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D E C I S I O N  
of 10 March 1998

Case Number: T 0931/96 - 3.2.1  
Application Number: 90902411.9  
Publication Number: 0454758  
IPC: F16K 37/00, F16L 37/00

Language of the proceedings: EN

Title of invention:  
A valve arrangement and coupling arrangement

Patentee:  
Nyberg, Bo, Erik

Opponent:  
Voswinkel GmbH

Headword:  
-

Relevant legal provisions:  
EPC Art. 54, 111

Keyword:  
"Novelty (after amendment, yes)"  
"Decision re appeals - remitted (yes)"

Decisions cited:  
-

Catchword:  
-



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Boards of Appeal

Chambres de recours

Case Number: T 0931/96 - 3.2.1

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.1  
of 10 March 1998

**Appellant:** Nyberg, Bo, Eric  
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6315 Oberägi (CH)

**Representative:** Hellborg, Torild  
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**Respondent:** Voswinkel GmbH  
(Opponent) Neugrünenthal  
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**Representative:** Patentanwälte  
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**Decision under appeal:** Decision of the Opposition Division of the  
European Patent Office posted 21 August 1996  
revoking European patent No. 0 454 758 pursuant  
to Article 102(1) EPC.

**Composition of the Board:**

**Chairman:** F. A. Gumbel  
**Members:** P. Alting van Geusau  
V. Di Cerbo

## Summary of Facts and Submissions

- I. The mention of grant of European patent No. 0 454 758 in respect of the international application No. PCT/SE90/00028, filed on 15 January 1990 and claiming priority from the SE application No. 8 900 188, was published on 17 May 1995.
- II. Notice of opposition was filed on 16 February 1996 on the grounds of Article 100(a) EPC. In respect of an alleged lack of novelty and inventive step the opponent cited the following documents:
- D1: Bruning, Catalogue 8404, Hydraulic Quick Action Couplers, Copyright 1984 by Bruning Hydraulics, Imperial Clevite Inc., 1984, USA,
- D2: Leaflet: Quick-Disconnect Coupling, Snap-tite Series 29, Snap-tite Inc., 1985, USA,
- D3: EP-A-0 314 381 (Article 54(3) EPC document).
- III. By a decision issued in writing on 21 August 1996 the Opposition Division revoked the patent.
- The Opposition Division was of the opinion that the subject-matter of claim 1 as granted lacked novelty in view of the prior art disclosed in D1 or D2, in particular considering the coupling arrangement shown in Figure 3, representing a flush face coupler indicated by number FF-500-8FP on page 10 of D1, an enlarged section of which was filed by the opponent as "Anlage A" together with the notice of opposition.
- IV. On 15 October 1996 a notice of appeal was lodged against that decision together with payment of the appeal fee.

The statement of grounds of appeal was filed on 20 December 1996.

- V. In a communication in preparation for oral proceedings the Board expressed the provisional opinion that the coupling arrangement shown in Figure 3 of "Anlage A" did not appear to represent a valve arrangement within the meaning of claim 1 essentially because in the coupled state of the valves the respective parts of the coupling, in particular the valve housing and the piston body, were no longer axially displaceable with respect to each other in the manner as defined in the last part of claim 1.

It was noted that, obviously as a consequence of the revocation of the patent for lack of novelty, the issue of inventive step, also raised by the respondent, had not been further considered by Opposition Division. Therefore the Board intended to use its discretion under Article 111(1) EPC and remit the case to the Opposition Division for further prosecution.

- VI. Oral proceedings were held on 10 March 1998.

During the oral proceedings the appellant filed a new claim 1 and requested setting aside of the decision under appeal and maintenance of the patent in amended form on the basis of the new claim 1 together with claims 2 to 4 as granted.

Current claim 1 reads as follows:

"1. A valve arrangement for a pressure fluid, such as a pressure liquid, particularly high-pressure oil, comprising in one single unit forming a closing valve or a part of a coupling arrangement a valve housing (10; 90; 92) through which extends a flow passage which is configured along part of its length with a

cylindrical, internal sealing surface (16; 100; 162) which forms a guide for a cylindrical, outer sealing surface (42; 107; 160) of a piston body (18; 106; 138), one of said inner and outer sealing surfaces being provided with a circular groove (66 or 44; 110; 166) which accommodates a sealing ring (64 or 46; 108; 164) made of a substantially elastic material, said piston body being movable axially in relation to said internal sealing surface from a sealing starting position to an open position in which said piston lies outside one end of said internal sealing surface and opens through flow, an axially displaceable valve sleeve (30 or 70; 122; 156) being disposed coaxially to said internal and outer sealing surfaces, said valve sleeve having a cylindrical valve-sealing surface (40 or 74; 124; 158) of essentially the same diameter as said internal and said outer sealing surfaces; said valve sleeve being biased by a spring (34 or 80; 118; 172) such that one end thereof (36 or 82; 128; 174) abuts substantially sealingly a seating (38 or 84; 126; 176) provided at an end of said internal or said outer sealing surface to form a closed gap (41 or 86; 130; 178) which is situated at one end of a channel (32 or 72; 132; 145), the other end of which is connected via a connection part (12 or 14; 94; 96) to a pressure-fluid source, said valve housing and said piston body being axially displaceable with respect to each other from a starting position to an intermediate position in which said sealing ring has been moved from a position on one side of said closed gap to a position on the other side thereof, and continued displacement of said valve housing and said piston body relative to each other causing said valve sleeve to be moved relative to said seating so as to open the closed gap and form an open through-flow gap (41A or 86A; 130A) between said seating and said one end of said valve sleeve while said sealing ring is protected by said valve sleeve at the same time."

The respondent (opponent) requested rejection of the appeal but did not any longer maintain its objection in respect of lack of novelty with respect to the amended claim 1.

### Reasons for the Decision

1. The appeal is allowable.
2. *Amendments*
  - 2.1 Current Claim 1 is based on the granted claim 1, which itself is based on the originally filed claim 1.

The amendment concerns the inclusion of the feature that the valve arrangement comprises all the features specified in claim 1 "in one single unit forming a closing valve or a part of a coupling arrangement".

This amendment restricts the claimed subject-matter to relate to a closing valve or a part (female or male part) of a coupling.

A closing valve is depicted in Figures 1 to 3 and its functioning is described on page 5, second paragraph to page 9 of the application as originally filed. Coupling parts for a quick coupling (see claim 2) are shown in Figures 4 to 5A, 9, 10 and 12, and their functioning is described on pages 10 to 18 of the application as originally filed.

- 2.2 Claims 2 to 4 are based on the granted claims 2 to 4, which are essentially repetitions of the originally filed claims 2 to 4 clarified and restricted to include the subject-matter of granted claim 1.

2.3. In view of these assessments the Board concludes that the new set of claims meets the requirements of Article 123(2) and (3) EPC.

3. *Novelty*

3.1 The Board and the parties are in agreement that when considering patentability of the subject-matter of claim 1, D1 or D2, which documents disclose similar quick coupling arrangements, can be seen to represent the closest prior art.

3.2 Novelty of the subject-matter of claim 1 follows from the fact that none of the coupling parts disclosed in D1 or D2 comprises, in one single unit forming a closing valve or a part of a coupling arrangement, the combination of a protecting sleeve, a piston body relatively axially movable with respect to the housing and elastic sealing means provided on a cylindrical surface either on the piston body or in the piston housing.

In fact the known coupling parts disclosed in D1 and D2 have either a sleeve and no axially movable piston or a piston coating with a cylindrical surface of the housing but no movable sleeve (see D1 page 10, part no FF-501-8FP and part No FF-502-8FP or the respective female and male coupling parts disclosed in D2).

The additional document (D3) cited by the respondent is less relevant because the coupling parts disclosed in that document do not even include the combination of a piston and elastic sealing means as defined in claim 1 under consideration.

Novelty of the subject-matter of the amended claim 1 was in fact not longer contested by the respondent.

3.3 The subject-matter of each of the claims 2, 3 and 4 includes the novel valve arrangement in accordance with claim 1 and is therefore also novel within the meaning of Article 54(1) EPC.

4. *Procedural considerations*

4.1 It is to be noted that the patent was revoked by the Opposition Division for reason of lack of novelty of the subject-matter of the granted claim 1. Nothing in the file indicates that the issue of inventive step had been considered by Opposition Division.

4.2 Considering that examination of the new claim 1 in respect of the requirement of Article 56 EPC would entail an examination with respect to the substantive requirements of the EPC for the first time at the appeal stage and having regard to the case law of the Boards of appeal in this respect, the Board considers it appropriate in the present case to use its discretion under Article 111(1) EPC and to remit the case to the Opposition Division for further prosecution.

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 for further prosecution.

The Registrar:

*S. Fabiani*  
 S. Fabiani

The Chairman:

*F. Gumbel*  
 F. Gumbel

Beglaubigt/Certified  
 Certifiée conforme:  
 München/Munich

Geschäftsstelle  
 Registry/Greffe

27. MRZ. 1998



