

Publication in the Official Journal ~~Yes~~ / No

File Number: T 510/90 - 3.5.2

Application No.: 87 850 082.6

Publication No.: 0 244 376

Title of invention: Method of producing linear reciprocating movement of a permanent bar magnet

Classification: H02N 11/00

D E C I S I O N  
of 23 April 1991

Applicant: Denev, Martin Ivanov

Headword:

EPC Art. 56, 83

Keyword: "Perpetuum mobile - no, after amendment"  
"Inventive step - yes"

Headnote



Case Number : T 510/90 - 3.5.2

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.2  
of 23 April 1991

**Appellant :** Denev, Martin Ivanov  
Postfach 5  
A-2680 Semmering

**Decision under appeal :** Decision of Examining Division of the European Patent Office dated 19 February 1990 refusing European patent application No. 87 850 082.6 pursuant to Article 97(1) EPC.

**Composition of the Board :**

**Chairman :** R.E. Persson  
**Members :** W.J.L. Wheeler  
J. van Voorthuizen

## Summary of Facts and Submissions

- I. The present appeal contests the decision of the Examining Division refusing Appellant's European patent application No. 87 850 082.6. The reason for the refusal was that the application (as it then stood, in the form originally filed) did not meet the requirements of Article 83 EPC, since a successful execution of the claimed method was impossible as the claim defined a perpetuum mobile.
- II. After some correspondence between the Board and the Appellant, oral proceedings were held on 23 April 1991, at which the Appellant demonstrated a working model of his invention and submitted a new claim and description to replace those originally filed. The claim is now worded as follows:

"Method of producing linear reciprocating movement of a permanent bar magnet (3) between first and second stationary permanent bar magnets (1,5), the reciprocating and stationary magnets being arranged with their magnetic axes aligned in a substantially straight line with each pole of the reciprocating magnet (3) facing a like pole of one of the stationary magnets (1,5), in which method a first magnetic screen (2) is periodically inserted into and withdrawn from a first air gap (6) between the first stationary magnet (1) and the reciprocating magnet (3) and, in alternation therewith, a second magnetic screen (4) is periodically inserted into and withdrawn from a second air gap (7) between the second stationary magnet (5) and the reciprocating magnet (3), whereby the reciprocating magnet (3) is displaced towards whichever one of the air gaps (6,7) has a screen inserted in it, characterised in that the first and second magnetic screens (2,4) are each composed of a pair of permanent bar

magnets mounted side by side in anti-parallel fashion with S-pole to N-pole and N-pole to S-pole."

- III. The Appellant requested that the decision under appeal be set aside and a patent granted on the basis of the claim and description submitted at the oral proceedings and the drawings as originally filed.

Reasons for the Decision

1. The appeal is admissible.
2. The claim and description now on file clearly do not relate to a perpetuum mobile, so that the reason for which the application was refused does not apply to the application in its present form. For the convenience of the Appellant, the Board has decided in this case to make use of its powers under Article 111(1) EPC to carry out the further examination of the present application itself, rather than remit the case to the Examining Division.
3. The amendments made comply with Article 123(2), since no matter has been added. In particular, all the features in the claim can be found in the originally filed claim and/or in the drawings. The description has been amended to acknowledge the relevant prior art, namely US-A-3 609 425, the abstract of Japanese patent application 54-169928 (publication number 56-91681) and DE-A-3 243 153. Several passages have been deleted.
4. As far as the prior art is concerned, the Board notes that a method in accordance with the pre-characterising part of the claim was already known from DE-A-3 243 153 and that similar methods, in which however each pole of the reciprocating magnet faces an unlike pole of one of the

stationary magnets, were already known, see, for example, US-A-3 609 425. The Board also notes that none of the prior art documents on file discloses a magnetic screen, or indeed any structure for whatever purpose, composed of a pair of permanent bar magnets mounted side by side in anti-parallel fashion with S-pole to N-pole and N-pole to S-pole as specified in the characterising part of the claim.

5. The claimed method is therefore to be regarded as novel. Furthermore, since, in the opinion of the Board, there is no obvious reason to adapt the known methods to employ magnetic screens having the structure specified in the characterising part of the claim, the claimed method is to be regarded as involving an inventive step.
6. In the result, the Board takes the view that the application in its present form and the invention to which it relates meet the requirements of the EPC.

**Order**

**For these reasons, it is decided that:**

1. The decision under appeal is set aside.
2. The case is remitted to the first instance with the order to grant a patent in accordance with the Appellant's request (see paragraph III above).

**The Registrar:**

  
M. Kiehl

**The Chairman:**

  
E. Persson