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**Datasheet for the decision
of 28 November 2025**

Case Number: T 0501/24 - 3.2.01

Application Number: 15744658.4

Publication Number: 3177561

IPC: B66F11/04, B62D55/00,
B62D21/00, B66F17/00

Language of the proceedings: EN

Title of invention:

A LEVELLING GROUP FOR AERIAL WORK PLATFORMS

Patent Proprietor:

Almac S.p.A.

Opponent:

Teupen Maschinenbau GmbH

Headword:

Relevant legal provisions:

EPC Art. 54, 56, 84

Keyword:

Inventive step - main request (no) - auxiliary request (yes)

Novelty - auxiliary request (yes)

Claims - clarity after amendment (not open to examination)

Decisions cited:

G 0003/14

Catchword:



Beschwerdekammern
Boards of Appeal
Chambres de recours

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Case Number: T 0501/24 - 3.2.01

D E C I S I O N
of Technical Board of Appeal 3.2.01
of 28 November 2025

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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 8 February 2024
rejecting the opposition filed against European
patent No. 3177561 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chair S. Mangin
Members: J. J. de Acha González
A. Jimenez

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. 3177561.
- II. The following documents are relevant for the present decision:
- D1:** KR 10 2012 0104864 A;
 - D1T:** English translation of D1;
 - D2:** GB 1 130 475 A;
 - D8:** EP 0 678 443 B1; and
 - D8.1:** EP 0 678 443 A1.
- III. The Opposition Division decided among others that the subject-matter of granted claim 1 was new over D2 and D8/D8.1 and involved an inventive step in view of the following combinations of prior art:
- D8.1 in combination with D1, and
 - D1 in combination with D8.1 or D2.
- IV. Oral proceedings before the Board were held on 28 November 2025.

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

The respondent (patent proprietor) requested that the appeal of the opponent be dismissed (main request), or, in the alternative, that the patent be maintained in amended form on the basis of any of the auxiliary requests 1 to 4 filed with the reply to the statement of grounds of appeal of the opponent.

V. Granted claim 1 reads as follows (feature numbering according to the decision under appeal):

- 1.1 *An aerial work platform (1)*
- 1.2 *which comprises a containing cage (10) and a support and levelling group (20), wherein the support and levelling group (20) comprises:*
- 1.3 *- a support base (22) for supporting the containing cage (10) of the aerial work platform (1), wherein the containing cage (10) is superiorly associated to the support base (22);*
 - a support frame (23) hinged to the support base (22) so as to be able to oscillate with respect to an oscillation axis (Y),*
- 1.4 *-at least a pair of ground rest elements (21) each of which is defined by a group of motorised tracks (210) that are independent of one another,*

*the aerial work platform being **characterized in that***
- 1.5 *each group of motorised tracks (210) is hinged independently to the support frame (23), with respect to respective articulation axes (X) parallel to one another and substantially perpendicular to the oscillation axis (Y), such as to be able to independently vary a height thereof with respect to the support base (22),*
- 1.6 *where each group of motorised tracks (210) is hinged to the support frame (23) by means of at least an hinged parallelogram (211) and*
- 1.7 *defines a longitudinal ground rest surface having a longitudinal axis parallel to the respective articulation axis (X).*

Claim 1 of auxiliary request 1 differs from claim 1 of the main request in that it further includes the following feature:

- 1.8** *and wherein the oscillation axis (Y) is substantially a median axis of the support base (22).*

Reasons for the Decision

Main request

1. *Inventive step*

1.1 The subject matter of claim 1 does not involve an inventive step in view of the combination of D1 with the teachings of D8.1.

1.2 It is undisputed that the subject matter of claim 1 differs from the aerial work platform (AWP) of D1 on account of feature 1.6, i.e. the hinged parallelogram connection between support frame and support base.

1.3 The respondent argued that feature 1.4 implied that the ground rest elements consisted of a group of motorized tracks only without any stabilisers.

However, feature 1.4 does not rule out the possibility that the ground rest elements also include additional stabilizers.

1.4 The respondent formulated the objective technical problem as finding an alternative linkage mechanism for the AWP that would allow the ground rest elements to be

adjusted vertically while keeping them parallel to the support frame (see letter of 26 September 2025, point 6).

The appellant did not contest this. The Board considers the formulation of the problem to be adequate.

1.5 As the appellant argued, when searching for a solution to the posed problem, the skilled person would come across the teachings of D8.1, which explicitly address the issue of the connecting the tracks to the AWP chassis using a hinged parallelogram. Specifically, D8.1 teaches that the tracks are connected to the chassis 4, which supports the base of the superstructure, via a hinged parallelogram. Therefore, D8.1 discloses an alternative linkage mechanism that solves the formulated objective technical problem.

1.6 As the respondent argued, the actuator for the parallelogram in the preferred embodiment depicted in figures 1 to 3 of D8.1 is indeed connected to the superstructure (i.e. the support base) of the AWP. The respondent concluded from this that the teachings of D8.1 were incompatible with the AWP of D1. They further argued that D8.1 was not solely concerned with the use of hinged parallelograms, but rather aimed to solve a specific problem: providing a favourable force ratio in the linkage, whereby the vertical force from the actuator exceeded the horizontal force. Reference was made to paragraphs [0005] and [0006] of D8, the granted patent resulting from the D8.1 patent application.

1.7 Nevertheless, this is unpersuasive. In the preferred embodiment of D8.1, the superstructure (5), specifically its base, is fixed to the chassis (4). Therefore, the chassis (4) and the base of the

superstructure (5) represent the same reference point for connecting the actuator.

In contrast, in D1, the upper frame 21, which corresponds to the support base of the superstructure including the cage and its lifting mechanism, is hinged rather than fixed to the lower support frame 22.

However, the introductory part of D8.1 clearly states that the actuator is positioned between the chassis and the tracks (see column 1, lines 28 to 49), rather than between the superstructure and the tracks. Therefore, in order to maintain the pivotal movement of D1, and since the upper frame 21 corresponds to the support base rather than the chassis in D8.1, the skilled person would connect the actuators to the lower frame 22 of D1 rather than to the upper frame 21, the actuators 18 alike. It should be noted in this respect that D8.1 differs from D8 in its teachings. The teaching of D8 is more specific than that of D8.1. In particular, D8 starts from prior art comprising a hinged parallelogram connecting the track to the chassis of an excavator (see paragraph [0004] of D8), limiting the more general teaching of D8.1 (see column 1, lines 18 ff.) to an advantageous embodiment (see column 3, lines 36 ff. and the preferred embodiment disclosed in D8.1). Consequently, the respondent's argument regarding the positioning of the actuator above the upper link of the hinged parallelogram is invalid, as the general teaching of D8.1, as set out in the introductory part, provides the skilled person with the desired alternative.

- 1.8 The Opposition Division (see point 4.4.5 of the contested decision) concluded that the skilled person would not combine documents D1 and D8.1, since doing so would eliminate the stabilisers and there would be no incentive to do so.

The respondent also argued that the stabilisers are essential for the AWP, as without them the AWP would be unstable and shake. The disclosure of D1 showed that the outer support points of the stabilisers were necessarily in contact with the ground; the tracks were contactless under uneven or inclined ground (reference was made to paragraph [0031] of D1T).

However, there are no reasons that would make the skilled person remove the stabilisers from the tracks when combining D1 with D8.1. The stabilisers are an integral part of the tracks (see paragraph [0029] of D1T) and are used to stabilise the AWP when it is stationary. D8.1 describes how to connect the tracks to the AWP chassis irrespective of their structure, i.e. with or without stabilisers.

Regarding the respondent's additional arguments, D1 does not suggest that the stabilisers are the sole point of contact between the AWP and specific inclined ground. D1 discloses that the stabilisers provide stable support for the frame 20 and the containing cage 40, preventing shaking due to their wide outer support when in use (see paragraph [0031] of D1T). Paragraph [0032] confirms that both the track 12 and the stabilizer 54 of the tilted track frame 10 reliably and stably support the frame 20 and the containing cage 40 to the ground, and not exclusively the stabiliser 54.

Auxiliary request 1

2. *Clarity*

- 2.1 An examination of claim 1 of auxiliary request 1 under Article 84 EPC is not permitted.

2.2 Claim 1 of auxiliary request 1 is a literal combination of the granted claims 1 and 2.

2.3 The appellant argued that the term '*support base*' was not clearly defined. Furthermore, claim 1 was open to a clarity objection under G 3/14, as it constituted a type B amendment under G 3/14, thereby rendering the claim susceptible to a clarity examination. While they conceded that the clarity issue was already present in granted dependent claim 2, it could still be examined in view of G 3/14 since it had been carried over to independent claim 1.

2.4 According to the decision G 3/14 of the Enlarged Board of Appeal in considering whether, for the purposes of Article 101(3) EPC, a patent as amended meets the requirements of the EPC, the claims of the patent may be examined for compliance with the requirements of Article 84 EPC only when, and then only to the extent that the amendment introduces non-compliance with Article 84 EPC.

2.5 In the present case, since claim 1 is a literal combination of the granted claims 1 and 2, the non-compliance with Article 84 EPC was not introduced by the amendment, but was already present in the granted patent - specifically, in dependent claim 2. Consequently, it is not permitted to conduct a clarity examination of claim 1 of auxiliary request 1.

3. *Novelty*

3.1 The subject matter of claim 1 is new in view of D2 (Article 54 EPC).

3.2 The appellant argued that D2 disclosed all the features of claim 1.

In particular D2 disclosed feature 1.1 since claim 1 did not state that the AWP would lift anything. Only claim 7 stated this and a AWP was not such a clear technical term that lifting and lowering were implicitly included. This was also contradictory to granted claim 7, which explicitly mentioned a raising device for the first time. It would not need to be mentioned in this way if it were already clear in claim 1 that it existed.

Feature 1.8 was also disclosed in D2, which showed that the oscillation axis was located almost exactly in the centre of the machine's base and the support structure.

3.3 However, D2 does not disclose a AWP but an excavator. Therefore, feature 1.1 is not disclosed in D2.

An AWP, also known as a mobile elevating work platform (MEWP), always includes a lifting mechanism as a fundamental component. The lifting mechanism is essential to elevate the platform or cage to the desired height, enabling workers to access elevated areas safely for tasks such as construction, maintenance, or landscaping.

AWPs are defined as machines designed to position personnel, tools, and materials at height via a work platform supported by a lifting mechanism. Common types of lifting mechanisms include scissor mechanisms (pantograph), articulated booms, telescopic booms, and vertical mast lifts.

While the specific design varies (e.g., hydraulic, electric, or pneumatic actuation), a lifting mechanism is integral to all AWPs to fulfil their purpose of providing elevated access. Without it, the device would

not qualify as an AWP. See in particular paragraphs [0003] to [0006] of the contested patent.

This interpretation does not contradict granted claim 7. Claim 7 simply defines the position and operation of the lifting mechanism.

Regarding feature 1.8, figure 2 of D2 shows the support frame, not the support base of the excavator. Figure 4 of D2 and its description show that the base plate of the upper movable section of the excavator pivots between positions d and d' around oscillation axis 43. This axis is not substantially located on the median axis of the base plate, which constitutes the claimed support base, but is located to the right. Consequently, D2 does not disclose feature 1.8 either.

4. *Inventive step*

4.1 The subject-matter of claim 1 is not rendered obvious by the combination of D1 with D2 or the combination of D8.1 with D2 (Article 56 EPC).

4.2 The appellant's argued that the subject-matter of claim 1 did not involve an inventive step in view of the combination of D1 with D2 or the combination of D8.1 with D2. These lines of attack were based on the assumption that D2 disclosed feature 1.8 of claim 1.

Since D2 as explained above does not disclose feature 1.8, the appellant's lines of attack cannot succeed.

4.3 The question of admissibility of these inventive step objections can therefore remain unanswered since they do not succeed as to the substance.

5. It follows from the above that the claims of the auxiliary request 1 are allowable.
6. Since the description needs to be adapted to the claims, the Board considers that it would be more expedient for the Opposition Division to deal with this. Both parties agreed, so the case is remitted to the Opposition Division with the following order.

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 according to claims 1 to 8 of the auxiliary request 1 filed with the reply to the statement of grounds of appeal and a description to be adapted thereto.

The Registrar:

The Chair:



D. Grundner

S. Mangin

Decision electronically authenticated