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**Datasheet for the decision  
of 18 July 2007**

**Case Number:** T 1391/06 - 3.2.05

**Application Number:** 00986315.0

**Publication Number:** WO 01/44699

**IPC:** F16J 15/06

**Language of the proceedings:** EN

**Title of invention:**

Method of making a segmented gasket having a continuous seal member

**Patentee:**

PARKER HANNIFIN CORPORATION

**Opponent:**

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**Headword:**

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**Relevant legal provisions:**

EPC Art. 84

**Keyword:**

"Support by description for the claims on file - no"

**Decisions cited:**

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**Catchword:**

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Case Number: T 1391/06 - 3.2.05

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.05  
of 18 July 2007

**Appellant:** PARKER HANNIFIN CORPORATION  
**(Applicant):** 6035 Parkland Boulevard  
Cleveland, OH 44124-4141 (US)

**Representative:** Pilch, Adam John Michael  
D Young & Co  
120 Holborn  
London EC1N 2DY (GB)

**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 11 April 2006  
refusing European application No. 00986315.0  
pursuant to Article 97 (1) EPC.

**Composition of the Board:**

**Chairman:** W. Zellhuber  
**Members:** H. Schram  
M. J. Vogel

## Summary of Facts and Submissions

- I. The appeal is against the decision of the Examining Division dated 11 April 2006 refusing European patent application No. 00986315.0 (publication No. WO 01/44699) on the ground that the subject-matter of claim 1 of the sole request of the appellant (applicant) did not involve an inventive step (Article 56 EPC).
- II. The appellant requested that the decision under appeal be set aside and that the application be remitted to the first instance for the grant of a patent on the basis of the application documents on file, namely

Description, pages:

1, 3-5, 7, 8, 11,12	as published
6, 9, 10, 13	as received on 17.5.2002
2	as received on 12.8.2004

Claims, No.:

1	as received on 27.6.2005
2 - 5	as received on 17.5.2002
6 - 8	as received on 12.8.2004

Drawings, sheets:

1/8-8/8	as published,
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with the amendments to page 3 and claims 2 and 5 according to the appellant's request of 12.8.2004.

Oral proceedings were requested on an auxiliary basis.

III. In a communication dated 20 March 2007 annexed to the Summons to attend oral proceedings scheduled for 18 July 2007 the Board expressed its provisional opinion that it appeared that the subject-matter of claim 1 of the sole request of the appellant did not seem to meet the requirements of Article 123(2) EPC and did not seem to involve an inventive step (see points 4 and 6).

In point 7 of said communication the following was stated: *The description has not been brought into conformity with the set of claims currently on file, see for example page 8, lines 3 and 4. It therefore does appear that Article 84 EPC, second sentence, is not complied with. It may be noted that the Board can decide only on a request as a whole, i.e. a complete set of amended claims, description and/or drawings, and that the Board may dismiss the appeal for formal reasons alone.*

IV. In reply to the Summons the appellant informed the Board on 31 May 2007 that the appellant *"does not intend to attend the Oral Proceedings and will also not be filing Written Submissions in accordance with Rule 71a EPC."*

V. Oral proceedings were held before the Board of Appeal on 18 July 2007. For the appellant was present, as announced, no one.

VI. Claim 1 according to the sole request reads as follows:

"1. A method of making a sealing gasket (10) of a variety which includes a generally annular retainer

member (14) having an inner and outer diametric extent (15, 16) which define a perimeter of a closed geometric shape, and being formed of at least a first and a second retainer segment (20a, 20b), each said retainer segment (20a, 20b) extending intermediate a first end (22a, 22b) and a second end (24a, 24b), and having an inner periphery (26a, 26b) and an outer periphery (28a, 28b); and at least one compressible seal member (12) formed of an elastomeric material which is supported on the retainer member (14), said method comprising the steps of:

- (a) configuring the first end (22a, 22b) of each said retainer segment (20a, 20b) to be interlocked with the corresponding second end (24a, 24b) of said adjacent said retainer segment (20a, 20b);
- (b) interlocking the first end (22a, 22b) of each said retainer segment (20a, 20b) to the second end (24a, 24b) of an adjacent said retainer segment (20a, 20b) to form said retainer member (14), at least a section of the first end (22a, 22b) of each said retainer segment (20a, 20b) being in intimate contact with a corresponding section of the second end (24a, 24b) of an adjacent said retainer segment (20a, 20b), and the inner periphery (26a, 26b) of each said segment (20a, 20b) defining a portion of the inner diametric extent (15) of said retainer member (14), and the outer periphery (28a, 28b) of each said segment (20a, 20b) defining a portion of the outer diametric extent (16) of said retainer member (14); and
- (c) attaching said seal member (12) to said retainer member (14) of step (a) as a continuous ring of

said elastomeric material which extends along one of the inner and outer diametric extent (15, 16) of said retainer member (14), whereby the material does not extend between the sections of the first end (22a, 22b) of each said retainer segment (20a, 20b) and the corresponding sections of the second end (24a, 24b) of an adjacent said retainer segment (20a, 20b) which are in intimate contact."

### **Reasons for the Decision**

1. *Support by the description for the claims on file*

Article 84 EPC, second sentence, provides that the claims shall be clear and concise and be supported by the description.

The passage on page 8, lines 3 to 5, of the application as filed (published version) reads as follows: *Although any number of different interconnections between the ends of segments 20 may be envisioned, the illustrated arrangement involves each of the joints 40 being provided as a mechanical interlocking engagement.* This page was never amended during the examination proceedings.

The description of the application, being one of the documents on the basis of which the grant of the patent has been requested by the appellant, is not in conformity with claim 1 of the sole request of the appellant, since said claim has been restricted to the "illustrated arrangement" referred to in the passage

cited above and no longer encompasses "*any number of different interconnections between the ends of segments 20*".

In the judgment of the Board, claim 1 on file is thus not supported by the description in the meaning of Article 84 EPC.

The appellant has neither disputed this, nor filed an amended description brought into conformity with the set of claims currently on file, but instead informed the Board that written submissions in accordance with Rule 71a EPC will not be filed.

It follows that the sole request of the appellant has to be refused for this reason alone.

2. With this state of affairs there is no need to examine whether the claims meet *inter alia* the requirements of Articles 123(2) and 56 EPC.

**Order**

**For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chairman:

D. Meyfarth

W. Zellhuber