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**D E C I S I O N**  
**of 20 June 2003**

**Case Number:** T 0927/01 - 3.2.2

**Application Number:** 94930390.3

**Publication Number:** 0723464

**IPC:** A61M 5/158

**Language of the proceedings:** EN

**Title of invention:**  
Syringe Handle

**Applicant:**  
Wiklund, Ernst Sigurd Gustaf Folke

**Opponent:**  
-

**Headword:**  
-

**Relevant legal provisions:**  
EPC Art. 52, 56

**Keyword:**  
"Novelty and inventive step (yes, after amendments)"

**Decisions cited:**  
-

**Catchword:**  
-



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Boards of Appeal

Chambres de recours

**Case Number:** T 0927/01 - 3.2.2

**D E C I S I O N**  
**of the Technical Board of Appeal 3.2.2**  
**of 20 June 2003**

**Appellant:** Wiklund, Ernst Sigurd Gustaf Folke  
Lindevägen 40  
S-120 48 Enskede Gard (SE)

**Representative:** -

**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 2 February 2001  
refusing European patent application  
No. 94 930 390.3 pursuant to Article 97(1) EPC.

**Composition of the Board:**

**Chairman:** W. D. Weiss  
**Members:** D. Valle  
R. Menapace

## Summary of Facts and Submissions

I. The appellant (applicant) filed an appeal against the decision of the examining division to reject the application for lack of novelty on the basis of document:

D1: DE-A-4 244 653

II. Following the communication of the Board of 17 January 2003, the applicant, with letter of 17 March 2003, filed a new set of claims 1 to 5 and a new description, pages 1 to 6.

III. The applicant requested that the decision under appeal be set aside and that a patent be granted on the basis of the version of the claims and of the description filed with letter of 17 March 2003 and drawings, sheets 1/2 and 2/2 filed with letter of 27 September 2000.

IV. Claim 1 as filed with letter of 17 March 2003 reads as follows:

"Handle (6) with a grip arrangement (7) for a syringe, said syringe consisting of a tube body (1) with a thin plastic tube (3) that surrounds a hollow puncture needle (4) fastened in a needle body (5), and intended for blood vessel puncture and for attaining blood path connection; the handle (6) being adapted to be connected both to the tube body (1) and to the needle body (5) before and during the puncture phase, but after the puncture phase being easily disengageable from the tube body (1), which is moved forward when blood path contact has been obtained, characterized in

that said grip arrangement (7) permits thumb/forefinger placement at the side of and close to the tip of the puncture needle of said syringe and in that said handle can be disengaged from the tube body (1) with preserved thumb/forefinger grip."

- V. The appellant argued that the principles of the invention were totally different from those of the prior art disclosed by document D1. It was essential for the invention that the operator could hold the handle after the penetration phase and perform a smooth separating operation without danger from inadvertent movements of the needle body before the needle tip was covered by the tube. As the distance between the needle body and the sharp tip were comparatively long, this had to be prevented, as even small movements could cause serious damages inside the vessel. The device according to document D1 provided the handle with a slot for locating the wings of the tube body, which gave no security against such movements.

### **Reasons for the Decision**

1. The appeal is admissible.
2. *Formal matters*

The new version of the application does not contain added subject-matter. The amendments consist essentially in recasting the main claim in a correct two-part form and in overcoming a clarity objection against method claim 5, by explicitly referring to the

elements of the handle which were previously only implicitly referred to, and in adapting the description to the new formulation of the claims.

3. *Novelty*

Document D1 is the only state of the art cited in the search report. This document, see Figures 3 and 4, discloses a handle (3) with a grip arrangement (4) for a syringe, the syringe consisting of a tube body (7) with a plastic tube (6) that surrounds a hollow puncture needle (1) fastened in a needle body (2), and intended for blood vessel puncture and for attaining blood path connection; the handle (3) being adapted to be connected both to the tube body (7) and to the needle body (2) before and during the puncture phase, but after the puncture phase being easily disengageable from the tube body (7), which is moved forward when blood path contact has been obtained.

The grip arrangement (4) of this known device, when adequately connected, is positioned above and remote from the tip of the puncture needle. The connection between handle (3) and the needle body (2) via the wings (8) is warranted by the grip force exerted by thumb and forefinger on the grip arrangement. For disengagement, the thumb/forefinger grip has, therefore, to be at least partially loosened, i.e. it cannot be preserved.

Consequently, document D1 does not disclose the features of the characterizing part of claim 1.

The subject-matter of claim 1 is, therefore, novel.

4. *Inventive step*

Starting from document D1, the problem of the invention is to securely direct skin and blood vessel puncture and to avoid that the inserted needle hurts the rear wall of the blood vessel in particular during disengagement of the tube body from the needle body. To solve this problem the invention provides for a grip arrangement for the thumb/forefinger on the side and close to the tip of the puncture needle and for a mechanism which allows disengagement of the tube body from the needle body with preserved thumb/forefinger grip.

Although the problem of the invention is already mentioned in document D1, see paragraph bridging pages 2 and 3, this document does not contain any hint which would lead the person skilled in the art to modify the device disclosed therein to arrive at the invention as defined in claim 1.

Accordingly the subject-matter of claim 1 involves an inventive step.

5. The method claim 5, although having another category than claim 1, incorporates all the features of device claims 1 and 2, because the method steps defined therein are only executable in connection with such a device and, therefore, is in the rank of a dependent claim.

The dependent claims 2 to 4 and the description also meet the requirements of the EPC.

## 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 on the basis of the following documents:
  - Claims 1 to 5 as filed with letter of 17 March 2003,
  - Description, pages 1 to 6 as filed with letter of 17 March 2003,
  - Drawings, sheets 1/2 and 2/2 as filed with letter of 27 September 2000.

The Registrar:

The Chairman:

V. Commare

W. D. Weiß