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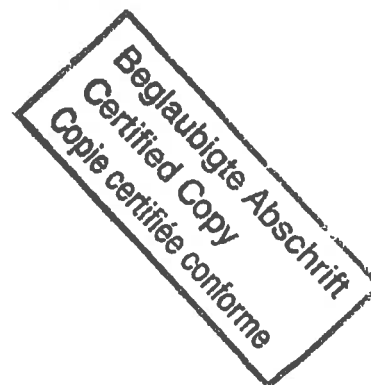
BOARDS OF APPEAL OF
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D E C I S I O N
of 15 October 1998

Case Number: T 0230/98 - 3.2.1

Application Number: 92402114.0

Publication Number: 0572744

IPC: B66B 13/30

Language of the proceedings: EN

Title of invention:
Fire door for an elevator

Applicant:
Kone Elevator GmbH

Opponent:
-

Headword:
-

Relevant legal provisions:
EPC Art. 111(1)

Keyword:
"Decision re appeals - remittal (yes)"

Decisions cited:
-

Catchword:
-



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Boards of Appeal

Chambres de recours

Case Number: T 0230/98 - 3.2.1

D E C I S I O N
of the Technical Board of Appeal 3.2.1
of 15 October 1998

Appellant: Kone Elevator GmbH
Rathausstrasse 1
6340 Baar (CH)

Representative: Orès, Bernard
Cabinet Ores
6, Avenue de Messine
75008 Paris (FR)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 6 August 1997
refusing European patent application
No. 92 402 114.0 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: F. A. Gumbel
Members: P. Alting van Geusau
J. H. van Moer

Summary of Facts and Submissions

- I. European patent application No. 92 402 114.0 filed on 22 July 1992, claiming priority from the earlier application FI 922585 filed on 4 June 1992 in Finland and published under the publication No. 0 572 744, was refused by a decision of the Examining Division dated 6 August 1997.

In that decision the Examining Division expressed the view that the subject-matter of the independent claims 1 in accordance with a main- and an auxiliary request filed with letter dated 21 May 1996 was not novel, respectively inventive, having regard to the prior art disclosed in

D1: FR-A-2 131 071
D2: FR-A-2 610 311
D3: EP-A-0 479 239.

- II. On 15 October 1997 a notice of appeal was lodged against that decision with payment of the prescribed fee.

Together with the statement of grounds of appeal, filed on 9 December 1997, the appellant submitted a new set of claims 1 to 4.

- III. In a communication the Board expressed the provisional opinion that the new claim 1 did not appear to meet the requirements of Article 123(2). It was further pointed out that if the appellant wanted to continue the application on the basis of the subject-matter of the dependent claims 2 to 4, the features of which were mainly taken from the description and drawings of the

application documents, the Board envisaged remittal of the case to the Examining Division for the reason that the subject-matter of these claims did not appear to be covered by the search and had not yet been considered by the first instance.

- IV. By letter dated 3 August 1998 the appellant filed a new set of claims 1 to 3.

By implication the grant of a patent on the basis of the new claims was requested.

Claim 1 of this set reads as follows:

"1. Door for an elevator comprising a landing door (1) and a fire door (3) one parallel to each other, the fire door (1) is mounted on the landing side of the landing door (1), the fire protection characteristics of the fire door (3) are so chosen that the landing door (1) and the fire door (3) together fulfill the requirements imposed on the fire door, the sides and the upper part of the doorway are surrounded by a sealing (12) situated in the space between the fire door (3) and the wall of the elevator shaft so arranged that said sealings will expand in a fire situation, characterised in that the upper part of the fire door (3) extends over the upper edge of the landing door (1) so as to protect the mechanism of the landing door (1) in a fire situation."

Reasons for the Decision

1. The appeal is admissible.

2. *Amendments*

2.1 The door defined in claim 1 is based on the landing and fire door arrangement defined in the originally filed claim 1, sealings which expand in a fire situation as mentioned on page 4, lines 24 to 29 and shown in the Figures 1 and 2 of the originally filed application documents and the arrangement of the upper part of the fire door to extend over the upper edge of the landing door as disclosed on page 3, lines 15 to 19 and Figure 1 of the originally filed application..

The subject-matter of claims 2 and 3 is based on the disclosure of Figure 1 from which it is apparent that the upper part of the fire door is thinner than the door itself (claim 2) and which drawing also shows the exact position of the upper sealing (claim 3).

2.2 In view of the above assessments no objections under Article 123(2) EPC or 84 EPC, in respect of support, arise against the present set of claims.

3. *Procedural considerations*

It is observed that the present set of claims is based on the subject-matter of claims 2 to 4 filed together with the statement of grounds of appeal. As was already expressed in the Board's communication dated 28 May 1998, that subject-matter was most probably not covered by the search and had not yet been the subject of first instance proceedings.

Under these circumstances the Board considers it appropriate to make use of the possibility given to it by Article 111(1) EPC to remit the case to the first instance for further prosecution on the basis of the present set of claims.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the Examining Division for further prosecution.

The Registrar:

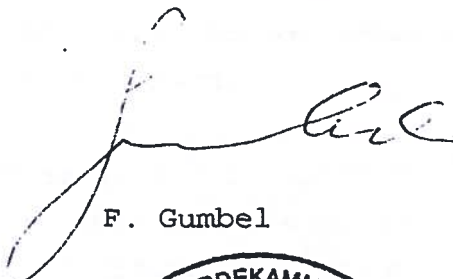


N. Maslin

Beglaubigt / Certified
Certifiée conforme:
München / Munich

Geschäftsstelle
Registry / Greffe
2 8. OKT. 1998

The Chairman:



F. Gumbel

