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Aktenzeichen / Case Number / N<sup>o</sup> du recours : T 428/88 - 3.2.2

Anmeldenummer / Filing No / N<sup>o</sup> de la demande : 81 902 368.0

Veröffentlichungs-Nr. / Publication No / N<sup>o</sup> de la publication : 58691

Bezeichnung der Erfindung: An automatic dispenser for a detergent

Title of invention:

Titre de l'invention :

Klassifikation / Classification / Classement : A47L 15/44

### ENTSCHEIDUNG / DECISION

vom / of / du 29 November 1989

Anmelder / Applicant / Demandeur :

Patentinhaber / Proprietor of the patent /  
Titulaire du brevet :

Aktiebolaget Electrolux

Einsprechender / Opponent / Opposant :

Bosch-Siemens Hausgeräte GmbH

Stichwort / Headword / Référence : Inventive step (confirmed)

EPÜ / EPC / CBE Article 56 EPC

Schlagwort / Keyword / Mot clé :

Leitsatz / Headnote / Sommaire

Europäisches  
Patentamt

European Patent  
Office

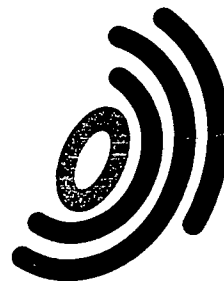
Office européen  
des brevets

Beschwerdekammern

Boards of Appeal

Chambres de recours

Case Number : T 428/88 - 3.2.2



D E C I S I O N  
of the Technical Board of Appeal 3.2.2  
of 29 November 1989

Appellant : Bosch-Siemens Hausgeräte GmbH  
(Opponent) Postfach 463  
D-8000 München 1 (DE)

Representative :

Respondent : Aktiebolaget Electrolux  
(Proprietor of the patent) Luxbacken 1  
S-10545 Stockholm (SE)

Representative :

Decision under appeal : Decision of the Opposition Division of the European  
Patent Office dated 6 June 1988 rejecting  
the opposition filed against European patent  
No. 58691 pursuant to Article 102(2) EPC.

Composition of the Board :

Chairman : G. Szabo  
Members : R. Gryc  
L. Mancini

## Summary of Facts and Submissions

- I. European patent No. 58691, comprising five claims, was granted to the Respondent on 29 May 1985 on the basis of European patent application No. 81 902 368.0 filed on 10 August 1981.
- II. An opposition was filed and the revocation of the patent was requested on the grounds of lack of inventive step and of unity of invention.

In addition to the eight citations of the grant proceedings, eleven more documents were cited.

- III. After the opposition has been rejected by decision of 6 June 1988 of the Opposition Division, the Appellant lodged a Notice of Appeal on 1 August 1988 and paid the relevant fee simultaneously.

In his Statement of Grounds filed on 13 October 1988, the Appellant (Opponent) contended that since the problem to be solved concerned the transmission techniques in relation with rack and pinion assemblies, the person skilled in this particular art, having the relevant general knowledge in this field, should be consulted. To this practitioner, the application of such a general knowledge in the technical field of wash machines would not imply any inventive step. Consequently, the Appellant requested that the patent be revoked and subsidiarily, oral proceedings be appointed.

In his reply, the Respondent (Proprietor of the patent) referred to his letter dated 11 July 1986 wherein he had pointed out that the invention was restricted to the field of laundry or dish washing machines in which a very limited narrow space was provided for the detergent dispenser, that

an important object of the invention was to make possible the easy replacement of the paste cartridge-container and that none of the numerous citations filed even suggested a transmission assembly according to Claim 1 of the patent.

Therefore, the Respondent requested that the appeal be dismissed.

IV. In a Communication dated 16 October 1989, the Board informed the parties that it regarded documents:

- (1) US-A-1 494 982 and
- (2) DE-U-6 603 555

to be particularly relevant and that the subject-matter of Claim 1 as granted might lack an inventive step vis-à-vis the teachings of these two citations taken in combination.

V. With his reply of 13 November 1989, the Respondent filed a new set of four claims in which the new Claim 1 was a combination of the previously granted Claims 1 and 2.

The amended Claim 1 reads as follows:

"A device for automatic portioning and dispensing of a detergent in the form of a paste in a laundry or a dish washing machine which has a supply of the paste in a cartridge-container (10) and portioning and dispensing means (16-21) for transferring a portion of the paste from the cartridge-container via a discharge hole (15) therein to the wet cabinet of the machine, the portioning and dispensing means comprising a piston (16) with a rod (17) inserted in the cartridge-container (10) and driven by a motor (20) connected to the piston rod (17) via a movement

transmitting means (18, 19, 21), wherein the piston rod (17) is provided with teeth (18) engaging a drive wheel (19) which is part of the movement transmitting means (18, 19, 21), said engagement being ensured by a support idler wheel (21) contacting the piston rod (17) on the side opposite the toothed side, the support idler wheel (21) being pivotably mounted to be movable into and out of contact with the piston rod (17), a locking device (24, 25, 26) being provided for releasably locking the support idler wheel (21) in the position of engagement with the piston rod (17)".

In a letter dated 27 November 1989, the Appellant informed the Board that he does not object anymore to the maintenance of the patent with the new set of amended claims filed on 13 November 1989.

VI. An oral proceedings took place on 29 November 1989. The Appellant and the Respondent were summoned in due time pursuant to Rule 71(1) EPC but they both informed the Board that they would not attend the hearing and they did not appear.

In view of the above, the Board construed at the oral proceedings the position as represented by the following requests:

- From the Respondent: Maintenance of the patent on the basis of Claims 1-4 filed on 13 November 1989 and description and drawings as granted.
- From the Appellant: No objection to this.

#### Reasons for the Decision

1. The appeal is admissible.

2. Examination by the Office of its own motion (Article 114(1) EPC)

Even in inter partes proceedings before the EPO, account must be taken of interests other than those of the parties involved. If the Appellant (Opponent) does not object anymore to the maintenance of the patent in an amended version submitted by the Respondent, the granting authority still has a duty vis-à-vis the public to examine of its own motion this new version in order to ascertain that the patent meets the requirements of the Convention in view of Article 102(3) EPC.

3. Modifications of the claims

3.1 Claim 1 at present on file results from the merging of previous Claims 1 and 2 as granted. This involves a restriction in scope which cannot contravene Article 123(3) EPC.

3.2 During the examination procedure, Claim 1 and the description of the application were modified so as to add the word "idler" to characterise the support wheel (21) (cf. column 2, line 7 and column 3, line 2 of the patent). Although this feature was not explicitly mentioned in the application as filed, it appears clearly from the drawings that the wheel (21) is not driven and acts only as a support for the piston rod. Consequently, no objection is therefore made pursuant to Article 123(2) EPC.

4. Interpretation of Claim 1

4.1 The substance of Claim 1 calls for closer consideration before a decision can be reached on the question of patentability of its subject-matter. In particular, it should be determined how the words "cartridge-container"

are to be interpreted and what meaning they give to the content of the claim.

- 4.2 According to the "Webster's Third New International Dictionary of the English language" (Ed. 1986), one meaning of the word "cartridge" is the following:

"A usually replaceable or refillable case containing loose material and designed to permit ready insertion into a larger mechanism, apparatus or installation."

- 4.3 Moreover, it appears clearly from the description of the patent (cf. column 1, lines 26, 27 and 47-50 and column 2, line 20) and also from the Respondent's letter of 11 July 1986 (cf the end of page 1 and page 2, paragraph 6) that the container of the patented device is removable and that an important object of the invention is to make possible the easy replacement of it.

- 4.4 Consequently, the use of the word "cartridge" in Claim 1 is interpreted by the Board as meaning that the container is not fixedly mounted in the washing machine, but is removable for replacing or refilling purposes.

## 5. Novelty

After having examined all the citations covered by the international search report as well as those introduced in the course of the further proceedings, the Board is satisfied that none of them discloses a device for automatic portioning and dispensing of a material in the form of a paste comprising, in combination, all the features described in Claim 1 on file.

Since this has never been disputed, there is no need for further detailed substantiation of this matter. Therefore,

the subject-matter as set forth in Claim 1 is to be considered as novel within the meaning of Article 54 EPC, with respect to the prior art brought to the consideration of the Board.

6. **The state of the art closest to the invention**

Among all the citations opposed to the patent, citation (1) is the only one describing a device for automatic portioning and dispensing of a pasty material like the device according to the invention. In view of the structural and functional identities or similarities, the Board does not object to consider this prior art as the state of the art closest to the invention (cf. the Respondent's letter dated 11 July 1986, page 1, paragraph 3).

Like the subject-matter of Claim 1, this known dispenser comprises a cartridge-container for the pasty material to be dispensed, a piston inserted in the container, a piston rod provided with teeth driven by a motor connected to the same via a movement transmitting means and a support contacting the rod on the side opposite the teeth in order to ensure the engagement between said means and the teeth.

7. **Problem and Solution**

The technical problem to be solved according to the invention in respect of the above mentioned most relevant state of the art disclosed in document (1) was to adapt this known dispenser to deliver automatically a pasty detergent in a washing machine, i.e. to transform said known dispenser into a compact one having an easily replaceable or refillable material container and being able to fit in the limited narrow space available in a washing machine.

To solve this problem, Claim 1 proposes essentially to provide the known dispenser with simplified movement transmitting means and a releasable arrangement of this means. In particular, to replace the belt, the pulleys, the wheel provided with blocks and the pivotable arm with its right angular extension of the driving system according to citation (1), only a drive wheel is envisaged with a pivotably mounted support idler wheel and a releasable locking device to ensure engagement of the drive wheel with the teeth of the piston rod.

The Board is satisfied that the aforementioned problem is solved by said proposed combination of features.

## 8. Inventive step

- 8.1 As regards the inventive step, it should be first considered if it had been reasonable to the person skilled in the art, i.e. the manufacturer of washing machines, to envisage the use of a dispenser of the type known from citation (1) on such machines.

To avoid the inconvenience resulting from the use of washing powders or granular detergents (cf. column 1, lines 10-15 of the patent specification), it is already known from document (2) to use a liquid detergent and to store it in an upper reservoir so that it can simply be dispensed into the machine by gravity without the need of pressure exerting means. It appears that such use must have been commonly known.

If, as suggested, the skilled person had citation (1) available to him and he considered the stated problem of adapting the known paste-dispenser to a washing machine, he would have realised that this could only be acceptable if

the result were comparable in performance and simplicity to the systems using liquids reliably and easily. Thus, even the formulation of the problem in relation to the cited art is overshadowed by the need for a radical simplification of the art according to the basic citation. Even if, as suggested by the Appellant, the skilled practitioner may get from his general knowledge the idea of replacing the complex known movement transmitting assembly by a single drive wheel with a counteracting idler support wheel according to the invention, he would find nowhere in the related art any hint to provide a pivotable mounting for the support wheel and a locking device for releasably locking the wheel in the position of engagement with the piston rod according to the patented device. Nowhere in the 19 documents cited during the granting and opposition procedures has such means been demonstrated.

Consequently, the Board is convinced that the adaptation of the dispenser known from citation (1) to washing machines according to the terms of Claim 1 does not follow plainly or logically from the prior art but implies an inventive step. This has not anymore been disputed by the Appellant with respect to the claims submitted by the Respondent in response to the Board's Communication.

Therefore, the subject-matter of Claim 1 is patentable within the meaning of Article 52 EPC.

9. Dependent Claims 2 to 4 concern particular embodiments of the device according to Claim 1 and are therefore likewise allowable.

**Order**

For these reasons, it is decided that:

1. The decision of the first instance is set aside.
2. The case is remitted to the first instance with the order to maintain the patent on the basis of the following documents:
  - Claims 1 to 4 filed on 13 November 1989
  - Description and drawings as granted..

The Registrar:

*S. Fabiani*

S. Fabiani

The Chairman:

*G. Szabo*  
G. Szabo