

Veröffentlichung im Amtsblatt Publication in the Official Journal Publication au Journal Officiel	Ja/Nein Yes/No Oui/Non
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Aktenzeichen / Case Number / N° du recours : T 6/87

Anmeldenummer / Filing No / N° de la demande : 80 300 776.4

Veröffentlichungs-Nr. / Publication No / N° de la publication : 0 016 615

Bezeichnung der Erfindung: Cutting head for a cigarette filter attachment  
Title of invention: machine  
Titre de l'invention :

Klassifikation / Classification / Classement : A24C 5/58; B26D 5/04

**ENTSCHEIDUNG / DECISION**

vom / of / du 28 September 1987

Anmelder / Applicant / Demandeur : Molins PLC

Patentinhaber / Proprietor of the patent /  
Titulaire du brevet :

Einsprechender / Opponent / Opposant :

Stichwort / Headword / Référence : Cigarette filter attachment machine

EPO / EPC / CBE Articles 123(2) and 52 EPC

Kennwort / Keyword / Mot clé :  
- Support in the application as filed  
- Novelty and inventive step

**Leitsatz / Headnote / Sommaire**

Europäisches  
Patentamt

Beschwerdekammern

Case Number : T 6/87

European Patent  
Office

Boards of Appeal

Office européen  
des brevets

Chambres de recours



**D E C I S I O N**  
of the Technical Board of Appeal 3.2.2  
of 28 September 1987

**Appellant :** Molins PLC  
2 Evelyn Street  
Deptford, London SE8 5DH (GB)

**Representative :** I.Y. Hirsch  
c/o Molins PLC  
Group Patent Department  
Haw Lane, Saunderton, High Wycombe  
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**Decision under appeal :** Decision of Examining Division 126  
of the European Patent Office  
dated 23.07.86 refusing European  
patent application No. 80 300 776.4  
pursuant to Article 97(1) EPC

**Composition of the Board :**

**Chairman :** C. Maus

**Members :** R. Gryc

P. Ford

## Summary of Facts and Submissions

- I. European patent application No. 80 300 776.4, filed on 13 March 1980, published under the number 0 016 615 and claiming the priorities of two previous applications, respectively of 16 March 1979 and 11 December 1979, was refused by the Decision of the Examining Division 126 dated 23 July 1986.

The Decision was based on Claims 1 and 2 received on 14 July 1983 and Claims 3 to 15, filed on 12 May 1982.

- II. In its Decision, the Examining Division held that the present Claim 1 contains a generalisation of the actuating means as compared to the application as filed, which is not supported by the disclosure in the original documents and which is not immediately evident to the man skilled in the art.

Therefore, this Claim 1 was considered as contravening Article 123(2) EPC and declared inadmissible.

- III. On 18 September 1986, the Appellant lodged an appeal against this Decision by a telex which was confirmed in due time. The fee for appeal was paid on 25 September 1986. The statement setting out the Grounds of Appeal was received on 21 November 1986. The Appellant maintained Claims 1 to 15 on which the Decision was based and was of the opinion that in the context of the completely different combination covered by the present Claim 1 it was not necessary to limit the scope of the claim by claiming a fluid-powered actuator as the urging means.

If necessary, the Appellant was willing to insert "yieldable" before "urging means" in Claim 1 (first auxiliary request).

- VI. In a communication dated 3 April 1987, the Appellant was notified that the generalisation contained in the present Claim 1 could be accepted provided that Claim 1 would be amended according to the "first auxiliary request" and also that the purpose of the "urging means" would be more specified.
- V. By letter of 8 April 1987, received on 13 April 1987, the Appellant submitted a new Claim 1 and a new page 2 of the description.

This new Claim 1 reads as follows:

1. A cutting head for a cigarette filter attachment machine, for cutting a filter attachment web (46) at regular intervals in cooperation with a cutting drum (45), comprising a rotary member (12; 41; 65) which carries one or more knives (14; 42; 85) and is itself mounted on a movable carrier (21; 22; 43; 66) so as to be movable towards and away from the cutting drum, and including yieldable urging means (23; 24; 47; 68) for urging the rotary member towards the cutting drum, characterised in that the movable carrier is formed by two independently movable parts (e.g. 21 and 22) supporting respectively the opposite ends of the rotary member (12; 41; 65), and that said urging means is adapted to urge each part towards the cutting drum so that the knives (14; 42; 85) on the rotary member act with substantially equal pressure along their entire lengths while cutting the web.

### Reasons for the Decision

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is admissible.
2. The present Claim 1 differs from the original Claim 1 as to its substantive content as follows:

#### 2.1 Preamble

- (a) Much of the characterising part of the original Claim 1 has been transferred to the preamble of the present Claim 1;
- (b) the phrase "a fluid-powered actuator which is arranged to urge" has been amended to "yieldable urging means for urging";

#### 2.2 Characterising Part:

- (c) it now comprises the first portion of original Claim 2 describing the "movable carrier" and it defines more precisely the "two parts" as "two independently movable parts".

In addition, the words "cutting head" have been replaced by "rotary member"; and

- (d) the following sentence has been added:

"said urging means is adapted to urge each part towards the cutting drum so that the knives on the rotary member act with substantially equal pressure along their entire lengths while cutting the web".

2.3 These amendments are permissible on the following grounds:

(a) All the features of the original Claim 1 except the "fluid-powered actuator" are disclosed in GB-A-785 417. According to the findings of the Board, this document is the most relevant prior art. It is, therefore, justified to derive the preamble of Claim 1 from this document and, in consequence, to mention the known features in the preamble in order to meet the requirements of Rule 29(1)(a) EPC.

(b) In comparison with the prior art described in GB-A-785 417, the problem lies in a better control of the cutting pressure along the length of the knives. According to the invention, this problem is solved by the provision of two independently movable parts supporting opposite ends of the rotary member on which the knives are mounted so that the position of each part relative to the cutting drum may be separately controlled and also in the provision of means urging each part towards the cutting drum so that the knives act with substantially equal pressure along their entire length while cutting the web.

Therefore, the person skilled in the art can be expected to recognise immediately that the specific form of the urging means is of no consequence provided that it is yieldable and distributes the cutting pressure substantially equally along the knives.

Since, moreover, the fluid-powered actuator described in the application as filed has to be arranged to urge the cutting head (see page 2, lines 16, 17 and Claim 1, lines 8, 9 of EP-A-0 016 615), it means, on the one hand, that the actuator is merely to be considered from

the point of view of its urging function and, on the other hand, that the specific form and structure of the urging device is not essential in comparison with the function itself.

Considering that GB-A-785 417, from which the preamble of present Claim 1 is derived, discloses a cutting head comprising no fluid-powered actuator but a spring, the Appellant cannot be refused correction of the preamble whereby a feature is replaced by a more general one as the common feature of the known apparatus and of the device according to the invention (cf. Decision T 52/82, Official Journal of the EPO 10/1983, pages 416 to 419), provided that in the preamble it is clarified that the "urging means" is "yieldable".

- (c) Since these features are in the original description and contribute to clarify Claim 1 without widening its scope, they can be incorporated therein.
- (d) This sentence makes clear that not any "urging means" is contemplated but only means which is able to work as specified. This can also be established from the description and drawings.

Therefore, the subject-matter of the present Claim 1 does not extend beyond the content of the application as filed and the requirements of Article 123(2) are fulfilled.

4. It follows from the foregoing discussion that the subject-matter of Claim 1 is distinguished from the cutting head according to GB-A-785 417 by the features mentioned in the characterising part.

Moreover, having examined also the documents cited in the search report and those referred to in the description of the application, the Board has come to the conclusion that none of these documents discloses a cutting head comprising a carrier composed of two independently moveable parts supporting respectively the ends of the rotary member.

Therefore, the subject-matter of the present Claim 1 is novel.

5. According to the description in the cutting head according to GB-A-785 417 the cutting force is limited by the resilience of a spring. However, this arrangement constitutes no entirely satisfactory solution of the problem. Some attempts have already been made to adjust the pressure of the knives of the cutting head, in particular over the width of the knives.

The problem to be solved by the invention is, therefore, to seek for an alternative to the known device which provides a better adjustment.

6. The solution underlying the application is based on the mounting the carrier in two independently movable bearings for the ends of the cutting drum and on the adaptation of the urging means to urge uniformly the knives against the cutting drum.
7. On the question of whether the prior art provides any indication as to how the cutting head of GB-A-785 417 may be modified in order to obtain the cutting head according to Claim 1, the following should be noted:

According to the various solutions given in the documents cited in the search report or in the application itself and concerning cutting heads for severing strips from a continuous web of material, either the cutter blades are mounted on the rotary member carrying them so that they are able to rock (see GB-A-878 556) or the rotary member itself is supported on a flexible diaphragm attached to a shaft carried in eccentrically mounted bearings (see GB-A-1 000 696) or on a ball and socket bearing (see GB-A-1 469 684) so that the rotary member itself can tilt relative to its supporting shaft.

None of these known solutions gives any hint of supporting the ends of the rotary member in independently movable parts urged towards the cutting drum so that the cutting pressure is uniform along the length of the knives. Moreover, the use of the specific means disclosed in the above-mentioned documents on the cutting head of patent GB-A-785 417 will never lead to the cutting head according to the invention but to a completely different device.

Therefore, the Board is of the opinion that starting from the teaching of GB-A-785 417, the man skilled in the art would never arrive logically at something falling within the terms of Claim 1. Consequently, the subject-matter of this claim involves an inventive step.

Claim 1 is hence allowable (Article 52 EPC).

8. Since dependent Claims 2 to 15 concern particular embodiments of the cutting head according to Claim 1, they are too allowable.
9. The description has been brought into conformity with the amended wording of Claim 1 and accordingly it does not give rise to any objections.

In addition, the Board has corrected some clerical errors in the description (see page 5, line 11 and page 7, line 10 of the published specification) and the reference to the "Molins PAB" machine as well as to the British patent application 7 912 075, which was published after the publication date of EP-A-0 016 615, have been deleted.

Page 2/2 of the drawings filed on 14.07.83 and containing an amended Figure 3 is accepted.

### Order

For these reasons, it is decided that:

1. The impugned decision is set aside.
2. The case is remitted to the first instance with the order to grant a European patent on the basis of the following documents:
  - Description, page 1 filed on 08.02.85.
  - Description, page 2 filed on 13.04.87.
  - Description, pages 3 to 11 of the published specification with the amendments according to paragraph 9.
  - Claims 1 to 4 (first part) filed on 13.04.87.
  - Claims 4 (last part) to 15 filed on 12.05.82.
  - Drawings comprising Figures 1 and 2 of the published specification and Figures 3 to 5 filed on 14.07.83.

The Registrar

The Chairman

F.Klein

C.Maus