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Datasheet for the decision of 20 March 2012

Case Number: T 0705/10 - 3.2.08

Application Number: 01978675.5

Publication Number: 1354116

IPC: E06B 9/00

Language of the proceedings: EN

Title of invention:
Flood protection barrier

Applicant:
Jones, Robert Alexander

Headword:
-

Relevant legal provisions:
EPC Art. 123(2)

Keyword:
"Inventive step - no"

Decisions cited:
-

Catchword:
-

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Beschwerdekammern | Boards of Appeal | Chambres de recours

Case Number: T 0705/10 - 3.2.08

D E C I S I O N
of the Technical Board of Appeal 3.2.08
of 20 March 2012

Appellant: (Applicant)
Jones, Robert Alexander
Dee View
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Flint
North Wales CH6 5DT (GB)

Representative:
Hamilton, Alistair
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Decision under appeal: **Decision of the Examining Division of the European Patent Office posted 9 November 2009 refusing European patent application No. 01978675.5 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman: T. Kriner
Members: P. Acton
U. Tronser

Summary of Facts and Submissions

I. On 18 January 2010 the appellant (applicant) filed a notice of appeal against the examining division's decision posted on 9 November 2009 refusing European patent application No. 01 978 675.5. The appeal fee was paid simultaneously and the statement of grounds was received on 18 March 2010.

II. In the written proceedings the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the description and claims according to specification 1 or, auxiliarly, that a patent be granted on the basis of the description and claims according to specification 2, both filed together with the grounds of appeal.

III. With a communication accompanying the summons to oral proceedings the Board informed the appellant that neither of the two requests appeared to be patentable, particularly since the application had been amended in such a way that it contained subject-matter which extended beyond the content of the application as filed.

The appellant acknowledged the receipt of the communication but did not react further to the Board's communication.

IV. The appellant did not appear at the oral proceedings held on 20 March 2012.

V. Claim 1 according to the main request (Specification 1) reads:

"A flood protection barrier comprising a shield (20, 52) having a sealing element and securing means (54) for securing the shield in place to at least partially close a door or window aperture in a wall of a building, the aperture having a door or window frame (64); in which the securing means is shaped to engage with a formation of the frame, and the sealing element forms a fluid-resistant seal between the barrier the frame at the periphery of the aperture, arranged whereby in the event of water rising to the outside of a building, the water pushes against the shield and urges its sealing elements into closer contact with the frame, thereby enhancing their ability to provide a watertight seal characterised in that the securing means is carried entirely on the shield and includes a plurality of clip means (60), each clip means can be deployed to secure the shield to a formation of the frame within a door recess of the frame, and each clip means includes two mutually adjustable components (56, 60), the first of which (56) is fixed in relation to the shield, and the second of which (60) is adjustably attached to the first by a nut, for installation, on the second component (60) the nut can be tightened whereby the second component is caused to be pushed against the formation of the frame."

Claim 1 according to the auxiliary request (Specification 2) reads:

"A flood protection barrier installed in an aperture of a building having a door or window frame, the barrier comprising a shield (20, 52) having a sealing element and securing means (54) that secure the shield in place to at least partially close the aperture; in which the

securing means is shaped to engage with a formation of the frame, and the sealing element forms a fluid-resistant seal between the barrier the frame at the periphery of the aperture, arranged whereby in the event of water rising to the outside of the building, the water pushes against the shield and urges its sealing elements into closer contact with the frame, thereby enhancing their ability to provide a watertight seal characterised in that the securing means are carried entirely on the shield and includes a plurality of clip means (60), each clip means being deployed to secure the shield to a formation of the frame within a door recess of the frame, and each clip means including two mutually adjustable components (56, 60), the first of which (56) is fixed in relation to the shield, and the second of which (60) is adjustably attached to the first by a nut that can be tightened, for installation the second component (60) can be pushed against the formation of the frame by the nut being tightened."

Reasons for the Decision

1. The appeal is admissible.

2. The last feature of claim 1 of Specification 1 according to which:

"for installation, on the second component (60) the nut can be tightened whereby the second component is caused to be pushed against the formation of the frame",

and the last feature of claim 1 of Specification 2, according to which:

"for installation the second component (60) can be pushed against the formation of the frame by the nut being tightened"

were not disclosed in the application as originally filed.

According to both of the features the second component is pushed against the frame as a result of the tightening of the nut. However, page 6, lines 18 to 20 together with Figure 3 of the application as published disclose that the shield is first pushed against the frame, then the second component (60) is pushed against the formation (64) and finally the nut is tightened to fix the two components (60) and (56) together. Therefore, according to the originally filed documents the nut has only the function of fixing the two components to each other and not of pushing the second component against the formation of the frame.

Hence neither of the two requests complies with the requirements of Article 123(2) EPC.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

V. Commare T. Kriner