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Beschwerdekammern | Boards of Appeal | Chambres de recours

Case Number: T 0674/95 - 3.2.2

Decision of 1 March 1999 correcting errors in the decision of the Technical Board of Appeal 3.2.2 of 7 September 1998

Appellant: Koninklijke Philips Electronics N.V.
Groenewoudseweg 1
5621 BA Eindhoven (NL)

Representative: Cuppens, Hubertus Martinus Maria
Internationaal Octrooibureau B.V.
Prof. Holstlaan 6
5656 AA Eindhoven (NL)

Decision under appeal: **Decision of the Examining Division of the European Patent Office posted 7 October 1994 refusing European application No. 91 200 959.4 pursuant to Article 97(1) EPC.**

Composition of the Board:

Chairman: W. D. Weiß
Members: D. Valle
J. C. M. De Preter

According to Rule 89, the Decision T 674/95 of 7 September 1998 is corrected as follows: in the Order under point 2, "Description" after the words "page 3 filed on 9 February 1995 with letter of 8 February 1995" the following words are inserted:

", the last incomplete sentence starting with the word [When] and ending with the word [by] being cancelled".

The Registrar:

S. Fabiani

The Chairman:

W. D. Weiß

BESCHWERDEKAMMERN DES EUROPÄISCHEN PATENTAMTS

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D E C I S I O N
of 7 September 1998

Case Number: T 0674/95 - 3.2.2

Application Number: 91200959.4

Publication Number: 0459544

IPC: B23Q 1/00

Language of the proceedings: EN

Title of invention:
Machine tool with movable positioning device

Applicant:
Koninklijke Philips Electronics N.V.

Opponent:
-

Headword:
-

Relevant legal provisions:
EPC Art. 123(2), 54, 56

Keyword:
"Original disclosure (yes)"
"Novelty and Inventive step (yes)"

Decisions cited:
-

Catchword:
-

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of the Technical Board of Appeal 3.2.2
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Summary of Facts and Submissions

I. The appellant (applicant), on 12 December 1994 lodged an appeal against the decision of the Examining Division on the refusal of the application No. 91 200 959.4. The statement setting out the grounds of appeal was received on 7 February 1995. The fee for appeal was paid on 12 December 1994

The examining division held that the application did not meet the requirements of Articles 54 EPC having regard to the following document:

(A1) US-A-2 167 755.

II. The appellant requests that the decision under appeal be set aside and a patent be granted on the basis of the following version:

Claims:

No. 1 filed on 3 August 1998 with letter of 29 July 1998
No. 2 to 6 filed on 9 February 1995 with letter of 8 February 1995

Description:

pages 1 and 2 filed on 3 August 1998 with letter of 29 July 1998;
page 3 filed on 9 February 1995 with letter of 8 February 1995;
pages 4 to 8 as originally filed
page 9 filed on 9 July 1998 with letter of 2 July 1998.

Drawings:

Sheets 1/2-2/2 as originally filed

III. The independent claim 1 reads as follows:

"A machine tool for machining a workpiece (11) which is fastened to a rotatable support (9) which has its bearings in a frame (1) of the machine tool, which machine tool is provided with a positioning device (35) for locating a tool (37) fastened on the positioning device (35) relative to the workpiece (11), the positioning device (35) being provided on a carrier (17) which is couplable to the frame (1) by means of coupling members (51), wherein the tool (37) is movable in at least an x-direction parallel to the support (9) by means of the positioning device (35) and the carrier (17) is movable along a flat guide (23, 25) of the frame (1) in a y-direction perpendicular to the x-direction and away from the support (9), and wherein the coupling members (51) for coupling the carrier (17) to the frame (1) are provided with bolts (75) which are couplable to fastening members (83, 91), characterized in that each bolt (75) is subjected to a tensile stress during operation after coupling of the carrier (17) to the frame (1), which tensile stress is achieved by means of a piston (73) which is movable by a fluid in a cylinder (59) and is connected to the relevant bolt (75)."

IV. The appellant argues as follows. A combination of the subject-matter of original claims 1 and 3 was suggested by the examining division as subject-matter for a patentable independent claim in paragraph 6.1 of its communication of 17 February 1994, the subject-matter of the original claim 3 corresponding to the subject-matter of dependent claim 4 referred to in this communication. Contrary to the examining division's

opinion, however, such an independent claim should not necessarily have to include the feature of the carrier as detailed in claim 2. The details of the carrier as disclosed in claim 2 filed with the letter of 25 November 1993 merely constituted a preferred embodiment of a machine tool providing an improved accessibility for the operator. However, the subject-matter of the amended claim 1 did not concern the problem of accessibility of the machine tool, but the problem of rigidity of the machine tool as acknowledged by the examining division in paragraph 6.1 of its communication of 17 February 1994. The description and the claims as originally filed did not disclose nor suggest that these details of the carrier were essential for achieving a high degree of rigidity. Therefore, the addition of the details of claim 2 filed with letter of 25 November 1993 in present amended claim 1 would constitute an unnecessary limitation of the scope of the protection.

In amended claim 1 the features that the bolts are attached to the carrier and that the fastening members are provided on the frame as disclosed in the original claim 3 had been deleted. This formulation intended to include in the scope of protection the mechanically inverted solution wherein the bolts are attached to the frame and the fastening members are provided on the carrier.

Reasons for the Decision

1. The appeal is admissible.

2. *Amendments*

New claim 1 consists of the features of original claim 1 and part of the features of claim 3, the feature that the bolts are provided on the carrier and the fastening members are provided on the frame having not been included in the present claim 1. Although the mechanically inverted solution which is now embraced by the scope of the claim is not explicitly disclosed in the applications, it is clear from the original application that the relative position of bolts and fastenings is not decisive for the invention. Original claim 1 merely states that the machine tool is provided with coupling members having bolts on one side and fasteners on the other side of the junction.

Moreover, the original claim 6 (claim 4 of the present version) states that the invention aims at providing a pressure contact between mutually fitting surfaces which are stationary with respect to the frame and the carrier, respectively.

Claims 2, 3 and 4 derive from original claims 4, 5 and 6 respectively. Claims 5 and 6 derive from claims 2 and 3 forming the basis for the appealed decision.

The description has been adapted accordingly and indicates the relevant background art. The object of the invention laid down at page 2, lines 16 to 18 derives from page 2, lines 23 to 31 of the original disclosure.

The requirements of Article 123(2) EPC are thus satisfied.

3. *Novelty*

3.1 Document (A1) discloses a machine tool for machining a workpiece which is fastened to a rotatable support (14) which has its bearings in a frame (10 to 12) of the machine tool, which machine tool is provided with a positioning device (21, 22, page 1, right column, lines 26 to 28) for locating a tool fastened on the positioning device relative to the workpiece, the positioning device being provided on a carrier (15) which is couplable to the frame (10) by means of coupling members (bolts 17, cross shaft 18), wherein the tool is movable in at least an x-direction parallel to the support (14) by means of the positioning device and the carrier (15) is movable along a flat guide of the frame in a y-direction perpendicular to the x-direction away from the support (14) whereby the coupling members (17, 18) for coupling the carrier (15) to the frame (10) are provided with bolts (17) which are coupable to fastening members (18).

3.2 Claim 1 distinguishes therefrom in that each bolt (75) is subjected to a tensile stress during operation after coupling of the carrier (17) to the frame (1), which tensile stress is achieved by means of a piston (73) which is movable by a fluid in a cylinder (59) and is connected to the relevant bolt (75).

3.3 None of the further documents of the available prior art discloses a machine tool having all the features of claim 1. Consequently the subject-matter of claim 1 is considered to be new.

4. *Inventive step*

A disadvantage of the machine tool known by the document (A1) is that the rigidity and positioning accuracy provided by said clamping bolts, which constitute the coupling members by means of which the carrier or bed is couplable to the frame or base, is limited, so that the accuracy of the known machine tool is restricted.

By subjecting each bolt of the coupling members to a tensile stress achieved by means of a piston which is movable by a fluid in a cylinder and is connected to the relevant bolt, a particularly sturdy, effective and easily realisable coupling between the carrier and the frame, of the machine tool is obtained, so that the positioning accuracy of the coupling and the machining accuracy of the machine tool are relatively high.

The problem solved by the invention is not disclosed by the available prior art. The distinguishing features of the invention are not hinted at either. Accordingly claim 1 has to be considered as inventive.

The examining division in its communication of 17 February 1994 suggested that a main claim corresponding to the present submission could be considered patentable provided that it would include the further features concerning the carrier as contained in the original claim 2. The Board however does not consider the addition of such features as necessary because they do not contribute to the solution of the problem of the invention.

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:

No. 1 filed on 3 August 1998 with letter of 29 July 1998
No. 2 to 6 filed on 9 February 1995 with letter of 8 February 1995

Description:

pages 1 and 2 filed on 3 August 1998 with letter of 29 July 1998
page 3 filed on 9 February 1995 with letter of 8 February 1995
pages 4 to 8 as originally filed
page 9 filed on 9 July 1998 with letter of 2 July 1998

Drawings:

Sheets 1/2-2/2 as originally filed

The Registrar:

S. Fabiani

S. Fabiani

The Chairman:

W. D. Weiß

W. D. Weiß