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D E C I S I O N
of 15 March 2004

Case Number: T 1171/03 - 3.2.4

Application Number: 98308316.3

Publication Number: 0913569

IPC: F02K 1/72

Language of the proceedings: EN

Title of invention:
Gas turbine housing structure

Applicant:
ROLLS-ROYCE PLC

Opponent:
-

Headword:
-

Relevant legal provisions:
EPC Art. 54(1), 84, 111(1), 123(2)
EPC R. 29(1)

Keyword:
"Novelty (yes)"

Decisions cited:
-

Catchword:
-



Case Number: T 1171/03 - 3.2.4

D E C I S I O N
of the Technical Board of Appeal 3.2.4
of 15 March 2004

Appellant: ROLLS-ROYCE PLC
(Applicant) 65 Buckingham Gate
London
SW1E 6AT (GB)

Representative: -

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 2 June 2003
refusing European patent application
No. 98308316.3 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: C. A. J. Andries
Members: C. D. A. Scheibling
M. K. S. Aúz Castro

Summary of Facts and Submissions

- I. By its decision dated 2 June 2003 the Examining division refused the application. On 1 August 2003 the appellant (applicant) filed an appeal and paid the appeal fee simultaneously. The statement setting out the grounds of appeal was received on 7 October 2003.
- II. The application was found to lack novelty (Article 54(1) EPC) with respect to D1: GB-A-2 045 179.
- III. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of a new claim filed on 3 March 2004 which reads as follows:

"1. A gas turbine engine (10) comprising a core engine (11), a cowl (15) comprising an annular portion (15a) which is translatable relative to the remainder (15) of the cowl (15), and a cascade structure (22) comprising at least one C-shaped section (22), the cascade structure (22) being nested within the translatable annular portion (15a) of the cowl (15) in a non-operative position, and being exposed, in an operative position upon translation of said annular portion (15a), characterised in that only after translation of said annular portion (15a) said C-shaped section (22) is capable of being pivoted to an open position about an axis substantially parallel to a longitudinal axis of the gas turbine engine(10), wherein opening the C-shaped (22) section allows access to the core engine (11)."

IV. The appellant argued that said new claim has been amended to make clear that the cascade structure is rotated after translation of the annular portion.

Reasons for the Decision

1. The appeal is admissible.

2. *Amendments*

2.1 Claim 1 under examination differs from claim 1 as originally filed in that:

-a- the gas turbine is said to comprise "a core engine (11)",

-b- the expression "a cowl (15), an annular portion (15a) of which is translatable relative to the remainder (15) thereof" has been amended to read "a cowl (15) comprising an annular portion (15a) which is translatable relative to the remainder (15) of the cowl (15)",

-c- the expression "comprising at least one C-shaped section (22)" present in the characterising portion of the claim has also be added to its prior art portion,

-d- the feature "only after translation of said annular portion (15a)" has been added,

-e- the expression "capable of rotation to an open position" has been amended to read "capable of being pivoted to an open position",

-f- the expression "thereby allowing access" has been amended to read "wherein opening the C-shaped (22) section allows access."

2.2 The amendment a) is based on the description, page 3, lines 1 to 4.

The amendments (b), (e) and (f) are clarifications.

The amendment (c) has been effected to fulfil the requirements of Rule 29(1) EPC.

Feature (d) is disclosed in the application as originally filed, page 4, lines 13 to 16.

2.3 Thus, said amendments are not objectionable with respect to Article 123(2) EPC.

3. *Novelty*

3.1 With respect to D1

D1 does not disclose the feature of claim 1 according to which the said C-shaped section can only be pivoted to an open position after translation of the annular portion.

3.2 With respect of the other documents cited in the search report

None of these documents discloses in combination all of the features of claim 1 under examination.

3.3 Consequently, the subject-matter of claim 1 is considered to be novel.

4. *Remittal*

Owing to the fact that novelty of the subject-matter of claim 1 is now given with respect to the cited prior art and that the Examining division did not yet comment on the other requirements of the EPC, the case is remitted to the first instance, according to the provision of Article 111(1) EPC, 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 on the basis of claim 1 filed on 3 March 2004.

The Registrar:

The Chairman:

G. Magouliotis

C. Andries