BESCHWERDEKAMMERN DES EUROPÄISCHEN PATENTAMTS

BOARDS OF APPEAL OF THE EUROPEAN PATENT OFFICE

CHAMBRES DE RECOURS DE L'OFFICE EUROPEEN DES BREVETS

Internal distribution code:
(A) [ ] Publication in OJ
(B) [ ] To Chairmen and Members
(C) [ ] To Chairmen
(D) [X] No distribution

Datasheet for the decision of 22 September 2009

Case Number: T 1231/08 - 3.2.01

Application Number: 97202901.1

Publication Number: 0839714

IPC: B64D 29/06

Language of the proceedings: EN

Title of invention:
Double stroke over center latch

Patentee:
The Boeing Company

Opponents:
AIRBUS SAS/AIRBUS France/AIRBUS UK Limited
AIRBUS Deutschland GmbH/AIRBUS España S.L.

Headword:
-

Relevant legal provisions:
EPC Art. 123(2)
RPBA Art. 13(1),(3)

Relevant legal provisions (EPC 1973):
EPC Art. 100(c)

Keyword:
"Opposition grounds - extension of subject-matter - no after amendment"
"Amended request during oral proceedings (yes)"

Decisions cited:
-

Catchword:

-

Europäisches Patentamt | European Patent Office | Office européen des brevets

Beschwerdekammern | Boards of Appeal | Chambres de recours

Case Number: T 1231/08 - 3.2.01

D E C I S I O N
of the Technical Board of Appeal 3.2.01
of 22 September 2009

Appellant: (Patent Proprietor)
The Boeing Company
100 North Riverside Plaza
Chicago
IL 60606-2016 (US)

Representative:
Bartelds, Erik
Arnold & Siedsma
Sweelinckplein 1
NL-2517 GK Den Haag (NL)

Respondents: (Opponents)
AIRBUS SAS
1 Rond-Point Maurice Bellonte
F-31700 Blagnac (FR)

AIRBUS France
316 route de Bayonne
F-31060 Toulouse (FR)

AIRBUS UK Limited
New Filton House
Filton
Bristol BS99 7AR (GB)

AIRBUS Deutschland GmbH
Kreetslag 10
D-21129 Hamburg (DE)

AIRBUS España S.L.
Avenida de John Lennon S/N
ES-Madrid (ES)

Representative:
Moutard, Pascal Jean
Brevatome
22 Avenue du Doyen Louis Weil
B.P. 1506
F-38025 Grenoble Cedex 1 (FR)

Decision under appeal: **Decision of the Opposition Division of the European Patent Office posted 25 March 2008 revoking European patent No. 0839714 pursuant to Article 101(2),(3)(b) EPC.**

Composition of the Board:

Chairman: S. Crane
Members: J. Osborne
T. Karamanli

Summary of Facts and Submissions

I. The appeal is directed against the decision posted 25 March 2008 revoking European patent No. 0 839 714.

II. Opposition was filed against the patent on the grounds according to Articles 100(a),(c) EPC 1973. The opposition division found that the inclusion of the term "rotatable" in claims 1 and 6 both as granted and as amended according to an auxiliary request extended the subject-matter beyond the content of the application as originally filed.

III. In its statement setting out the grounds of appeal the appellant requested *inter alia* that the patent be maintained on the basis of claims according to an auxiliary request directed at overcoming the objection relating to the term "rotatable".

IV. In a communication pursuant to Article 15(1) RPBA the board indicated its provisional opinion that the objection relating to the term "rotatable" was not valid but that one other objection brought forward by the respondents in their reply to the statement setting out the grounds of appeal did appear to be valid. In response the appellant filed amended auxiliary requests.

V. At oral proceedings held 22 September 2009 the board found that the subject-matter of claim 1 according to one of the appellant's auxiliary requests did not extend beyond that of the application as originally filed but that the claim had been amended in such a way that it was unclear. In response the appellant replaced

its auxiliary requests by a sole, further amended auxiliary request.

VI. The appellant's final request was that the decision under appeal be set aside and the patent maintained as granted or, in the alternative, in amended form on the basis of claims according to the sole auxiliary request filed during oral proceedings. The respondents requested that the appeal be dismissed.

VII. Claim 1 as granted (appellant's main request) reads:

"A latch for latching two movable members (24, 26), comprising:
a base (46) to be mounted on one (24) of said members,
a keeper (35) to be attached to the other member (26),
a hook arm (40) having an end (45) for engaging said keeper (35), said hook arm (40) being connected to the base (46) so as to be rotatable and translatable with respect to the base (46), and
a first over center linkage (60, 70) including an inner handle (60) and a primary link (70), said linkage (60, 70) being arranged between an end of said hook arm (40) opposite the keeper engaging end (45) thereof and the base (46), for moving the keeper engaging end (45) of the hook arm (40) over a first stroke by pivoting movement of the inner handle (60) in a first direction, characterized by
a second over center linkage (75, 78, 80, 100) including an outer handle (100) and a plurality of links (75, 78, 80), said outer handle (100) and one (78) of said links being pivotally connected to said inner handle (60) of said first over center linkage (60, 70), for moving the keeper engaging end (45) of the hook arm (40) over a second stroke by pivoting movement of the

outer handle (100) in a second direction opposite the first direction after said first over center linkage (60, 70) has been fixed at the end of the first stroke."

Claim 1 according to the appellant's auxiliary request reads:

"A latch for latching two movable members (24, 26), comprising:
a base (46) to be mounted on one (24) of said members,
a keeper (35) to be attached to the other member (26),
a hook arm (40) having an end (45) for engaging said keeper (35), said hook arm (40) being connected to the base (46) so as to be rotatable and translatable with respect to the base (46), and
a first over center linkage (60, 70) including an inner handle (60) and a primary link (70), said linkage (60, 70) being arranged between an end of said hook arm (40) opposite the keeper engaging end (45) thereof and the base (46), for moving the keeper engaging end (45) of the hook arm (40) over a first stroke by pivoting movement of the inner handle (60) in a first direction, characterized by
a trigger (130) mounted on the inner handle (60) and engagable with said hook arm (40) to secure said hook arm (40) and said inner handle (60) in a substantially fixed relation, and by
a second over center linkage (75, 78, 80, 100) including an outer handle (100) and a plurality of links (75, 78, 80), said outer handle (100) and one (78) of said links being pivotally connected to said inner handle (60) of said first over center linkage (60, 70), for moving the keeper engaging end (45) of the hook arm

(40) over a second stroke by pivoting movement of the outer handle (100) in a second direction opposite the first direction after said first over center linkage (60, 70) has been fixed at the end of the first stroke by said trigger (130)."

Claim 5 according to the appellant's auxiliary request reads:

"A method of closing a latch for latching two movable members (24, 26), comprising the steps of:
engaging one end (45) of a hook arm (40) which is rotatably and translatably connected to a base (46) mounted on one member with a keeper (35) which is attached to the other member, and
forcing a first over center linkage (60, 70) including an inner handle (60) and a primary link (70), said linkage (60,70) being arranged between an end of said hook arm (40) opposite the keeper engaging end (45) thereof and the base (46), to its over center position by pivoting movement of the inner handle (60) in a first direction, thereby moving the keeper engaging end (45) of the hook arm (40) over a first stroke,
characterized by the step of, after said first over center linkage (60, 70) has been fixed at the end of the first stroke by engaging a trigger (130) mounted on the inner handle (60) with said hook arm (40), forcing a second over center linkage (75, 78, 80, 100) including an outer handle (100) and a plurality of links (75, 78, 80), said outer handle (100) and one (78) of said links being pivotally connected to said inner handle (60) of said first over center linkage (60, 70), to its over center position by pivoting movement of the outer handle (100) in a second direction opposite the

first direction, thereby moving the keeper engaging end of the hook arm (40) over the second stroke."

Claims 2 to 4 and 6 to 8 according to the appellant's auxiliary request are identical to the corresponding claims 2 to 4 and 7 to 9 as granted.

VIII. The submissions of the appellant as regards the term "rotatable" may be summarised as follows:

This feature was disclosed explicitly in the drawings as originally filed and implicitly for the skilled person in the described function. The skilled person reads the application with knowledge of the relevant state of the art and therefore understands in particular that the hook arm must rotate around the bolt mounted on the base in order to engage the keeper whose position is subject to tolerances. In this context it is stated in the application as originally filed that the hook arm is mounted "such that the slot is mounted over the bolt". From figure 9 it can be seen that both the primary link, which is explicitly stated to be pivotably connected to the bolt, and the hook arm have the same relationship to the bolt. The skilled person also knows that, in the absence of alternative provisions, a bolt has a cylindrical surface which when located in a slot will permit relative rotation. If the movement of the hook arm were purely translational it would have been necessary to disclose a corresponding mechanism. The drawings provide explicit support for the skilled person's implicit understanding because it is visible that the hook arm has rotated relative to the adjacent duct between the positions in figures 2 and 5.

IX. The respondents essentially submitted the following:

As regards the term "rotatable":

Case law of the EPO boards of appeal requires a direct and unambiguous disclosure of features in drawings if they are to be introduced into claims. The drawings in the present case are not to scale. Indeed, different drawings illustrate the same parts in different sizes and the duct members are always shown in the same relative positions. The appellant's conclusions based on measurement of the drawings are therefore invalid. Reference to state of the art and general technical knowledge of the skilled person is also without consequence since the provisions of Article 100(c) EPC 1973 concern only the disclosure of the original application. Even if that were not so the state of the art includes hook arms which are constrained to move only in translation. Furthermore, the prohibition of amendment beyond the content of the original application requires disclosure to be beyond all reasonable doubt and cannot be based on mere balance of probability. Contrary to the appellant's assertion, the mechanism as disclosed in the application as originally filed does not require rotation of the hook arm and the provision of additional, undisclosed guiding means is not excluded. Indeed, such means are known and trivial so their explicit inclusion in the disclosure would be unnecessary. The explicit, direct and unambiguous disclosure of the application was of movement of the hook arm only in translation. The skilled person would understand that if any rotational movement of the hook

arm were provided it too would have been explicitly disclosed.

As regards further objections:

The specification in the independent claims of merely the "end" of the hook arm for engagement with the keeper is an inadmissible intermediate generalisation of the original disclosure of a hooked end. No other form of the end was disclosed and the word "additional" in the original description relates to the provision of further means in combination with the hook.

The only original disclosure of the fixing of the first over-centre linkage was by means of a trigger but this feature is not included in the independent claims according to the main request. It would be evident to the skilled person that forces applied through the inner handle during the second stroke would destabilise the first over-centre linkage, thereby rendering the trigger essential.

The independent claims specify merely "an outer handle and a plurality of links" of the second over-centre linkage. However, the original disclosure was of a single embodiment having the links in a particular relationship. It is clear to the skilled person faced with the original disclosure that that particular relationship was necessary in order to achieve the sequential strokes of the latch. According to case law of the boards of appeal it is permissible to separate features originally disclosed in combination only when no clear structural or functional relationship exists between them.

Similarly, the independent claims specify the first over-centre linkage as being "arranged" between an end of the hook arm and the base whereas the disclosure in the application as originally filed was of a particular connection of the links.

The independent claims also fail to specify immobilisation of the second over-centre linkage during operation of the first. In accordance with the original disclosure of the application two separate stages of operation were essential and this was achieved during the first stroke by the provision of a trigger to immobilise the outer handle relative to the inner. Although there was no disclosure that this trigger was an optional feature of the handle assembly, the independent claims now specify the outer and inner handles but no feature for their relative immobilisation.

The board should disregard the appellant's final auxiliary request since it was filed too late. The appellant had ample time to prepare requests which would satisfy all provisions of the EPC and further amendment during the oral proceedings should be refused. Moreover, although the independent claims now contain the feature of the trigger for immobilising the first over-centre linkage, this feature was originally disclosed only in the context of the specific embodiment of that linkage.

X. The appellant replied in respect of the respondents' further objections essentially as follows:

There is a basis in the application as originally filed also for specifying in the independent claims the "end" of the hook arm without further specifying a hook. The application explicitly stated that other connection means could be provided. The skilled person would have understood "additional" in this context as meaning "alternative". Moreover, the claims as originally filed did not specify engagement by means of a hook. Case law regarding the prohibition of selection from a reservoir of features is not applicable to this situation.

The specification of the first over-centre linkage in the independent claims according to the main request as being "fixed" without specifying the fixing trigger also does not extend the content beyond that of the application as originally filed. The skilled person is aware that an over-centre linkage locks automatically and that the trigger would have been provided only as an additional safety measure.

As regards the detail of the second over-centre linkage in the independent claims, the essential teaching of the original application is the provision of this additional linkage, in particular the features of the outer handle and the link to the inner handle. The details of the linkage are optional and the application contained an even broader reference to merely "additional links". An intermediate generalisation of the specific disclosure is permissible in this case.

Similarly, the first over-centre linkage is specified in the independent claims in greater detail than in the broadest disclosure in the original application. The preambles of claims 1 and 6 when read in their entirety

state that the linkage is "arranged … for moving". This specifies the essential result that the pivoting motion causes the movement of the hook arm.

It is evident to the skilled person reading the original application that the outer handle release trigger is not essential to achieving the sequential operation of the two over-centre linkages. The trigger mechanism acts as no more than an end stop and therefore need not be specified in the independent claims.

Reasons for the Decision

1. The patent relates to a latch such as is used to fasten hinging elements of aircraft engine nacelles. The hinged elements typically are subjected to high forces and so correspondingly high loads are required to retain them closed. Conventional latches employing over-centre linkages suffer from the disadvantage that in order to avoid the need to apply high handle forces to close them a relatively long stroke of the handle is necessary. In accordance with this patent the closing operation of the latch comprises a first closing stroke during which the handle is moved in a first direction followed by a second closing stroke during which the handle is moved in the opposite direction. The closing operation of the latch may be seen by comparing figures 4, 5 of the application as originally filed (see extracts below, which do not correctly reproduce the relative scales of the drawings).

1.1 A bolt 48 attached to a base 46 is slidably mounted in a slot 42 of a hook arm 40. An inner handle 60 is pivotally connected at one end to the hook arm 40 at a pivot 62. A primary link 70 is pivotally connected at one end to the bolt whilst the opposite end is pivotally and slidably engaged in a slot 65 of the inner handle. The first over-centre linkage is formed by the primary link 70 and the portion of the inner handle between pivot 62 and the slot 65. A secondary link 75 is connected between the end of the primary link engaged in the slot 65 and a pivot mounted on a rocker link 78, adjacent to the pivot 62.

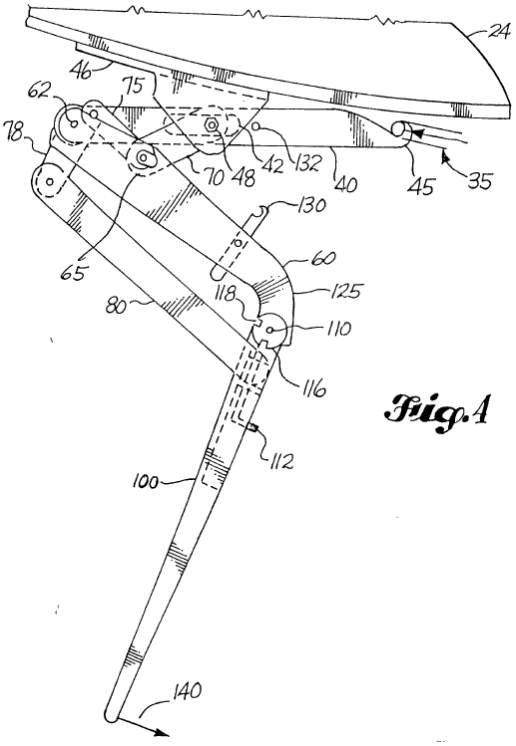

Fig.4

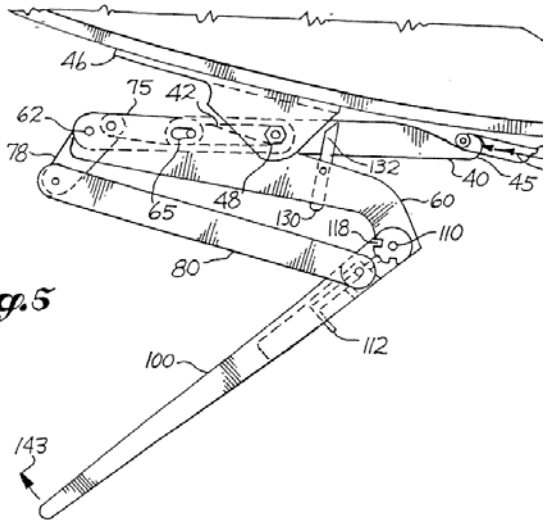

Fig.5

1.2 During the first closing stroke shown in figure 4 the inner handle 60 is rotated anti-clockwise about pivot 62, thereby rotating the primary link 70 clockwise about bolt 48. The consequential increase in the distance between bolt 48 and pivot 62 draws the hook arm 40 towards the left. A trigger 130 mounted to the inner handle 60 is stated in the application as

originally filed to engage with a pin 132 on the hook arm "when the inner handle 60 completes the closing stroke". The second over-centre linkage includes the secondary link 75 and the portion of the rocker link 78 between pivot 62 and the pivotal connection to secondary link 75. During the second closing stroke shown in figure 5 rotation of an outer handle 100 clockwise relative to the inner handle pushes an idler link 80 which in turn rotates the rocker link 78 clockwise about pivot 62. One end of the secondary link 75 is constrained laterally by the slot 65 and longitudinally by the primary link whilst the other end is rotated around pivot 62 by the rocker link 78. As that other end comes into alignment between the pivot 62 and the slot 65 the hook arm is pulled further towards the left.

2. During the opposition proceedings the opponents brought forward several objections of extension of subject-matter beyond the content of the application as originally filed. The revocation of the patent resulted from the opposition division finding in favour of the opponents in respect of only one of those objections ("rotatable"). In respect of all others the opposition division found in favour of the patent proprietor. During the appeal procedure the opponents/respondents pursued some of those objections on which the opposition division had found against them. As set out below, the board finds in favour of the patent proprietor/appellant in respect of the single objection which caused the revocation of the patent ("rotatable") and all but one of the additional objections ("inner handle trigger"). Only that one objection ("inner handle trigger") will be considered in respect of the

main request. All other objections are treated only in respect of the auxiliary request.

Main request

3. Claim 1 specifies that the hook arm is moved over a second stroke after the first over-centre linkage has been "fixed at the end of the first stroke". The feature of fixing at the end of the first stroke was not included in any independent claim as originally filed. Dependent claim 6 specified "an inner handle trigger engaged with said hook arm to secure said hook arm and said inner handle in a substantially fixed relation." Similarly, the only disclosure in the description of the fixing of the first over-centre linkage specified the trigger securing the hook arm and the inner handle (page 8, lines 13, 14). It follows that there was no explicit disclosure of fixing the first over-centre linkage other than by the inner handle trigger 130.

3.1 The appellant argues that the skilled person would be aware that the first over-centre linkage is self-locking and that no separate locking device would be necessary. The board cannot agree with that line of reasoning. Firstly, the latch is being used to apply high closing loads but there is no disclosure of any friction-reducing measures at the various pivots. The skilled person would understand that under these conditions clockwise rotation of the outer handle during the second stroke without any additional fixing of the first over-centre linkage may subject the inner handle to clockwise torque tending to overcome the over-centre condition. Secondly, at least the initial

motion of the second primary link during the second closing stroke would apply a load to the inner handle having a lateral component tending to rotate it in a clockwise direction about the pivot 62, thereby acting in opposition to the over-centre condition. Thirdly, the first over-centre linkage is described as comprising the inner handle and the first primary link. Both of these elements would be subjected to compressive loading during the operation of the first over-centre linkage. However, during the operation of the second over-centre linkage the compressive load in the inner handle would be removed by a compressive load in the secondary link, as may be deduced by comparing the respective positions of the pivot at the left hand end of the slot 65 in figures 4, 5. If the compressive load in the relevant portion of the inner handle were removed, any self-locking resulting from the over-centre condition would no longer be effective.

3.2 On the basis of the foregoing the board concludes that the disclosure, both explicit and implicit, of the application as originally filed was that the inner handle trigger 130 was an essential element for the fixing of the first over-centre linkage. Since that feature is not specified in respect of the first over-centre linkage being "fixed" in present claim 1 the subject-matter of the claim has been extended beyond the content of the application as originally filed (Article 100(c) EPC 1973). The request therefore fails.

Auxiliary request

4. In its communication pursuant to Article 15(1) RPBA the board indicated that it provisionally was of a

different opinion to the opposition division in respect of the objection treated under point 3 above, on which the opposition division found in favour of the patent proprietor. In response and in order to overcome that objection, the appellant amended its requests prior to the oral proceedings before the board to include an auxiliary request which it had previously filed during the opposition procedure. Whilst the board during the oral proceedings found that the amendments made by the appellant overcame the objection raised by the respondent, it raised an objection *ex officio* in accordance with Article 84 EPC 1973 that the claim 1 was unclear. The present request is the appellant's response to that objection. The respondents request that it not be admitted.

4.1 In accordance with Article 13(3) RPBA amendments sought to be made after oral proceedings have been arranged shall not be admitted if they raise issues which the board or the other party cannot reasonably be expected to deal with without adjournment of the oral proceedings. The amendment made in this case involved only the repositioning of a feature in a claim which had been filed already during the opposition procedure and so does not raise an issue as set out in Article 13(3) RPBA.

4.2 The board does have discretion provided in accordance with Article 13(1) RPBA to admit amendments made to an appellant's requests after filing its statement setting out its grounds of appeal. The board exercises that discretion in the present case because it would be unfair to the appellant not to do so when the amendment has been occasioned by an objection first brought

forward by the board during the oral proceedings. The respondents' argument that the appellant has the responsibility to file only requests which fulfil the requirements of the EPC has no basis either in the EPC or in the case law of the Boards of Appeal and does not reflect the reality of preparing patent claims.

5. The feature of the inner handle trigger is included in both claims 1 and 5 according to this request and the objection on which the main request founders is overcome. The board is satisfied that the introduction of this feature does not detract from the clarity of the claims and the respondents have raised no objections in this respect.

6. Claims 1, 5 specify that the hook arm is rotatably connected to the base, a feature which the respondent argues is not directly and unambiguously derivable from the application as originally filed. There are only two possibilities: either the hook arm is rotatable about bolt 48 or it is restrained to execute translational movement only. In the latter case some means would have to be present in order to provide the restraint. There is no dispute between the parties that no such means are disclosed, either explicitly or implicitly, but the respondent nevertheless argues that the absence of such disclosure is not tantamount to a teaching of the absence of the feature. In the board's view, however, the skilled person presented with the application as originally filed would be left in no doubt that the hook arm is rotatable relative to the bolt 48.

6.1 It is stressed in the introduction to the description that the latch must be capable of applying "a large

circumferential force" for closing thrust reverser ducts which have an "appreciable thickness" (page 1, penultimate paragraph). In the detailed description it is further stated that "it is necessary to have a latch which is capable of transmitting the substantial loads produced by the air flowing within the engine …". It is clear, therefore, that if the hook arm which must bear these high loads is to be guided to undergo only translational movement the guidance means must be capable of resisting correspondingly high lateral components of the loads. The skilled person would understand that if such a guidance means were present it would constitute a fundamental part of the latch mechanism. Thus, by reverse analogy, he would understand that the absence from the described embodiment of any such guidance means amounts to a clear technical teaching that it is not present. The board notes in this respect that the latch is presented in the drawings as a complete assembly, albeit schematically, which apparently would require modification in order to be guided for translational movement only. The absence of a guidance means in the drawings therefore is a technical teaching to this effect. The respondents argue that a guidance means such as is under consideration here is both known and may be relatively simple so that it need not be included in the drawings. However, that argument holds true only in respect of details of the guidance means itself, not in respect of whether it is provided and the consequent effect on the construction of the latch itself. The skilled person also would not be expecting a guidance means to be provided since there is nothing in the original disclosure to the effect that it might

be of benefit over the alternative of a rotatable and therefore self-aligning mounting, as presently claimed.

6.2 The above interpretation is consistent with all aspects of the original disclosure, including the drawings. The drawings certainly are merely schematic but a comparison of figures 2 and 6 nevertheless gives clear support for the feature of rotational mounting of the hook arm on the bolt 48. In those figures the bolt is indicated at respective opposite ends of the slot 65 whilst the end of the hook arm engaging the keeper is located at essentially the same distance from the duct. That could result only from rotation of the hook arm. This conclusion does not rely on measuring the drawings because the displacement of the hook arm relative to the base by approximately the length of the slot is many times greater than the essentially unchanged spacing of the end of the hook arm from the duct. The respondents argue that since sliding/translation of the hook arm was explicitly disclosed so also would have been rotation if it were in fact present. The board disagrees with that view because translation is the essential motion for which the latch is employed whereas the rotation merely results from the geometry of the latch design.

6.3 On the basis of the foregoing the board concludes that the feature that the hook arm is rotatably connected to the base is directly and unambiguously derivable from the application as originally filed.

7. The respondents object that according to the application as originally filed the keeper engaging "end" of the hook arm comprised a hook and that failure

to specify this in claims 1, 5 extends the subject-matter beyond the original disclosure. However, it is specifically stated in page 6, lines 6 to 8 that "while reference is made to a hook, one skilled in the art will know of additional devices which can be used to engage the keeper." It is evident to the skilled person that "additional" in this context is intended to mean 'alternative'.

8. The respondents object furthermore that an intermediate generalisation of the original disclosure results from only some features of the second over-centre linkage having been taken into claims 1, 5. Specifically, claims 1, 5 include only the outer handle and one of a plurality of links being pivotally connected to the inner handle. In the board's opinion the skilled person is not presented with information which was not disclosed in the application as originally filed. It is important in this respect to distinguish between the content of an application which represents original teaching and that which merely embodies the existing knowledge of the skilled person. The essential original teaching of the present application as originally filed lies in the provision of a second over-centre linkage which allows the action of folding the handle to accomplish additional work, see page 3, lines 12 to 16 and claim 1. The specification in present claims 1, 5 of the connection of two elements of the second over-centre linkage with the inner handle of the first over-centre linkage correctly reflects how in accordance with the original teaching the second linkage is integrated into the latch. The particular configuration of the second over-centre linkage in the embodiment, on the other hand, is only one possible arrangement of

such a linkage and this was apparent to the skilled person on the basis of his general technical knowledge. The separation of features relating to integration of the second over-centre linkage on the one hand and its particular configuration on the other therefore does not convey information which was not already at the disposal of the skilled person when reading the application as originally filed.

9. The respondents object also that in claims 1, 5 the links of the first over-centre linkage are merely specified as being "arranged" between the end of the hook arm and the base whereas the original disclosure was of them having a particular relationship. The board's views set out in detail under point 8 above are equally applicable in respect of this objection. The wording "being arranged between an end of said hook arm opposite the keeper engaging end thereof and the base" conveys the essential teaching that the first over-centre linkage acts between the end of the hook arm and the base. The particular details of that over-centre linkage do not extend beyond the knowledge of the skilled person when reading the application as originally filed and their separation from the features now included in the claims therefore do not bring forward any additional teaching.

10. A further objection raised by the respondents is that claims 1, 5 do not specify an outer handle trigger 112 locking the outer handle relative to the inner handle during operation of the first over-centre linkage. The only disclosure of the operation of the first over-centre linkage in the application as originally filed, say the respondents, included the operation of this

trigger in order to assure the sequential operation of the linkages. The board disagrees with this objection because in claim 1 as originally filed the first and second over-centre linkages and in claims 2, 3 the individual linkages of the first and second over-centre linkages respectively are specified without mention of an inner handle trigger. Aside from the disclosure of the original claims 1 to 3 it is, moreover, implicit to the skilled person studying the operation of the preferred embodiment in the application as originally filed that the outer handle trigger acts during operation of the first over-centre linkage merely as an end stop and that compressive loading in the primary link 70 during operation of the first over-centre linkage will resist relative motion between the outer and inner handles. As a result, it would be implicit to the skilled person that the outer handle trigger was not essential to the function of the linkages.

11. The final objection raised by the respondents relates to the introduction into claims 1, 5 of the inner handle trigger without introducing also the remainder of the features constituting the first over-centre linkage as originally disclosed. The board disagrees with this objection because the function of the inner handle trigger has the sole function of retaining the first over-centre linkage in its end position during the operation of the second over-centre linkage. The board has already explained in respect of the main request that the original disclosure taught the skilled person that the inner handle trigger was essential for that function. However, that essentiality does not derive solely from the particular construction of the first over-centre linkage disclosed in the application

as originally filed, as is derivable from the consideration relating to the magnitude of forces involved in the operation of the latch. The skilled person therefore would not have understood from the application as originally filed that the inner handle trigger in the disclosed embodiment was provided only because of the particular construction of the first over-centre linkage in the described embodiment.

12. On the basis of the foregoing the board concludes that the subject-matter of present claims 1, 5 has not been rendered unclear by amendment after grant (Article 84 EPC 1973) and does not extend beyond the content of the application as filed (Article 100(c) EPC 1973 and Article 123(2) EPC). No objection under Article 100(c) EPC 1973 was directed against the subject-matter of claims 2 to 4 and 6 to 8 and the board considers that none would be valid. Since the decision under appeal did not deal with all grounds of opposition raised by the opponents the board exercises its discretion in accordance with Article 111(1), second sentence, EPC 1973 and remits the case to the first instance 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.

The Registrar: The Chairman:

A. Vottner S. Crane