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D E C I S I O N
of 17 March 1997

Case Number: T 0078/94 - 3.2.5

Application Number: 89300650.2

Publication Number: 0326325

IPC: B24B 3/58, B23D 63/12

Language of the proceedings: EN

Title of invention:
Apparatus for facilitating the machining of workpieces

Applicant:
ISELI & CO. AG

Opponent:
-

Headword:
-

Relevant legal provisions:
EPC Art. 56

Keyword:
"Inventive step (yes) - after amendment"

Decisions cited:
-

Catchword:
-



Case Number: T 0078/94 - 3.2.5

D E C I S I O N
of the Technical Board of Appeal 3.2.5
of 17 March 1997

Appellant: ISELI & CO. AG
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Representative: Russell-Rayner, Albert Patrick
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 16 August 1993
refusing European patent application
No. 89 300 650.2 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: G. Gall
Members: W. D. Weiß
A. Burkhart

Summary of Facts and Submissions

- I. The appellant (applicant) lodged an appeal against the decision of the Examining Division on the refusal of the application No. 89 300 650.2.

The Examining Division held that the application did not meet the requirement of inventive step according to Article 52(1) EPC in connection with Article 56 EPC having regard to the documents

(D1) DE-A-2 032 413, and
(D2) DE-U-7 331 658.

- II. In a communication, the Board expressed as its provisional opinion that the subject-matter of the claims then on file did not meet the requirements of clarity and inventive step.

The appellant, on 24 February 1997 with letter of 19 February 1997, submitted a new set of 10 claims and an amended description adapted thereto.

- III. The appellant requested that the decision under appeal be set aside and a patent be granted on the basis of the following documents:

Claims 1 to 10 and description pages 1 to 3, 3A and 3B, and 4 to 13, all filed on 24 February 1997 with letter of 19 February 1997, and

Figures 1 to 7 (four sheets) as originally filed.

- IV. The wording of Claim 1 according to the single request on file at the time of the present decision reads as follows:

"1. Apparatus for machining a workpiece such as the flanks of the tips provided upon the teeth of a saw blade, the apparatus including a workpiece guide (13) defining a workpiece feed direction extending parallel to a predetermined reference plane (14); means for supporting with respect to the remainder of the apparatus two assemblies for mounting workpiece machining tools (27, 37), there being one such assembly to each side of the reference plane (14) such that machining operations can be simultaneously effected upon a workpiece (5); means (6) for providing an operational connection between the two assemblies located at a location remote from the region occupied by a workpiece when cooperating with the guide (13), to enable simultaneous displacement of the two tools (27, 37) between a non-machining or rest position and a machining position with respect to the workpiece; each of the assemblies comprising first pivotal means for enabling the setting of the relative angular positions of the tools (27, 37) by rotation about first axes (25, 35) each extending, offset from said reference plane (14), in a first direction parallel to said reference plane (14), and each of the assemblies comprising second pivotal means (21, 23; 31, 33) for enabling the relative angular positions of the tools (27, 37) to be set by rotation about a second axis (22, 32) extending in a second direction transverse to the first direction and parallel to the said reference plane (14), characterised in that the respective second axis (22, 32) of each pivotal means is located, offset from the reference plane (14), on the same side of said reference plane (14) on which its respective said assembly and its respective first axis are located, and in that the first and second axes (22, 32; 25, 35) of each assembly intersect each other."

V. The appellant argued as follows:

The apparatus disclosed in document D1 was the prior art closest to the invention. Consequently, the preamble of Claim 1 had been formulated to acknowledge the features of this known apparatus. It was obvious that this known apparatus was not apt to meet the demands of the users who in particular requires an easily and quickly maintainable apparatus permitting to grind saw tips the side faces of which are inclined inwardly towards the blade medial plane in the direction from the front to rear of the tip and are inclined to either side of the medial plane to the same extent. The features in the characterising portion of Claim 1 warranted that these requirements were met.

Reasons for the Decision

1. *Amendments*

The disclosure of Claims 1 and 2 rests on the Claims 1 and 3 as well as on Figure 2 and the description, page 7, line 24, to page 8, line 25, as originally filed. Claims 3 to 10 originate from the respective claims as originally filed.

The Claims and the respective amendments to the description are, therefore, not open to objections on the basis of Article 123(2) EPC.

2. *Novelty*

Document D1 represents the closest prior art which discloses an apparatus comprising all the features in the pre-characterising portion of Claim 1 but not those in its characterising portion. Document D2 and the further documents cited in the Search Report are even more remote from the subject-matter of Claim 1.

Lack of novelty, therefore, cannot be objected on the ground of these documents.

3. *Inventive Step*

The grinding apparatus disclosed by document D1 suffers from the drawback that it does not allow to grind saw tooth tips the side face of which are inclined inwardly towards the blade medial plane in the direction from front to rear of the tip as well as the side faces to either side of the medial plane of which are inclined to the same extent.

The technical problem solved by the combination of features in the characterising portion of Claim 1 consists in creating an easily maintainable and adjustable apparatus which meets these user requirements.

None of the documents cited in the Search Report refers to the problem mentioned nor is there deductible any hint which could possibly guide a skilled person to the characterising features of Claim 1.

Lack of inventive step can, therefore, not be objected.

4. Claim 1, therefore, defines a patentable invention within the meaning of Article 52(1) EPC.

The dependent Claims 2 to 10 represent particular embodiments of the invention defined in Claim 1. They are, therefore, likewise allowable. The description corresponds to the claims.

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 the patent as amended in the following version:

Claims 1 to 10 and description pages 1 to 3, 3A and 3B, and 4 to 13, all filed on 24 February 1997 with letter of 19 February 1997, and
Figures 1 to 7 (four sheets) as originally filed.

The Registrar:



A. Townend

The Chairman:



G. Gall

