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Case Number: T 53 / 84

T192

DECISION
of the Technical Board of Appeal 3.2.1
of 15 October 1984

Appellant: Nordgren, Simon, Nils
Centralvägen 14, Box 45
S - 76200 Rimbo (SE)

Representative: Raymond Swenson Patentbyrå AB
Sanlet Eriksterrassen 72 A
S - 11234 Stockholm (SE)

Decision under appeal: Decision of Examining Division 098 of the European Patent
Office dated 23.09.1983 refusing European patent
application No 80 901 021.8 pursuant to Article 97(1)
EPC

Composition of the Board:
Chairman: G. Andersson
Member: P. Ford
Member: K. Schügerl

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Summary of facts and submissions

- I. European Patent Application No. 80 901 021.8, filed under the Patent Cooperation Treaty on 21 May 1980 with the international application No. PCT/SE80/00148 and published on 11 December 1980 (International Publication No. WO 80/02668) was refused by the decision of the Examining Division 098 dated 23 September 1983.
- II. The stated ground for the refusal was that the subject-matter of the (single) claim filed on 12 May 1983 did not involve an inventive step within the meaning of Article 56 EPC having regard to FR-A-1 011 969, US-A-1 739 715 and SE-B-374 683.
- III. Against that decision, the appellant filed an appeal on 18 November 1983. The appeal fee and the statement setting out the grounds of appeal were received in due time.
- IV. The appellant requested cancellation of the decision and the grant of the patent on the basis of an amended (single) claim, reading:

"An adjustable wrench comprising a handle and a wrench head having a fixed jaw and a jaw which is adjustable by means of a ratchet and a worm cooperating therewith, said worm being axially displaceable to a limited extent and being lockable in operative position by means of fork legs disposed on said handle, said wrench head and handle being separately manufactured, mutually united, articulately interconnected units, characterised in that the wrench head with the fixed jaw is composed of

.../...

two mainly mirror symmetrical halves which are fixedly connected to each other, that said halves are in their engagement surfaces facing each other provided with complementary groove halves for the ratchet and the shaft of the adjusting worm, respectively, with the groove halves for the ratchet being respectively, with the groove halves for the ratchet being provided with engagement surfaces which are perpendicular to the principal plane of the wrench and are arranged to cooperate with corresponding engagement surfaces arranged on the ratchet and facing the displaceable jaw, the last-mentioned engagement surfaces also being perpendicular to the principal plane of the wrench, and finally that the wrench head is made of material of structurally higher quality than the handle."

The appellant asserted that the invention as claimed in the previous claim and in the claim now on file was not obvious having regard to the cited documents.

Reasons for the decision

1. The appeal complies with Articles 106-108 and Rule 64 EPC, it is therefore admissible.
2. The claim now on file does not contain subject matter which extends beyond the content of the application as filed. Therefore, no formal objection can arise under the terms of Article 123(2) EPC.
3. The precharacterising portion of this claim corresponds to the state of the art according to SE-B-374 683. The features of the characterising portion can be derived in essence from FR-A731 602. In fact, this document discloses the basic idea of constructing the fixed jaw from

two mainly mirror-symmetrical halves, thereby simplifying the production as compared with the previous method of forming the fixed jaws from a single piece (see page 1, left column, lines 9-17). Further, the document also discloses, as cross section of the groove for the ratchet, a circular, rectangular or square shape. The last named two shapes imply engagement surfaces (of the groove and consequently, also of the ratchet) lying perpendicular to the principal plane of the wrench.

4. The information to be gathered from US-A-1 739 715 does not extend beyond the disclosure of FR-A-1 011 969. Hence no further consideration has to be given to the document.
5. The fact that the wrench disclosed in FR-A-731 602 appertains to the fixed handle type, whereas the claim now on file is directed to the known type with an articulated handle, cannot deflect the skilled person from applying the principle of compounded halves in any suitable cases. This is the more so as the purpose of the compounded halves principle is expressly stated in the documents (see also para. 3) so that the practitioner, who is always looking for suitable methods to minimize production costs, will immediately grasp the suitability of the disclosed principle for the articulated handle type, where it offers the same advantages as in the other type (see also application, page 2, line 24).
6. The remaining feature of the claim "that the wrench head is made of material of structurally higher quality than the handle" is nothing else than a matter of course. It appertains to the normal professional duties of the skilled person, to assess the strains and the stresses

of every part and to make the choice of the material quality accordingly, clearly with respect to economic factors. Since the articulated handle and the wrench head are necessarily manufactured separately, (see also the preamble of the claim), the choice of the material quality has also to be made separately. No specific disclosure is needed to prove these facts.

8. Thus, the subject matter of the claims lacks an inventive step as required by Article 56 EPC. The claim, therefore, cannot be allowed having regard to Article 52(1) EPC.

Order

For these reasons,

it is decided that:

The appeal against the Decision of the Examining Division 098 is dismissed.

See
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Kundman