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D E C I S I O N
of 12 November 1996

Case Number: T 0823/94 - 3.2.4

Application Number: 90200381.3

Publication Number: 0389013

IPC: A01K 1/12

Language of the proceedings: EN

Title of invention:

An accommodation for a number of animals, dairy animals in particular

Applicants:

C. van der Lely N.V.

Opponent:

-

Headword:

-

Relevant legal provisions:

EPC Art. 56

Keyword:

"Inventive step - yes"

Decisions cited:

-

Catchword:

-



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Boards of Appeal

Chambres de recours

Case Number: T 0823/94 - 3.2.4

D E C I S I O N
of the Technical Board of Appeal 3.2.4
of 12 November 1996

Appellant:

C. van der Lely N.V.
Weverskade 10
PO Box 26
NL-3155 PD Maasland (NL)

Representative:

Mulder, Herman
Octrooibureau Van der Lely N.V.
Weverskade 10
3155 PD Maasland (NL)

Decision under appeal:

Decision of the Examining Division of the
European Patent Office posted 30 May 1994
refusing European patent application
No. 90 200 381.3 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: C. A. J. Andries
Members: M. G. Hatherly
J. P. B. Seitz

Summary of Facts and Submissions

I. On 22 July 1994 the appellants (applicants) lodged an appeal against the decision of the examining division dispatched on 30 May 1994 to refuse the European patent application No. 90 200 381.3 (publication No. 0 389 013) for lack of inventive step. The appeal fee was paid simultaneously and the statement of grounds of appeal was received on 28 September 1994.

II. The search report lists the following prior art documents:

D1: EP-A-0 270 165

D2: DE-U-8 302 429

D3: US-A-4 011 837

and the board cited the prior art document:

D4: EP-A-0 189 954

III. In its communication of 14 August 1996 the board provisionally found the subject-matter of claim 1 of the new set of claims filed with the statement of grounds of appeal to be obvious.

With their letter of 7 October 1996 the appellants filed a new set of claims including a new claim 1.

IV. The appellants request that the decision of the examining division be set aside and that a patent be granted on the basis of:

claims: claims 1 to 4 filed with the letter of
7 October 1996

description: page 1 filed with the letter of 7 October
1996
pages 2, 6 to 8, 12 and 14 filed with the
letter of 6 November 1996
page 3 filed with the letter of
3 December 1993
pages 4, 5, 9 to 11, 13 and 15 filed with
the letter of 14 September 1992

drawings: sheets 1/3 to 3/3 (Figures 1 to 5) as
originally filed

V. Claim 1 reads as follows:

"An accommodation (1) for dairy animals such as cows, comprising a closet type of device (9) with an automatic milking apparatus (26) and a feeding system (15), said closet type of device (9) being connected to a storage place (25) for storing droppings of animals, said storage place (25) being provided near the accommodation (1), the closet type of device (9) having a floor, the rear part of which being structured as a grid floor (19), the closet type of device (9) further being provided with an automatic cleaning device comprising a washing device (22) for cleaning the place (19) of the closet type of device where the droppings are deposited, characterized in that washing device (22) is designed in the form of sprinklers or showers - which are electronically controlled and located at a side of the closet type of device (9) and at such a level that water sprinkled during operation of the

washing device (22) is directed obliquely rearwardly towards the udder and also towards the rear part of the floor of the closet type of device (9) where the droppings are deposited."

Reasons for the Decision

1. The appeal is admissible.
2. *Amendments*
 - 2.1 The present claim 1 retains all the essential features of the originally filed claim 1. The originally filed claim 1 stated that the closet type of device is between the accommodation and the storage place but this was inconsistent with Figure 1 showing part of the accommodation between the closet type of device and the storage device.
 - 2.2 The features added to the original claim 1 to arrive at the present claim 1 are to be found in the originally filed application as follows:
 - automatic milking apparatus (original claim 19),
 - feeding system (original claim 6),
 - closet type of device **connected** to a storage place (original page 5, lines 1 and 2),
 - the closet type of device having a floor whose rear part is structured as a grid floor (original page 9, lines 27 to 29)
 - the closet type of device further being provided with an automatic cleaning device comprising a

washing device for cleaning the place of the closet type of device where the droppings are deposited (original page 14, lines 25 to 33),

- the washing device is designed in the form of sprinklers or showers (original page 10, lines 20 to 22),
- the sprinklers or showers are electronically controlled (derivable from the original page 14, line 22 to page 15, line 4),
- the sprinklers or showers are located at a side of the closet type of device and at such a level that water sprinkled during operation of the washing device is directed obliquely rearwardly towards the udder and also towards the rear part of the floor of the closet type of device where the droppings are deposited (original page 10, lines 19 to 29 and Figure 3).

Moreover the board considers that, because of Figure 3, the **combination** of the features of the present claim 1 is fairly based on the originally filed application.

2.3 The present dependent claim 2 is derived from the original claim 16 and the original page 14, lines 22 to 27. The present claim 3 corresponds to the original claim 2. The present claim 4 is the combination of the original claims 3 and 4 with a change from "gate" to "door" based on the original page 6, line 23.

2.4 The present description is based on the originally filed description, merely having been adapted to the present claims and to acknowledge the prior art.

2.5 The drawings are as originally filed.

2.6 Accordingly the board sees no objection under Article 123(2) EPC to the present version of the application.

3. *European patent specification EP-B-0 384 531*

The subject-matter of the present version of the European patent application is similar to that of European patent specification EP-B-0 384 531 which resulted from the parallel European patent application 90 200 380.5.

However the characterising portion of claim 1 of the patent specification EP-B-0 384 531 specifies that the sensor means are connected to the feeding system to supply food upon detecting that the animal has deposited its droppings, a feature which is not present in any of the claims of the present version of the patent application.

Thus there is a clear difference between the present patent application and the patent specification EP-B-0 384 531.

4. *Novelty*

A washing device so located that water is directed obliquely rearwardly towards the udder and also towards the rear part of the floor where the droppings are deposited is not known from any of the prior art documents on file.

Therefore the subject-matter of claim 1 is considered novel within the meaning of Article 54 EPC.

5. *Closest prior art, problem and solution*

5.1 The document closest to the invention is document D1 which discloses the features of the precharacterising portion of claim 1.

5.2 The present application uses the term "accommodation 1" for the larger area where the cows spend most of their time (loose box or pasture) and the term "closet type of device 9" for the smaller area where they drop their droppings, are rinsed and milked. Feeding occurs in both areas (feeding passage 5 and feeding system 15).

Document D1, on the other hand, uses the term "accommodation" for the smaller area, namely for the container 1 shown in Figure 1 and comprising the milking parlour. This is placed next to a cow shed or in a meadow.

So the accommodation of document D1 corresponds to the closet type of device of the present application:

5.3 Document D1 refers in column 3, lines 13 to 15 to a sprinkler installation for cleaning the walls of the movable accommodation or container. Moreover lines 53 to 55 of column 4 state that the teat cups are cleaned. Column 8, lines 40 to 43 of document D1 adds that "installations for automatically cleaning and rinsing the equipment, accommodation and/or cows can be incorporated into the shown embodiments". However the document gives no other information as to which specific parts of the hardware and cows are cleaned and by what means.

5.4 The problem arising from the system disclosed by document D1 is to provide an efficient cleaning system for the hardware and the dairy animal.

5.5 The present invention provides a washing device which directs the water obliquely rearwardly towards the animal's udder and also towards the rear part of the floor where the droppings are deposited. Thus both the rear part of the floor and the animal's udder are cleaned simultaneously and by the same means.

5.6 The board thus considers the problem arising from the prior art to be solved by the features of claim 1, in particular by the features of the characterising portion.

6. *Inventive step*

6.1 For the reasons given in its communication of 14 August 1996, the board sees no inventive step in designing the washing device for cleaning the place of the closet type of device where the droppings are deposited in the form of sprinklers or showers, electronically controlling these sprinklers or showers, and locating them at a side of the closet type of device.

6.2 Moreover the board considers it obvious to provide two cleaning systems in the accommodation known from document D1.

The first system would be provided for automatically cleaning the area under the rear end of the cow (which must be cleaned frequently because it is the dirtiest area but needs to be clean).

The second system would be provided to automatically clean the animal's udder. Document D1 specifies automatic cleaning or rinsing of the cows in column 8, lines 40 to 43, and the person skilled in the art would find it obvious to incorporate an automatic udder washing device such as that shown in Figure 3 of document D4 in the arrangement of document D1. Indeed

this second automatic system would seem to be an essential addition to document D1's automatic milking apparatus, feeding system and automatic cleaning device for cleaning the place because for reasons of hygiene the udder must be cleaned and it makes sense to do this automatically, otherwise the cow man would need to be present just for this one non-automatic job.

6.3 However the present claim 1 specifies an important feature in addition to those features considered obvious by the board, namely that the washing device is so located that it delivers water obliquely rearwardly towards the udder and also towards the rear part of the floor of the closet type of device where the droppings are deposited. Thus both the rear part of the floor and the animal's udder are cleaned simultaneously and by the same means. The need for a dedicated udder cleaner (eg of the type shown in Figure 3 of document D4) is removed, one device cleans both the udder and the floor and performs these tasks simultaneously.

6.4 Document D1 refers specifically to cleaning walls and teat cups, and refers in general terms to automatically cleaning the equipment, accommodation and/or cows but gives no hint towards cleaning both the floor and the udder with the same device.

While in document D2 the floor is sprayed, this is done after the dog has left, in any case as the spray comes from above it could not clean the underside of the dog. Documents D2 and D3 are not concerned with milking (and therefore cannot help with an udder cleaning problem). These documents are moreover in a different field that is not obviously relevant to agriculture.

Document D4 is concerned with milking and with cleaning and drying the udder. Figure 3 shows "a bowl 16 which is substantially in close contact around the animal's

udder and has a plurality of spraying nozzles 32", see page 16, lines 12 to 14. Because of the bowl there can be no intention of allowing the liquid to fall to the floor to clean the latter and indeed the liquid is "discharged through outlet 33 and conduit 43", see page 17, lines 19 and 20.

6.5 Thus there is no suggestion in the prior art available to the board of using one and the same device for cleaning the udder and the droppings from the rear part of the floor.

6.6 Accordingly the board cannot see that any combination of the documents available to it would lead to the subject-matter of claim 1.

Moreover this claim includes the subject-matter of the combination of claims 1 and 8 filed with the letter of 14 September 1992, a combination recommended by the examining division in section 5 of its communication of 15 February 1993.

7. The subject-matter of claim 1 is thus patentable as required by Article 52 EPC. A patent may therefore be granted based on this allowable independent claim and on claims 2 to 4 which are dependent on claim 1.

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 the following version:

claims: claims 1 to 4 filed with the letter of 7 October 1996

description: page 1 filed with the letter of 7 October 1996
pages 2, 6 to 8, 12 and 14 filed with the letter of 6 November 1996
page 3 filed with the letter of 3 December 1993
pages 4, 5, 9 to 11, 13 and 15 filed with the letter of 14 September 1992

drawings: sheets 1/3 to 3/3 (Figures 1 to 5) as originally filed

The Registrar:



N. Maslin

The Chairman:



C. Andries