rue Saint André
93012 Bobigny (FR)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
9 October 2023 concerning maintenance of the
European Patent No. 3672361 in amended form.**

Composition of the Board:

Chair P. Scriven
Members: P. Fontenay
R. Winkelhofer

Summary of Facts and Submissions

- I. The opponent appealed the decision of the Opposition Division that the patent could be maintained in an amended form.

- II. The opposition relied on grounds under Article 100(a) EPC (lack of novelty and lack of an inventive step) and Article 100(c) EPC (extension of subject-matter).

- III. The Opposition Division held that the patent extended beyond the content of the application as filed, because the latter failed to provide a direct and unambiguous basis for the second branch of the claim, that is for the combination of a cover-glass with a heating device. They held that the application was strictly limited to embodiments, in which the heating device was associated with a windshield. The few passages of the description that referred to a cover-glass with a heating device were seen as relating to background information, or as being insufficient to establish a clear relationship between the cover-glass and the heating device. In the absence of such a clear relationship, they held that the statement in the application regarding the suitability of the heating device for a cover-glass was not a sufficient basis for a claim directed to this combination. They did not share the proprietor's view that the terms *cover-glass* and *windshield* were used as synonyms in the application.

- IV. Although the subject-matter of claim 1 of auxiliary request 1 was limited to the combination of a windshield with a heating device, and thus no longer contained the disputed combination of a cover-glass with a heating device, this request was also not allowed, because the Opposition Division held that the adapted description in paragraph [0006] was inconsistent with the claims and thus gave rise to an issue under Article 84 EPC.
- V. Auxiliary request 2, which was amended, with regard to auxiliary request 1, by deletion of the disputed expression in paragraph [0006] of the description, was found to be allowable. In particular, the Opposition Division held, in view of the limitation of the claim to a windshield combined with a heating device, that the claimed subject-matter was new and involved an inventive step.
- VI. In their appeal, the proprietor reiterated the argument that the terms *windshield* and *cover-glass* were interchangeable and should be treated as synonyms. According to a second line of argument, windshields and cover-glasses were made of similar materials and had similar structures. Because of these similarities, the skilled person would have had no difficulty in applying the teachings of the patent, focusing on an embodiment associating a windshield and a heating element, to embodiments associating a cover-glass and a heating element. This applied, in particular, to the aspect regarding the necessary contact between the heating element and the cover-glass: an aspect that was missing from the description, as had been stressed by the Examining Division.

- VII. In its response to the proprietor's grounds, the opponent underlined that a direct and unambiguous basis for the combination of a heating device with a cover-glass was missing from the application as filed. In particular, the application only ever referred to a "viewing window" in conjunction with a windshield, but never with a cover-glass.
- VIII. The proprietor requests that the decision of the Opposition Division be set aside and amended such that the opposition be rejected, or, in the alternative, that the patent be maintained in an amended form on the basis of auxiliary request 1.
- IX. The proprietor's main request and auxiliary request 1 are identical to the correspondingly denoted requests underlying the impugned decision.
- X. The opponent (respondent) requests that the appeal be dismissed.
- XI. The proprietor further requests oral proceedings, if neither of their main and auxiliary requests is allowed.
- XII. The opponent has not requested oral proceedings.
- XIII. Claims 1 and 15 of the main request read:

1. A windshield (20) or a cover-glass with a heating device (10), the heating device (10) comprising:

a housing (12) retaining a camera lens (14);

a primary induction coil (22) positioned proximate the housing (12) and configured to generate a magnetic field (24) in response to receiving electrical power (26) from a power supply (28); a controller circuit (34) in electrical contact with the primary induction coil (22) configured to control the electrical power (26) delivered to the primary induction coil (22); and

a secondary induction coil (36) overlaying the primary induction coil (22) configured to receive the magnetic field (24) from the primary induction coil (22) and generate heat (38);

characterized in that

the secondary induction coil (36) is in direct contact with the windshield (20) or the cover-glass and defines a viewing window (40) through which the camera lens (14) views a surrounding area;

whereby the secondary induction coil (36) heats the viewing window (40) when the primary induction coil (22) receives the electrical power (26).

15. Use of a heating device (10), the heating device (10) comprising:

a housing (12) retaining a camera lens (14);

a primary induction coil (22) positioned

proximate the housing (12) and configured to generate a magnetic field (24) in response to receiving electrical power (26) from a power supply (28); a controller circuit (34) in electrical contact with the primary induction coil (22) configured to control the electrical power (26) delivered to the primary induction coil (22); and a secondary induction coil (36) overlaying the primary induction coil (22) configured to receive the magnetic field (24) from the primary induction coil (22) and generate heat (38); wherein the secondary induction coil (36) is in direct contact with a windshield (20) of a vehicle or a coverglass and defines a viewing window (40) through which the camera lens (14) views a surrounding area; whereby the secondary induction coil (36) heats the viewing window (40) when the primary induction coil (22) receives the electrical power (26).

Reasons for the Decision

Main request

Added subject-matter

1. Although the *windshield* and *cover-glass* apparently fulfil similar functions in the context of the

invention, in view of the need to protect the viewing window of a camera lens, there is no reason to equate them and consider the two concepts as synonymous. The application associates windshield with a vehicle. Cover-glass, as commonly understood, applies to items intended to cover an object or space, and, in the absence of any more specific indication, means a cover for a camera lens that is in the optical path between the lens and the camera's scene.

2. The argument relied upon by the proprietor, that the two terms are synonyms and interchangeable can thus not be shared.
3. However, the application, as a whole, contains a direct and unambiguous basis for the claimed combination of a cover-glass with a heating device, as defined in granted claim 1. This will be outlined in the following.
4. The first sentence following the heading "Description of the embodiments" on page 3, lines 5-7, of the original disclosure states:

Hereinafter, a heating device 10 for a windshield 20 and/or a cover-glass according to an embodiment of the present disclosure will be described with reference to the figures.

5. While the use, here, of the combined conjunction "and/or" may cause some doubt as to how the heating device relates to both the windshield and the cover glass at the same time, the statement is nevertheless unambiguous regarding the combination of a cover-glass and a heating device, deriving from the "or" branch.

6. From the indication on page 3, lines 5-7 of the original disclosure, it is clear that the cover glass and the windshield perform similar functions, in the context of the invention, when combined with a heating device. Both provide protection for the camera lens while allowing light to reach it. This applies both to the arrangement of a windshield and a heating device on the one hand or a cover glass and a heating device on the other hand, as can be derived from the reference in the cited passage to *an embodiment of the present disclosure*. A *viewing window*, as defined in combination with a windshield by the secondary induction coil of the heating device, is thus also implicitly present in the alternative combination of a cover glass and a heating device.

7. The Opposition Division based their findings on the observation that the originally filed description was completely silent about the relationship of the heating device with any cover-glass. More specifically, they held, the originally filed application did not disclose, directly and unambiguously, the feature of the secondary induction coil being in direct contact with the cover-glass.

8. The arguments put forward by the opponent in this context, and found persuasive by the Opposition Division, relate to the question of sufficiency of disclosure. The proprietor, to a degree, followed this line of argumentation, focusing on issues of sufficiency, and contesting the arguments in their substance. There were, in their view, similarities between windshields and cover-glasses in terms of materials and structures. This implied that the skilled person would have had no difficulty in applying the

teaching of the patent to embodiments directed to a cover-glass with a heating device.

9. In the Board's judgment, however, the lack of detail regarding the relationship between the cover-glass and the heating device, as relied upon by the Opposition Division, does not mean that the claimed combination has no basis in the application as filed. Any lack of detail regarding this aspect of the invention might be relevant for the question of sufficiency of disclosure, but is without bearing on the question of whether the original disclosure contains a direct and unambiguous basis for the recited combination. Articles 83 EPC on the one hand, and 100(c) and 123(2) EPC on the other, define distinct conditions and are to be treated separately.
10. The first sentence on page 3, lines 5-7 of the original disclosure, as reproduced above, is a sufficient basis for a claim directed to a cover-glass with a heating device.
11. In conclusion, the question raised by the opponent as to the (missing or not) relationship between cover-glass and heating element, is not relevant under Article 100(c) or 123(2) EPC. It might be an issue regarding sufficiency of disclosure, but that is a ground that was not raised by the opponent or the Opposition Division.
12. The ground for opposition under Article 100(c) EPC, thus, does not prejudice the maintenance of the patent.

Novelty - Inventive step

13. The aspects of the decision regarding novelty and inventive step were not challenged by the opponent. Their arguments focused exclusively on the proprietor's assertions that the Opposition Division had erroneously decided that the combination of a cover glass with a heating element was not originally disclosed and thus defined added subject-matter.
14. The Opposition Division's decision on inventive step, which they set out in respect of auxiliary request 2, applies equally to the main request.

Conclusion

15. The proprietor has successfully argued that the Opposition Division erred on the question of added matter. No other aspect of the Opposition Division's decision is challenge on appeal.
16. With the main request being allowable, the impugned decision is to be amended such that the opposition be rejected.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The opposition is rejected.

The Registrar:

The Chair:



D. Meyfarth

P. Scriven

Decision electronically authenticated