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**Datasheet for the decision  
of 15 May 2026**

**Case Number:** T 0557/24 - 3.2.05

**Application Number:** 15195935.0

**Publication Number:** 3040592

**IPC:** F16L1/09

**Language of the proceedings:** EN

**Title of invention:**

Loading devices and methods of loading pipe fusion machines

**Patent Proprietor:**

Fast Fusion, LLC

**Opponent:**

Vietz GmbH

**Relevant legal provisions:**

EPC Art. 113(1), 116(1), 123(3)  
RPBA 2020 Art. 12(2), 12(4), 12(8)

**Keyword:**

Decision in written proceedings  
Extent of protection - extension of protection conferred (main  
request: yes, auxiliary request 1B: no)

**Decisions cited:**

T 0190/99



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Case Number: T 0557/24 - 3.2.05

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.05**  
**of 15 May 2026**

**Appellant:**  
(Opponent)

Vietz GmbH  
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**Representative:**

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**Respondent:**  
(Patent Proprietor)

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**Representative:**

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**Decision under appeal:**

**Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
12 February 2024 concerning maintenance of the  
European Patent No. 3040592 in amended form.**

**Composition of the Board:**

**Chairman**

P. Lanz

**Members:**

T. Vermeulen

B. Burm-Herregodts

## **Summary of Facts and Submissions**

- I. The opponent filed an appeal against the interlocutory decision of the opposition division finding that European patent No. 3 040 592 as amended according to auxiliary request 1A met the requirements of the European Patent Convention.
- II. The opposition had been filed against the patent as a whole on the basis of the grounds for opposition under Article 100(a) together with Article 54(1) EPC (lack of novelty) and Article 56 EPC (lack of inventive step), and under Article 100(b) EPC.
- III. In preparation for the oral proceedings, requested by the parties, the board issued a communication pursuant to Article 15(1) RPBA on 3 November 2025, in which it set out its provisional opinion on the issues of the case.
- IV. By letters dated 13 and 18 February 2026, the parties informed the board that they would not attend the oral proceedings and that they withdrew their requests for oral proceedings.
- V. Following that, the oral proceedings were cancelled.
- VI. The appellant (opponent) requested that the decision under appeal be set aside and that the patent be revoked.

The respondent (patent proprietor) requested that the appeal be dismissed (main request) or, alternatively, that the decision under appeal be set aside and the patent be maintained as amended on the basis of the

claims of one of auxiliary requests 1B, 2A, 2B, 3A, 3B, 4A, 4B, 5A, 5B, 6A, 6B, 7 filed in reply to the statement of grounds of appeal. It was also requested not to admit the appellant's objections under Article 123(3), 83 and 54(1) EPC and the appellant's new arguments in relation to Article 56 EPC submitted against the claims of the main request into the appeal proceedings.

VII. Claim 1 of the main request (corresponding to auxiliary request 1A held allowable by the opposition division) has the following wording.

"A loading device (100) for lifting an elongate object (90) having an elongate axis (91) and a pipe fusion machine (80) comprising a front boom (82), the loading device comprising:  
a frame (102) coupled to the front boom (82) of the pipe fusion machine (80), having a first fulcrum surface (106) and a second fulcrum surface (107);  
a plurality of roller elements (103) coupled to the frame (102), each of which are configured to rotate about a roller element axis (104);  
a first effector arm (110) that pivots about the first fulcrum surface (106), the first effector arm having a first end effector (112);  
a second effector arm (120) that pivots about the second fulcrum surface (107), the second effector arm having a second end effector (122); and  
one or more actuators (108) coupled to the frame (102) and the first effector arm (110) and the second effector arm (120) and that move the first effector arm and the second effector arm between a retracted position and a deployed position,  
wherein the first end effector and the second end effector each comprise a lifting surface (117, 127);

the first end effector (112) comprises a first end effector axis (113);  
the second end effector (122) comprises a second end effector axis (123);  
wherein, in use, the loading device (100) is configured to:

lift an elongated object (90) when the first effector arm (110) and the second effector arm (120) are moved towards the deployed position, such that the first end effector (112) and the second end effector (122) contact the elongate object (90) at opposite sides of the elongate object (90) and below the elongate axis (91), such that the lifting surface (117) of the first end effector (112) and the lifting surface (127) of the second end effector (122) contact the elongate object (90) to apply a lifting force to at least partially lift the elongate object (90), wherein the first end effector axis (113) and the second end effector axis (123) are both transverse to the elongate axis (91) of the elongated object (90) when the first effector arm (110) and the second effector arm (120) are located in the deployed position; characterised in allowing the elongated object (90) to be translated along the loading device (100) by rolling along the roller elements (103)."

VIII. Claim 1 of auxiliary request 1B has the following wording (differences with respect to claim 1 of the main request are highlighted by the board).

"A loading device (100) for lifting an elongate object (90) having an elongate axis (91) ~~and a pipe fusion machine (80) comprising a front boom (82)~~, the loading device comprising:  
a front boom (82);

a frame (102) coupled to the front boom (82) ~~of the pipe fusion machine (80)~~, having a first fulcrum surface (106) and a second fulcrum surface (107);  
a plurality of roller elements (103) coupled to the frame (102), each of which are configured to rotate about a roller element axis (104);  
a first effector arm (110) that pivots about the first fulcrum surface (106), the first effector arm having a first end effector (112);  
a second effector arm (120) that pivots about the second fulcrum surface (107), the second effector arm having a second end effector (122); and  
one or more actuators (108) coupled to the frame (102) and the first effector arm (110) and the second effector arm (120) and that move the first effector arm and the second effector arm between a retracted position and a deployed position,  
wherein the first end effector and the second end effector each comprise a lifting surface (117, 127);  
the first end effector (112) comprises a first end effector axis (113);  
the second end effector (122) comprises a second end effector axis (123);  
wherein, in use, the loading device (100) is configured to:

lift an elongated object (90) when the first effector arm (110) and the second effector arm (120) are moved towards the deployed position, such that the first end effector (112) and the second end effector (122) contact the elongate object (90) at opposite sides of the elongate object (90) and below the elongate axis (91), such that the lifting surface (117) of the first end effector (112) and the lifting surface (127) of the second end effector (122) contact the elongate object (90) to apply a lifting force to at least partially lift

the elongate object (90) as the first effector arm (110) and the second effector arm (120) continue to move towards the deployed position, wherein the first end effector axis (113) and the second end effector axis (123) are both transverse to the elongate axis (91) of the elongated object (90) when the first effector arm (110) and the second effector arm (120) are located in the deployed position;  
characterised in allowing the elongated object (90) to be translated along the loading device (100) by rolling along the roller elements (103)."

IX. The appellant's submissions were essentially as follows.

*Main request - extension of protection conferred*

In point 3.2 of reasons for the impugned decision, claim 1 of the then auxiliary request 1A was stated to fulfil the requirements of Article 123(3) EPC. The appellant challenged this decision, for the following reasons.

During the proceedings before the opposition division, the respondent deleted the feature of granted claim 1 that the front boom was part of the loading device. Instead, claim 1 of the main request now required that the front boom was part of a pipe fusion machine. This did not align with granted claim 1. The system consisting of a pipe fusion machine and a loading device that did not have a front boom was not covered by claim 1 of the granted patent.

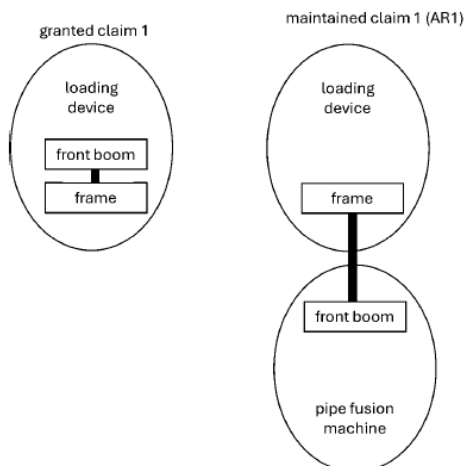
Furthermore, in granted claim 1, the loading device comprised a frame and a front boom that were coupled to

each other. Thus, the connection between frame and front boom was between two objects of the loading device or, in other words, within the loading device. In claim 1 of the main request, however, the connection between the front boom and the frame was beyond the outer boundary of the loading device and reached into the pipe fusion machine.

The following example illustrated a device that did not fall under the protection of granted claim 1, but did fall under the protection of claim 1 of the main request (see the diagram below):

A loading device comprising no front boom, but comprising a frame, roller elements, first and second effector arms, actuators (all named elements fulfilling the requirements of the features of claim 1 of the main request). The frame of the loading device had a releasable connection (for example via a click connection) connecting it to a second, separate object, i.e. the pipe fusion machine, and had a front boom (that was, for example, welded or bonded to a frame of the pipe fusion machine).

In this example, the connection between the front boom and the pipe fusion machine was fixed and could not be released without destruction. However, the coupling between the front boom and the loading device could be easily released. Consequently, the front boom clearly did not belong to the loading device, but to the pipe fusion machine so that this device was outside the scope of protection of granted claim 1. It was, however, within the scope of protection of claim 1 of the main request, as was depicted in the diagram below.



*Comparison of connection between frame and front boom in granted claim 1 and maintained claim 1.*

Hence, claim 1 of the main request extended the protection beyond the that of the granted patent in violation of Article 123(3) EPC.

X. The respondent's submissions were essentially as follows.

*Main request - extension of protection conferred*

*(a) Admittance*

The appellant's objection that the requirements of Article 123(3) EPC were not met because of transposing the "front boom" in claim 1 from being part of the loading device to being part of the pipe fusion machine was completely new. It followed from point 3.2 of the reasons for the impugned decision and from the bottom of page 2 of the minutes of the oral proceedings held before the opposition division that the appellant had not raised any objection under Article 123(3) EPC in the proceedings before the opposition division. The new objection was supported by completely new arguments and facts, none of which had been raised at any point in

the proceedings before the opposition division. It was an amendment of the appellant's case that should not be admitted into the appeal proceedings under Article 12(2) and (4) RPBA, particularly considering the complexity of the arguments and the need for procedural economy.

*(b) Merits of the objection*

The appellant was wrongly focusing too much on the semantic form of claim 1 rather than considering the meaning of the technical features of the claim. When construed with synthetical propensity and a mind willing to understand as per decision T 190/99, it was clear that the scope of claim 1 had not been amended in such a way as to extend the protection it conferred.

Transposing the "front boom" from being part of the loading device to being part of the pipe fusion machine in claim 1 had no change on the scope conferred by the claim. The case law was clear that transposing a feature within a claim was permissible as long as the meaning of the claim remained unchanged, see "Case Law of the Boards of Appeal of the European Patent Office", 11th edition, July 2025, in the following "Case Law", II.E.2.6. Further considering "Case Law", II.E.2.3.3, it was clear that the skilled person within the field of pipe laying and lifting equipment therefore would immediately understand what was meant by the feature "front boom" in claim 1. Moreover, Figure 1 and paragraphs [0011] and [0012] of the patent specification explained how the front boom 82 was used to connect the pipe fusion machine 80 and the loading device 100 together so that the loading device 100 could pick elongated objects (e.g., pipes) 90 up from the floor 70 and direct them into the pipe fusion

machine 80 for fusion welding. This was also consistent with the everyday understanding of the word "boom", namely "a long beam extending as from an upright to lift or carry something and guide it as needed" or "a long more or less horizontal supporting arm or brace (as for holding a microphone)". Although certain passages of the patent description referred to the front boom as part of the pipe fusion machine, the skilled person would understand that this was merely a convention. The front boom was just as relevant to the pipe fusion machine as it was to the loading device, because it was what coupled the two together and what allowed the two to function as a unit. As such, the skilled person would understand that it did not really matter which of the pipe fusion machine or the loading device the front boom was considered to be a part of.

The example provided by the appellant did not make any sense because it was meaningless to imagine that such a loading device had no front boom when it was connected to and carried by the pipe fusion machine through a front boom.

The transposition of "front boom" in claim 1 also had no impact on the legal certainty for the activities of third parties, which were described in "Case Law", II.E.2.1. It made no difference for third parties whether the front boom was considered part of the loading device or part of the pipe fusion machine, it only mattered that the front boom was present. This was because the front boom was present in both granted claim 1 and claim 1 of the main request. Any loading device and pipe fusion machine with a front boom that infringed claim 1 of the main request necessarily also infringed claim 1 of the patent as granted.

Hence, the patent had not been amended in such a way to extend the protection it conferred. Instead, by introducing the pipe fusion machine and specifying how the loading device and the pipe fusion machine were coupled together via the front boom, claim 1 had actually been narrowed. Hence, the requirements of Article 123(3) EPC were met.

*Auxiliary request 1B*

The appellant had not addressed auxiliary request 1B either in the proceedings before the opposition division or in their statement of grounds of appeal. It must therefore be assumed that the appellant did not object to this request.

The patent amended on the basis of auxiliary request 1B met the requirements of the EPC.

**Reasons for the Decision**

*Decision in written proceedings*

1. The present decision is handed down in written proceedings, without holding oral proceedings, in accordance with Article 12(8) RPBA, which provides that, subject to Articles 113 and 116 EPC, the board may decide the case at any time after filing of the statement of grounds of appeal.
2. Following the board's communication pursuant to Article 15(1) RPBA, the parties informed the board that they would not attend the oral proceedings and that they withdrew their requests for oral proceedings. In doing

so, both parties expressed their clear intention only to rely on their written case. As the board did not consider holding oral proceedings to be expedient or necessary under Article 116(1) EPC, the scheduled oral proceedings were therefore cancelled.

3. Given that the parties have been informed of the board's preliminary assessment of the case set out in the communication pursuant to Article 15(1) RPBA and that their written submissions are fully taken into account, the principle of the right to be heard pursuant to Article 113(1) EPC is observed.

*Main request - extension of protection conferred (Article 123(3) EPC)*

4. Claim 1 of the patent as granted was amended during opposition proceedings to arrive at claim 1 of the request held allowable by the opposition division, i.e. the present main request. The amendments are as follows.

" A loading device (100) for lifting an elongate object (90) having an elongate axis (91) and a pipe fusion machine (80) comprising a front boom, the loading device comprising: a front boom (82); a frame (102) coupled to the front boom (82) of the pipe fusion machine (80) [...]"

5. The appellant's objection under Article 123(3) EPC is essentially that, by claiming the front boom as part of a pipe fusion machine instead of as part of the loading device, the protection conferred by the patent was extended.

*(a) Admittance*

6. In the respondent's view, this objection was raised for the first time on appeal and should not be admitted under Article 12(2) and (4) RPBA, taking into account the complexity of the objection and the need for procedural economy.
  
7. The board concurs with the respondent that no objection under Article 123(3) EPC had been raised in the proceedings before the opposition division. Nevertheless, the opposition division arrived at the following conclusion in point 3.2 of the reasons for the impugned decision.

"Auxiliary request 1A complies with Article 123(3) EPC because the subject-matter of claim 1 is limited by the feature "pipe fusion machine" with respect to the subject-matter of claim 1 of the granted patent."
  
8. The appellant explained in point 5 of the statement of grounds of appeal that they seek to challenge that decision by the opposition division. The objection under Article 123(3) EPC can thus be regarded as a reaction to the opposition division's decision at the first possible opportunity, namely at the beginning of the appeal proceedings.
  
9. It is added here that the appellant's objection appears to be easy to understand and relates to a feature ("front boom") that had already been discussed at length by the parties in the proceedings before the opposition division.

10. In view of the above, the board made use of its discretion under Article 12(4), second sentence, RPBA to admit the objection under Article 123(3) EPC into the appeal proceedings.

*(b) Merits of the objection*

11. The opposition division's positive assessment on Article 123(3) EPC was based on its consideration that, by adding the feature "pipe fusion machine" to claim 1, the protection conferred by the patent was restricted.

12. The appellant, however, argued that the shift of the front boom from the loading device to the pipe fusion machine caused the protection conferred by the patent to be extended. In support of this view, they presented an example of a subject-matter that they allege infringes claim 1 of the main request but not claim 1 of the patent as granted (see point IX. above).

13. The board understands this example to concern a loading device comprising, apart from a front boom, all other features of claim 1 of the patent as granted. In addition, the frame of the loading device is releasably connected to a pipe fusion machine through a front boom which is welded or bonded to a frame of the pipe fusion machine.

14. It is common ground that the combination of the loading device and the pipe fusion machine of the above example would fall under the protection of claim 1 of the main request. The dispute between the parties lies in the answer to the question whether the front boom can still be regarded as part of the loading device despite it being fixed to the frame of the pipe fusion machine.

15. The appellant's arguments that the question must be answered in the negative are convincing. Connecting the front boom to a frame of the pipe fusion machine by welding or bonding means that it cannot be released therefrom without destruction. The connection between the front boom and the loading device, in contrast, is releasable. Consequently, the front boom does not belong to the loading device, but to the pipe fusion machine. The example thus lies outside the scope of protection of granted claim 1, as is pointedly illustrated by the diagram reproduced in point IX. above.
16. In connection with the last point, the respondent submitted that it made no difference for third parties whether the front boom was considered part of the loading device or part of the pipe fusion machine, because it was meaningless to imagine that such a loading device had no front boom when it was connected to and carried by the pipe fusion machine through a front boom.
17. The board finds this counterargument unconvincing. In the detailed embodiments of the patent, the front boom 82 is consistently described as part of the pipe fusion machine 80 and not of the loading device 100. Accordingly, understanding claim 1 of the main request in the sense that the front boom is part of the pipe fusion machine and not of the loading device is not without meaning.
18. The respondent also referred to the dictum "a mind willing to understand" contained in decision T 190/99 (Reasons 2.4) and to the everyday understanding of the term "boom" to underline its position that it did not really matter which of the pipe fusion machine or the

loading device the front boom was considered to be a part of.

19. The board sees no merit in this line of argument, which is in essence based on a selective understanding of the claim wording. After all, also the term "front boom" has an everyday understanding, namely a boom having a specific relative position. Following the respondent's logic, using a mind willing to understand to construe claim 1 would result in a different relative position of the front boom when it is part of a loading device than when it is part of a pipe fusion machine, which runs counter to the respondent's allegation that the extension of protection conferred by claim 1 had remained unchanged or had actually been narrowed.
20. In view of the above, it must be concluded that the amendments in claim 1 of the main request caused a shift in the protection conferred by the patent, contrary to the requirement of Article 123(3) EPC.
21. The main request is, therefore, not allowable and the decision under appeal must be set aside.

*Auxiliary request 1B*

22. With its reply to the statement of grounds of appeal, the respondent filed twelve sets of claims as auxiliary requests 1B, 2A, 2B, 3A, 3B, 4A, 4B, 5A, 5B, 6A, 6B and 7. Of those, auxiliary request 1B immediately follows the respondent's main request. The board notes that the claims of auxiliary request 1B are identical in wording to the claims of auxiliary request 1B filed with letter dated 6 October 2023 in preparation for the oral proceedings held before the opposition division.

23. Claim 1 of auxiliary request 1B has none of the amendments of claim 1 of the main request identified in point 4. above. Accordingly, it is directed to a loading device having a front boom, without mention of a pipe fusion machine, much in the same way as claim 1 of the patent as granted. The objection under Article 123(3) EPC does, therefore, not hold against claim 1 of auxiliary request 1B.
24. Compared to claim 1 as granted and claim 1 of the main request, claim 1 of auxiliary request 1B has an additional feature limiting the loading device to one which is configured to lift an elongated object when the first and second effector arms are moved towards the deployed position, such that the first and second end effectors contact the elongate object at opposite sides of the elongate object and below the elongate axis, such that the lifting surfaces of the first and second end effectors contact the elongate object to apply a lifting force "as the first effector arm (110) and the second effector arm (120) continue to move towards the deployed position".
25. The appellant has not addressed any of the respondent's auxiliary requests in the appeal proceedings.
26. In view of this, the board accepts the respondent's position that the patent can be maintained as amended on the basis of the claims of auxiliary request 1B.

## 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 on the basis of the following claims and a description and drawings to be adapted thereto, if needed:

Claims: 1 to 9 of auxiliary request 1B, filed with the reply to the statement of grounds of appeal

The Registrar:

The Chairman:



N. Schneider

P. Lanz

Decision electronically authenticated