

Internal distribution code:

- (A) Publication in OJ
(B) To Chairmen and Members
(C) To Chairmen
(D) No distribution

D E C I S I O N
of 20 January 2003

Case Number: T 0159/02 - 3.2.1

Application Number: 97901633.4

Publication Number: 0829392

IPC: B60R 1/02

Language of the proceedings: EN

Title of invention:

Mirror for vehicles intended to observe obstacles at the back
of the vehicle

Applicant:

Reina Gonzales-Novelles, Francisco Javier

Opponent:

-

Headword:

-

Relevant legal provisions:

EPC Art. 56, 123(2)

Keyword:

"Amendment (not allowable)"
"Inventive step (no)"

Decisions cited:

-

Catchword:

-



Case Number: T 0159/02 - 3.2.1

D E C I S I O N
of the Technical Board of Appeal 3.2.1
of 20 January 2003

Appellant: Reina Gonzales-Novelles, Francisco Javier
Calle Lepanto, 10
ES-11500 El Puerto de Santa Maria (ES)

Representative: Riera Blanco, Juan Carlos
C/ Ayala, 86 1 Iz.
ES-28001 Madrid (ES)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 29 October 2001
refusing European patent application
No. 97 901 633.4 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: S. Crane
Members: M. Ceyte
M. Aúz Castro

Summary of Facts of Submissions

- I. European patent application No. 97 901 633.4 (publication No. 0 829 392) was refused by a decision of the Examining Division posted 29 October 2001.
- II. The reason given for the decision was that amended claim 1
- did not comply with Article 84 and Rule 29(1)
 - contained added matter and thus contravened Article 123(2) EPC, and
 - that its subject-matter was not inventive over the cited prior art.
- III. On 21 December 2001 the appellant (applicant) lodged an appeal against this decision and paid the prescribed appeal fee in due time.

The statement of grounds of appeal was filed on the same day.

- IV. In a communication posted on 12 August 2002, the Board expressed its preliminary view that claim 1 as amended at the oral proceedings before the first instance did not meet the requirement of Article 123(2) EPC.

Furthermore, it was said that the subject-matter of claim 1 did not appear to involve an inventive step in view of the prior art disclosed in

D4: GB-A-2 172 560, and

D5: GB-A-2 105 667.

V. In reply to the Board's communication the appellant filed on 25 November 2002 an amended claim 1.

It requested that the decision under appeal be set aside and a patent be granted on the basis of this amended claim 1.

Amended claim 1 reads as follows:

"1. A rear mirror assembly for vehicles for observation of rear obstacles in a rearward area, installed in the upper corners of the rear window of said vehicles, outside the cabin, with symmetrical design as it is installed in the left upper corner or right of the back window, characterised in that it comprises: a housing-base of anchorage or anchor (1) having mounting-means (3) connected to said housing-base and to the upper corners of the rear window of the vehicle, in their exterior; a housing-shell (2) support of a panoramic-convex mirror (6) united to the housing-base of anchorage with joints accomplished by means of eyelashes or flanges (7) and bayonet (8); a panoramic-convex mirror (6) positioned in said housing-shell to reflect images from the rearward area of the vehicle to the driver; cyclic articulation means that moves said convex-panoramic mirror (6), manual or remotely."

VI. In support of its requests the appellant submitted, *inter alia*, the following:

Prior art document D4 discloses a flat or concave mirror disposed inside the vehicle. It does not suggest a panoramic convex mirror.

The use of a flat or concave mirror of the type disclosed in D4 enables a driver only to see what is immediately behind his vehicle.

D5 relates to a reversing mirror fitted externally along the top edge of the rear window of the vehicle. This mirror does not give the driver a full view of the roadway behind his vehicle. It rather enables him to see what is alongside the vehicle to the rear. A further drawback of this kind of mirror is that it reduces the view of what can be seen horizontally through the rear window.

Thus neither of these two citations taken alone or in combination would have led the skilled person to the claimed panoramic convex mirror positioned outside of the vehicle at one of the top corners of the rear window, which gives the driver a wide view behind his vehicle.

Reasons for the Decision

1. The appeal is admissible.
2. The question whether the wording of the presently proposed claim 1 is clear as required by Article 84 EPC and complies with Article 123(2) EPC can be left open since the patent application has to be rejected for another reason (viz. lack of inventive step).
3. *Article 56 EPC*
 - 3.1 As rightly stated in the decision under appeal, the rear mirror assembly according to claim 1 differs in essence from that disclosed in D4 by virtue of a panoramic convex mirror. This citation namely shows a mirror assembly mounted in an upper corner of the rear

window (see Figures 1 and 2) and further mentions that the mirror can be mounted "inside the rear of the car, or on," (i.e. on the rear of the car), see page 1, lines 29 to 30.

The mirror assembly disclosed therein has a symmetric structure. The housing of the mirror is provided with means for mounting the mirror assembly at an upper corner of the rear window. The mirror assembly is manually adjustable; it is mounted so that it can swivel (see claim 3 of D4). Since the mirror assembly is positioned at an upper corner of the rear window only a minimal portion of the rear window is obstructed by said mirror assembly.

According to the appellant's submissions a mirror assembly of this kind suffers from the problem that it does not afford a wide view of what lies below the rear window of the vehicle.

Therefore, the technical problem to be solved by the present invention may be seen in providing a mirror assembly of the kind disclosed in D4 which overcomes this disadvantage.

This problem is in essence solved by the provision of a panoramic convex mirror.

- 3.2 D5 relates to a rear mirror assembly of the kind disclosed in D4, i.e. which is mounted outside the vehicle along the top edge of the rear window. The mirror assembly according to D5 may be provided with a panoramic convex mirror (see claim 5 and Figure 2) and may be adjusted by a cable operated from the driving position.

The skilled person would be encouraged to take the prior art disclosed in D5 into consideration since the problem stated in this citation is quite similar to that solved by the invention, that is to give the driver "the best possible view of the rear of his vehicle and the ground over which his vehicle will travel whilst reversing" (claim 3) or "a clear view of anything behind his vehicle" (see column 1, lines 17 and 18).

Thus the skilled person would be aware of the panoramic convex mirror disclosed therein and it would therefore be obvious for him to use it in the known mirror assembly according to D4, in order to solve the problem he was confronted with.

- 3.3 For the foregoing reasons the subject-matter of claim 1 lacks an inventive step as required by Article 56 EPC. Claim 1, therefore, cannot be allowed having regard to Article 52(1) EPC.

4. Claims 2 to 11 depend on claim 1 and having as subject-matter special embodiments of the invention according to claim 1, are not allowable either since their validity is contingent on that of claim 1 which has been denied.

The subject-matter of claim 12 is a vehicle with a rear mirror according to claims 1 to 11 and thus also does not involve an inventive step.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

S. Fabiani

S. Crane