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D E C I S I O N
of 27 January 1994

Case Number: T 0920/93 - 3.2.1

Application Number: 88109167.2

Publication Number: 0295569

IPC: B63H 21/28, B63H 23/04, F16H 3/14

Language of the proceedings: EN

Title of invention:
Reversing mechanism for an outboard propulsion power leg

Patentee:
M.P.M. Meccanica Padana Monteverde S.p.A.

Opponent:
Hurth Getriebe und Zahnräder GmbH

Headword:
-

Relevant legal norms:
EPC Art. 102(3)(a), 113(2)

Keyword:
"Proprietor's request for revocation of the patent"

Decisions cited:
T 0073/84

Catchword:
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Boards of Appeal

Chambres de recours

Case Number: T 0920/93 - 3.2.1

D E C I S I O N
of the Technical Board of Appeal 3.2.1
of 27 January 1994

Appellant:
(Opponent) Hurth Getriebe und Zahnräder GmbH
Moosacher Strasse 36
Postfach 400 880
D-80809 München (DE)

Representative: -

Respondent:
(Proprietor of the patent) M.P.M. Meccanica Padana Monteverde S.p.A.
Via dell'Industria, 46/48
I-35100 Padova (IT)

Representative: Modiano, Guido, Dr.-Ing.
Modiano & Associati S.r.l.
Via Meravigli, 16
I-20123 Milano (IT)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office dated 25 August 1993
rejecting the opposition filed against European
patent No. 0 295 569 pursuant to Article 102(2)
EPC.

Composition of the Board:

Chairman: F.A. Gumbel
Members: P. Alting van Geusau
B.J. Schachenmann

Summary of Facts and Submissions

- I. In a decision dated 25 August 1993 the Opposition Division rejected the opposition filed against European patent No. 0 295 569.
- II. The Appellant (Opponent) appealed against this decision by a letter filed on 22 October 1993, paid the fee for appeal on the same day and filed a Statement of Grounds of appeal on 17 December 1993. He requested that the patent be revoked.
- III. In a letter dated 20 January 1994 the Respondent (Proprietor) requested revocation of the patent and refund of all refundable fees, if any.

Reasons for the Decision

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is admissible.
2. It follows from the provision according to Article 113(2) EPC that a European patent cannot be maintained against the Proprietor's will. Thus, in view of the Respondent's request for revocation of his patent, the present European patent has to be revoked (cf. T 73/84; OJ EPO 1985, 241).
3. The request regarding refund of fees lacks substantiation in that the Respondent did not specify any fee which, in his opinion, should be refunded and did not give any reason supporting such refund. Therefore, the Board, not being aware of any refundable fee in the present case, has to reject this request.

Order

For these reasons, it is decided that:

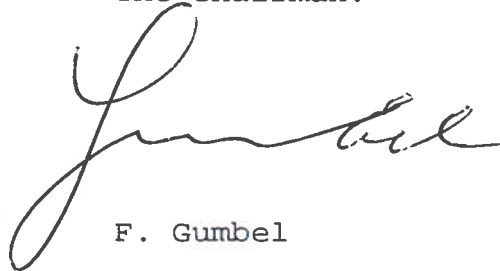
1. The decision under appeal is set aside.
2. The European patent No. 0 295 569 is revoked.
3. The request regarding refund of fees is rejected.

The Registrar:



S. Fabiani

The Chairman:



F. Gumbel

