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**Datasheet for the decision
of 2 February 2012**

Case Number: T 2139/09 - 3.2.03

Application Number: 00109067.9

Publication Number: 1050634

IPC: E03F 7/10

Language of the proceedings: EN

Title of invention:

Apparatus for unwinding/rewinding a suction hose for draining cesspools, septic tanks and sewers in general

Patentee:

Cappellotto S.p.A.

Opponents:

FARID INDUSTRIE S.p.A.
Müller Umwelttechnik GmbH Co. KG

Headword:

-

Relevant legal provisions:

EPC Art. 54, 56

Keyword:

"Admissibility of late-filed evidence concerning prior use (no)"
"Claims of the main request - novel (yes) - inventive step (yes)"

Decisions cited:

-

Catchword:

-



Case Number: T 2139/09 - 3.2.03

DECISION
of the Technical Board of Appeal 3.2.03
of 2 February 2012

Appellant: Müller Umwelttechnik GmbH Co. KG
(Opponent 2) Julius-Müller-Strasse 3
D-32816 Schieder-Schwalenberg (DE)

Representative: Dantz, Jan Henning
Loesenbeck - Specht - Dantz
Patent- und Rechtsanwälte
Am Zwinger 2
D-33602 Bielefeld (DE)

Respondent: Cappellotto S.p.A.
(Patent Proprietor) Via Vizza 6
I-31018 Gaiarine (Treviso) (IT)

Representative: Modiano, Micaela Nadia
Modiano & Partners (IT)
Via Meravigli, 16
I-20123 Milano (IT)

Party as of right: FARID INDUSTRIE S.p.A.
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I-10048 Vinovo (Torino) (IT)

Representative: Fioravanti, Corrado
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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
28 September 2009 concerning maintenance of
European patent No. 1050634 in amended form.

Composition of the Board:

Chairman: U. Krause
Members: G. Ashley
I. Beckedorf
E. Frank
K. Garnett

Summary of Facts and Submissions

- I. European patent EP-B1-1 050 634 concerns an apparatus mounted on a truck for winding and unwinding a suction hose used to drain cesspools, septic tanks, sewers or the like.
- II. Grant of the patent to Cappellotto S.p.A. (patent proprietor) was opposed by Farid Industries S.p.A. (opponent OI) and Müller Umwelttechnik GmbH (opponent OII). As part of its case, opponent II requested that a Mr Lonke and a Mr Fichte be heard as witnesses regarding an alleged prior public disclosure. The opposition division decided that it was not necessary to hear the witnesses and held that the patent could be maintained in amended form.
- III. This decision was appealed by opponent OII and was heard as T 1100/07. The Board in that case decided that, although the opposition division had been correct in refusing the request to hear Mr Lonke, Mr Fichte could have given evidence about the technical details of the prior use and therefore should have been heard. The Board in T 1100/07 thus decided to remit the case to the opposition division for further prosecution.
- IV. The present appeal lies from the decision of the opposition division, which, having heard Mr Fichte, concluded that the patent could be maintained on the basis of claim 1 filed during the oral proceedings of 17 April 2007 as the auxiliary request. The decision was posted on 28 September 2009.

V. This decision has now been appealed by opponent OII, which filed notice of appeal on 30 October 2009, paying the appeal fee on the same day. A statement containing the grounds of appeal was filed on 19 January 2010.

VI. Oral proceedings were held on 2 February 2012.

VII. Requests

The appellant (opponent OII) requested that the decision under appeal be set aside and that the patent be revoked.

The respondent (patent proprietor) requested that the appeal be dismissed or alternatively, in setting aside the decision under appeal, that the patent be maintained in amended form on the basis of one of the sets of claims filed with the letter of 9 August 2010 as the first auxiliary request or as the second auxiliary request filed with the letter of 2 January 2012.

The other party (opponent OI) requested that the patent be revoked.

VIII. Claims

Claim 1 of the respondent's main request corresponds to that upheld by the opposition division, and reads as follows:

"1. An apparatus (10) for unwinding/rewinding a suction hose (17) for draining or purging cesspools, septic tanks, sewers or the like, on a truck (11),

which comprises a hose guide (14) which is coaxial to said hose (17), said hose guide comprising a composite arm (15) with guiding means (16) for said hose (17), said arm (15) being pivotable about a substantially horizontal axis (A) in an adjustable manner actuated by actuation means (18),

wherein said apparatus (10) further comprises

a reel (13) with a vertical axis of rotation to wrap up said hose (17), said reel (13) being rotatable about an axis of rotation and being associated with a base (23) for connection to an adapted region of the truck (11), and said hose guide (14) being associated in a peripheral region with said reel (13),

said substantially horizontal axis (A) being parallel to a tangent to said reel (13),

said hose guide (14) extending radially with respect to said vertical axis of rotation,

said arm (15) being articulated peripherally with respect to said reel (13)."

Dependent claims 2 to 11 concern preferred embodiments of the apparatus of claim 1.

IX. Prior Art

- (a) The following documents, which among others were cited in the contested decision, were also referred to in the grounds of appeal:

E1: DE-U-88 07 777

E2: DE-A-196 11 107

(b) In addition to the evidence of Mr Fichte, the following documents concerning the alleged prior use are referred to in the contested decision:

E8/1: Cover page of a sales brochure,
dated February 1985.

E8/2 and E8/3:

Technical information said to relate to the vehicle sold to Hannover City.

E8/4: said to be a drawing of part of a boom apparatus mounted on the vehicle.

E8/5: Better copy of the cover of brochure E8/1.

E8/6: Enlarged copy of E8/5 with annotations.

E8/7: Registration papers, provided by the city of Hannover, concerning a sewer-cleaning vehicle.

E8/8: Original brochure relating to E8/1 and E8/5.

E8/9: Technical data sheet relating to a vehicle delivered to the city of Hannover.

The Opposition Division grouped the above documents as follows:

E8/par (E8/2, E8/3, E8/7 and E8/9) concerning the

sale of a vehicle having the number 26711 to the city of Hannover;

E8/pic (E8/1, E8/5, E8/6 and E8/8) concerning a brochure from Eichhoff KG.

- (c) The Appellant filed the following additional evidence with the grounds of appeal:

E8/10: Affidavit from Mr Burkert.

E8/11: Original photographs of a sewer-cleaning vehicle corresponding to those in E8/10.

E8/12: Further photograph of a sewer-cleaning vehicle.

- (d) The following documents were also referred to in the grounds of appeal:

E13: DE-C2-30 02 557

E14: DE-C3-30 02 557

- (e) During the oral proceedings opponent I referred to the following document:

E3: US-A-4 922 571

X. Submissions of the Parties

- (a) Admissibility of E8/10 to E8/12

The appellant submitted that the additional evidence filed on appeal provides further substantiation of the

prior use allegation first raised with the notice of opposition. The new evidence concerns the use of the sewer cleaning vehicle by the city of Hannover (E8/par). There had been considerable difficulty in obtaining information about the vehicle from the authorities in Hannover, and in obtaining evidence from Mr Burkert, who had been employed by the City of Hannover as the driver of the vehicle. The late introduction of the evidence was not deliberate, and indeed, had been filed as soon as it had become available. Given that it is highly relevant and that the respondent had had ample opportunity to address the new evidence, it should be admitted into the proceedings.

The respondent argued that the new evidence should not be admitted into the proceedings as firstly it is very late, and secondly, the evidence does not prima facie clearly establish a prior use. In particular, it is not certain exactly when the photographs (E8/11) were taken, and whilst it may be understandable that Mr Burkert would want souvenir photographs of his colleagues and the truck, it is less understandable that he would want photographs of the details of various mechanisms on the truck.

(b) Admissibility of E3

During the oral proceedings, opponent OI referred to document E3. This had been cited in the notice of opposition, but although it had not been referred to in the appeal, opponent OI considered it to be a highly relevant document for the assessment of inventive step, and thus should be admitted into the proceedings.

The respondent emphasised that E3 had not been referred to in the notice of appeal, and following the Rules of Procedure of the Boards of Appeal, the Board should exercise its discretion not to admit the document.

(c) Novelty

The appellant contested novelty on the basis of E8/pic. This is a sales brochure describing vehicles from the company Eichhoff KG, and of particular relevance is the photograph of a vehicle on the last page of the brochure. The appellant submitted that the brochure was distributed before the priority date of the contested patent. Evidence of the public availability of E8/pic is given on the last page of the brochure, where the printing date "2/85" and an orange sticker announcing a telefax number as from 1.1.1987 can be seen. In addition, the photograph shows a vehicle standing in a field overlooked by houses, which itself amounts to a public disclosure of the vehicle. The vehicle had also been sold to the city of Hannover, as evidenced by the documents of E8/par.

The vehicle in the photograph is for draining sewers or the like, and is equipped with a hose, which is guided by means of an arm to a drum mounted on top of the tank. The hose must be variable in length and hence it is readily apparent that the drum functions as a reel for winding up the hose. A long, heavy metal tube is attached to the end of the hose, which means that it is not easy to manoeuvre the hose into a sewer shaft. It is therefore clear to the skilled person that the arm guiding the hose must be capable of both rotating and

lifting the hose into position. Hence all features defined in claim 1 are disclosed in E8/pic.

The respondent questioned the availability of the brochure, arguing that the fact that it was printed on a given date was no proof that it was actually distributed, and that the sticker could have been applied to the brochure at anytime.

Regarding the disclosure of E8/pic, the respondent argued that the hose could be lengthened simply by coupling more lengths together, but it is not inevitable that the lengths must be stored on a reel. The structure on the top of the tank could act as a storage area for the hose without there being a mechanism for winding it up. Alternatively, the structure might be shielding, for example to protect a pump. In the event that the structure was found to be a reel, it would not be possible to say with certainty that the hose guide extends radially with respect to the vertical axis of rotation of the reel, since the vehicle is viewed in the photograph from the side. There is also no clear indication that the arm can be raised vertically; the hose in the photograph can be manoeuvred easily by detaching the metal tube or by using a more flexible hose. It might be the case that the arm is capable of vertical movement, but this does not meet the strict requirement of unambiguous disclosure that is required when assessing novelty. Since the function of the various parts of the vehicle shown in the photograph is mere speculation, the claimed subject-matter is novel.

(d) Inventive Step

Appellant's Case:

The appellant submitted that, in the event that the claimed subject-matter differs from the vehicle shown in E8/pic in that the arm guiding the hose can be raised and lowered, the claimed apparatus would nevertheless lack an inventive step.

The hose is heavy and not very flexible, and is shown in the photograph as being attached to a long rigid tube. It is also frequently necessary to lift the hose over intervening obstacles such as walls, hedges and cars. It is thus very difficult without a lifting device to manoeuvre such a hose into a working position in a sewer shaft. In addition, it is often necessary to move the end of the hose up and down repeatedly in the sewer shaft in order improve the suction action, and a reel is incapable of creating the necessary fast movement. It is thus obvious to the skilled person just from his general knowledge that, in order to overcome these problems, the arm shown in E8/pic must be capable of lifting and lowering the hose.

The appellant also argued that the solution is given in E1 (paragraph bridging pages 2 and 3). Here there is a clear teaching that pivoting the arm about a horizontal axis improves the manoeuvrability of the hose and enables it to be moved up and down easily.

Opponent OI's Case:

Opponent OI submitted that the claimed apparatus lacked an inventive step in light of E2 and E1. Document E2 discloses a vehicle with a suction hose, and has many common features with that of the disputed invention. The problem addressed in E2 is to prevent the hose from jamming (column 1, lines 47 to 49), which is the same problem as described in paragraph [0007] of the disputed patent. Consequently E2 can be seen as the closest prior art for assessing inventive step. The claimed apparatus differs from that of E2 in that the arm is capable of pivoting about a horizontal axis. Starting from E2, the objective problem to be solved is how to manoeuvre the hose over objects such as walls and parked cars to the entrance to a manhole. The solution is, as set out by the appellant above, given in E1, which discloses raising and lowering the arm as a means for more easily positioning the hose.

The Respondent's Case:

The respondent submitted that the manoeuvrability of the hose shown in E8/pic can be improved simply by coupling together short sections, and that it is sufficient to wind and unwind the reel in order to move the end of the hose during operation. The problem addressed in E2, should this document be seen as the closest prior art, is how to position a hose and wind it up without damaging it; the proposed solution in E2 is to change the position of the arm with respect to the reel; this already points away from the claimed invention.

If the objective problem is seen as improving the manoeuvrability of the hose, the solution is not to be found in E1. According to this document, the hose is not stored on a reel, but on a platform; the arm for guiding the hose is located at the side of the platform, rather than being mounted radially, as required by claim 1. Thus E1 relates to a different type of mechanism from that of the disputed invention for positioning and storing a suction hose. E1 concerns a particular type of truck having a low height for use under power cables and in tight areas such as in towns, ie it does not provide a general teaching. Even if the skilled person were to take note of the teaching of E1, it is not apparent where the arm of E2 would be pivoted in order to move it vertically, hence significant modification of the arm of E2 would be necessary. In addition, the skilled person would take note of the entire teaching of E1 and include all of the features of the hose positioning equipment, including use of a platform to store the hose. Features taken in isolation from E1 can be combined with the disclosures of E8/pic or E2 only with the benefit of hindsight.

Reasons for the Decision

1. The appeal is admissible.
2. Admissibility of Evidence Submitted on Appeal
 - 2.1 Documents E8/10 to E8/12

In the grounds of appeal, the appellant made further submissions concerning the alleged prior use. An

affidavit (E8/10) was filed from Mr Burkert, who was employed by the city of Hannover as driver of sewer-cleaning vehicle H-LW 767. The affidavit contains photographs, colour copies of which are presented in E8/11; the appellant submits that the photographs show the technical features of vehicle H-LW 767.

The new evidence provided by the appellant has been filed very late in the proceedings, ie at the start of the second appeal. The reasons given by the appellant for the late-filing relate to the difficulties in obtaining the evidence from the city of Hannover, particularly as the vehicle had been taken out of service in 2000. While the Board appreciates such difficulties, such evidence can only be admitted into the proceedings if it gives a full and complete picture of the alleged prior use without the need for further investigations.

The priority date of the contested patent is 3 May 1999 and one of the photos seems to be dated 5/99, but it is not known when in May it was taken; the other photos appear to have been taken in January and April 1999. As argued by the respondent, there are doubts as to the circumstances in which they were taken, in particular the reasons for taking the photographs, whether they all relate to the same vehicle, and why they were taken on different dates. There is also no clear link between this evidence and that submitted as E8/par, in that it is not known if the vehicle had been further modified between the sale to the city of Hannover in 1983 and the date when the photographs were taken in 1999.

Given that the photographs and the affidavit of Mr Burkert have been filed very late, and that the evidence is not complete but requires further investigations which would delay the proceedings, the Board does not admit E8/10 to E8/12 into the proceedings.

2.2 Admissibility of E3

Document E3 had not been discussed in the decision of the opposition division, and was referred to for the first time in appeal proceedings by opponent OI during the oral proceedings. Given that the submission of opponent OI was made so late in the proceedings, the Board exercised its discretion not to admit E3 into the proceedings.

2.3 Documents E13, E14

These documents were cited for the first time in the grounds of appeal as evidence of the patent dispute referred to by Herr Fichte in his evidence given before the opposition division. However, these documents are of no further relevance in this appeal.

3. State of the Art - The Alleged Prior Use

3.1 Regarding the alleged prior use, the opposition division concluded that:

(a) A vehicle (Daimler Benz 1619 with the factory number 26711) was sold by Eichhoff to the city of Hannover and hence is part of the state of the art, as evidenced by the documents listed under E8/par.

(b) A vehicle of the type shown in E8/pic was sold prior to the filing of the patent and is also part of the state of the art.

3.2 However, the opposition division was not convinced that the vehicle shown in E8/pic corresponds to vehicle 26711 sold to the city of Hannover and which has the technical features mentioned in documents E8/par. Hence, the opposition division treated E8 as relating to two separate pieces of prior art.

3.3 Concerning E8/pic, the evidence relates to a sales brochure (E8/8) entitled "Eichhoff Silence" from the company Eichhoff KG Schwalenberg, the last page of which shows a sewer-cleaning vehicle in a field. The last page also has the numbers "2/85" in the bottom right-hand corner, which indicates that the brochure was printed in February 1985. An orange sticker next to the contact details for Eichhoff KG gives a certain telefax number from 1.4.1987. The respondent argues that a printing date is no proof that the brochure was made available to the public on that date, and that a sticker is also no conclusive evidence of publication.

It is considered that the general intention of commercial brochures is to make the information available to prospective customers. In the present case, the priority date of the disputed patent is 3 May 1999, which is over four years after the brochure was printed (February 1985). The Board is of the view that in this period of time the brochure would have been distributed to customers. The Board has no reason to doubt the authenticity of the sticker, which is an indication to

customers in 1987 of a change in telefax number and supports the view that the brochure was made available to the public before the priority date of the disputed patent. Consequently E8/pic is prior art under Article 54(2) EPC.

The opposition division was of the opinion that the vehicle itself shown in the brochure had been sold and hence was publically available (paragraph 5.7.1 of the disputed decision). The appellant argued that the picture shows the vehicle to be in a field overlooked by house, which itself amounts to a public disclosure. However, since both of these disclosures concern the vehicle depicted in the brochure, it remains the task to determine the features of the vehicle, as shown in the photograph of E8/pic.

4. Novelty (Article 54 EPC)
 - 4.1 The appellant contested novelty on the basis of E8/pic. The opposition division considered that the photograph did not clearly show a vehicle having a reel for wrapping up the hose or that the arm could be lifted (see points 6.3 and 6.4 of the contested decision), and hence recognised that the claimed subject-matter was novel.
 - 4.2 The photograph of E8/pic shows a vehicle with a drum-like part mounted on the top of the tank, and an arm that is attached to the vehicle beneath the drum extending horizontally to the rear of the vehicle. A hose can be seen emerging from the drum, entering one end of the arm adjacent to the drum and exiting from the other end at the rear of the vehicle.

4.3 The respondent argued that even if the drum were to function as storage for the hose, it does not necessarily follow that the hose is wrapped up on a reel. Given that the vehicle is viewed from the side, it is also not possible to determine whether the hose enters the drum in the middle, ie the hose guide extends radially from reel, or whether it enters at the side.

The view of the Board is that the photograph is not a full-on side view, but has been taken at an angle that allows some appreciation of the perspective of the vehicle, such that the arm for guiding the hose can be seen extending radially beneath the drum and the hose entering approximately the middle of the drum. The skilled person would be aware that such a vehicle is equipped with a length of hose sufficient for extending to the bottom of sewers or the like, and that the hose must be stored on the vehicle. The hose can be seen in the photograph to enter the drum on the top of the vehicle; it is clear that there must be a means for feeding the hose to and from the drum, and this would inevitably be a winding mechanism, ie a reel. Although the respondent has suggested that the hose is merely stored in this region, there is no reasonable explanation as to how the hose could be fed to and from the drum without the use of a reel. Consequently, E8/pic discloses a reel with a vertical axis of rotation for wrapping up the hose, as is defined in claim 1.

4.4 The photograph in E8/pic clearly shows an arm for guiding the hose, with the arm in a horizontal position

along the length of the vehicle. The question here is whether it can be derived unequivocally from the photograph that the arm can be raised and lowered vertically by pivoting about a horizontal axis, and also be articulated peripherally with respect to the drum.

It is clear that the end of the hose must be positioned over a sewer inlet or the like. The arm is shown to be bent around the drum and attached to the vehicle just beneath the drum. The only reasonable explanation for such an arrangement is to allow the arm to rotate about this point. This would allow the end of the arm to swing away from the vehicle and provide the necessary manoeuvrability for the hose. This is also a well known feature of similar trucks in the art (E1 and E2 are just two examples showing that the hose is typically capable of rotation in a horizontal plane). Hence the claimed feature that the arm can be articulated peripherally with respect to the reel is derivable from E8/pic.

- 4.5 There is, however, no clear disclosure that the arm can be raised and lowered. In the photograph the arm is shown in a horizontal position and there is no clearly discernable actuation means for elevating it.

The appellant argues that the long rigid pipe attached to the end of the hose indicates that the arm must be raised in order to bring the end of the pipe into a working position over a sewer inlet and to enable negotiation of obstacles between the vehicle and the sewer inlet. However, the rigid pipe can be manoeuvred by alternative means, such as by rotating the arm or by

positioning of the vehicle (as described for example in E2 (column 1, lines 38 to 43)). It is not inevitable that the arm must be capable of vertical movement in order to position the hose.

4.6 Hence the claimed apparatus is novel because E8/pic does not unambiguously disclose, in the words of claim 1, an arm for guiding the hose, whereby the arm is pivotable about a horizontal axis in an adjustable manner actuated by an actuation means.

5. Inventive Step (Article 56 EPC)

Starting from E2

5.1 The appellant and opponent OI submitted that the apparatus of claim 1 lacked an inventive step in light of E2 and E1.

5.2 E2 discloses an apparatus for unwinding and winding suction hoses on a vehicle. The apparatus comprises a reel mounted on top of the vehicle and an arm for guiding the hose, whereby the arm extends radially with respect to the vertical axis of rotation of the reel. Like the dispute patent, E2 addresses the problem of manoeuvring the hose (E2, column 1, lines 44 to 43). E2 is therefore seen as an appropriate starting point for the assessment of inventive step.

5.3 The claimed apparatus differs from that of E2 principally in that the arm for guiding the hose can be pivoted in a vertical direction.

5.4 Starting from E2, the objective problem to be solved is how to improve the manoeuvrability of the hose.

5.5 According to the appellant and opponent OI the solution is to be found in E1.

E1 also concerns a vehicle equipped with a tank and a suction hose for draining sewers or the like. E1 deals with the problem of how to position the hose, particularly in restricted areas, for example where there are overhead cables or where there is difficult access for the vehicle, such as in towns (see page 2, second paragraph).

The solution provided by E1 is to provide an arm for the hose, whereby the arm can be rotated about both vertical and horizontal axes, and also can be telescopically extended (page 2, last paragraph).

The appellant and opponent OI submit that in light of this teaching it would be obvious to pivot the arm of the vehicle described in E2 about a horizontal axis in order to solve the objective problem. The Board does not agree with this submission for the following reasons.

Firstly, the arm shown in E2 is equipped with both vertical and horizontal guide rolls, it is telescopic and is mounted beneath the reel (see Figures 1 and 2). Given the relatively complex structure of the arm, it is not immediately apparent where a suitable pivot point could be arranged and how it would function. As argued by the respondent, a substantial rearrangement

of the arm would be necessary for it to pivot vertically and retain the telescopic function.

Secondly, the teaching of E1 is not to use a reel, but to store the hose on a platform with the guiding arm mounted on the side. This arrangement allows the arm to be raised/lowered, rotated and extended telescopically. On reading E1, the skilled person is therefore taught that this arrangement is necessary for providing the desired manoeuvrability and hence would apply it to the vehicle of E2, ie by replacing the reel and arm of E2 by the platform and arm of E1.

Consequently, the combined teachings of E2 and E1 do not lead the skilled person to the claimed apparatus.

Starting from E8/pic

5.6 The appellant also submitted that the invention was obvious starting from the photograph shown in E8/pic. The difference between the claimed apparatus and that of E8/pic also lies primarily in the ability to raise the arm.

5.7 The appellant argues that starting from E8/pic the objective problem concerns the manoeuvrability of the hose, but both the problem and its solution are obvious to the skilled person merely from his general knowledge. In particular, it is well known that the hose has to be lifted over obstacles such as parked cars, hedges and walls. Given that the photograph shows that a long ridged tube is attached to the end of the hose, it is obvious that this has to be raised up in order to insert it into a sewer. The skilled person is also

- aware that it is frequently necessary during operation to repeatedly raise and lower the end of the hose in order to improve the suction action. Providing an arm that can move in a vertical direction is obvious solution to these problems.
- 5.8 However, there is no indication from E8/pic alone that the arm can be raised or how this could be achieved. As mentioned above, the hose of E8/pic can be positioned by manoeuvring the vehicle and by rotating the arm (see point 4.5 above), hence the objective problem is also how to improve the manoeuvrability of the hose.
- 5.9 Possible solutions include sectioning the tube and hose, and increasing the flexibility of the hose itself. In addition, repeatedly raising and lowering the end of the hose by winding and unwinding the reel would also improve the suction action, as was argued by the respondent.
- 5.10 Once the skilled person has knowledge of the invention, ie that the arm can be raised, it becomes apparent that this is also a possible feature of the vehicle shown in E8/pic. However, assessment of inventive step must be made without the benefit of hindsight. On viewing E8/pic, even in light of the general knowledge of the skilled person, there is no indication that vertical movement of the arm is necessary in order to improve manoeuvrability of the hose.
- 5.11 The appellant also submits that E1 provides the solution, since this document teaches that raising and lowering the arm improves manoeuvrability of the hose.

However, the considerations here are similar to those set out above for the combination E2 and E1. In particular, E1 teaches that manoeuvrability of the hose is achieved by storing it on a platform with a telescopic arm mounted on the side. Applying this to the vehicle of E8/pic would mean replacing the reel and arm with the arrangement of E1, which would not lead to the claimed subject-matter.

5.12 The apparatus of claim 1 and the dependent claims thus has an inventive step.

6. Auxiliary requests.

Given that the subject-matter of the claims of the main request has been found to be novel and have an inventive step, there is no need to consider the respondent's auxiliary requests.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

D. Hampe

U. Krause