

Internal distribution code:

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

**Datasheet for the decision
of 17 July 2013**

Case Number: T 1400/10 - 3.2.01

Application Number: 04715378.8

Publication Number: 1599379

IPC: B62H3/12, B62H3/00

Language of the proceedings: EN

Title of invention:

A BICYCLE STORAGE SYSTEM

Applicant:

Andrew Lang Product Design Limited

Headword:

Relevant legal provisions:

EPC Art. 54(1), 56

Keyword:

Novelty - (yes)
Inventive step - (yes)

Decisions cited:

Catchword:



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

European Patent Office
D-80298 MUNICH
GERMANY
Tel. +49 (0) 89 2399-0
Fax +49 (0) 89 2399-4465

Case Number: T 1400/10 - 3.2.01

D E C I S I O N
of Technical Board of Appeal 3.2.01
of 17 July 2013

Appellant: Andrew Lang Product Design Limited
(Applicant) 64A Stroud Green Road
London N4 3ER (GB)

Representative: Langley, Peter James
Origin Limited
Twisden Works
Twisden Road
London NW5 1DN (GB)

Decision under appeal: **Decision of the Examining Division of the European Patent Office posted on 16 February 2010 refusing European patent application No. 04715378.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman: G. Pricolo
Members: C. Narcisi
P. Guntz

Summary of Facts and Submissions

- I. The appeal stems from the decision of the examining division posted on 16 February 2010 to refuse the European patent application No. 04 715 378.8 on the grounds of added subject-matter (Article 123(2) EPC) as regards independent claim 14, and lack of novelty (Article 54(1) and (2) EPC) as regards claim 1, in view of the prior art disclosed by document

D3 : FR-A-2 735 411.

The appeal was lodged on 16 April 2010 and the prescribed appeal fee was paid on the same day. The statement setting out the grounds of appeal was received on 16 June 2010.

- II. In response to communications of the board, the appellant (applicant) filed with letter dated 24 June 2013 an amended set of claims (identical to the set of claims according to the sixth auxiliary request filed with letter dated 2 May 2013) together with a revised description forming the basis for a new main request for the grant of a patent, and withdrew all previous requests on file. The appellant requested oral proceedings as a precautionary measure.

The appellant's main request is, therefore, that the decision under appeal be set aside and a patent be granted in the following version:

Claims: 1 to 3 filed with letter of 24 June 2013;
Description: pages 1 to 5 filed with letter of 24 June 2013;
Drawings: sheets 1/8 to 8/8 as originally filed.

III. Claim 1 reads as follows:

"1. A bicycle storage unit for storing a bicycle, comprising:
(i) a first flange, the first flange adapted to support a lower surface of a bicycle frame, so that the frame can rotate about this first flange under the weight of the rear of the bicycle; and
(ii) a second flange, the second flange adapted to contact an upper surface of that frame to prevent further rotation of the frame about the first flange, the flanges being arranged to then securely hold the frame,
characterised in that
the first and the second flanges are formed into a single, sinuous edge or face of the unit, in which the unit is hollow and bicycle accessories can be stored within the hollow unit, and in which the unit is a one piece moulded object."

IV. The appellant's arguments in support of its request can be summarized as follows:

Amended claim 1 derives from claims 1 to 4 of the application as filed and therefore complies with the requirements of Article 123(2) EPC. Moreover, the subject-matter of claim 1 is new and involves an inventive step having regard to the available prior art. D3, which represents the closest prior art, discloses a bicycle storage system according to the preamble of claim 1. The technical effect of the features defined in the characterising portion of claim 1 is to provide a bicycle storage unit of greater strength than that of D3: the unit of D3 includes a pair of hooks for supporting a bicycle whilst according to the claimed invention there is provided a one piece

moulded object for supporting the bicycle. Accordingly, there are no hooks which can break off and the unit does not comprise multiple parts which can come apart under mechanical stress. The available prior art does not suggest solving the problem of improving the strength of the bicycle storage unit by means of the features defined in the characterizing portion of claim 1.

Reasons for the Decision

1. The appeal is admissible.
2. Claim 1, apart from minor linguistic amendments (such as replacing "bicycle storage system" by "bicycle storage unit"), corresponds to the combination of claims 1 to 4 of the application as filed. Dependent claims 2 and 3 correspond to dependent claims 5 and 9 of the application as filed.

The description is suitably adapted to the amended claims and document D3 is acknowledged therein.

Therefore, the amendments made to the patent application documents comply with the requirements of Article 123(2) EPC.

3. Novelty
 - 3.1 Using the wording of claim 1 of the present application, D3 discloses (see Figures 1 to 3) a bicycle storage unit for storing a bicycle, comprising:
(i) a first flange (14), the first flange adapted to support a lower surface of a bicycle frame, so that the frame can rotate about this first flange under the weight of the rear of the bicycle; and

(ii) a second flange (15), the second flange adapted to contact an upper surface of that frame to prevent further rotation of the frame about the first flange, the flanges being arranged to then securely hold the frame (see page 5, lines 21 to 29).

The first and second flanges (14, 15) of the unit of D3 are hooks. The hooks are joined to a pipe (12; see page 4, line 30), which is closed at its extremities and is supported by a frame formed of pipe elements (see page 4, lines 5,6 and 28 to 30).

Accordingly, D3 does not disclose the features defined in the characterising portion of claim 1, namely that the first and the second flanges are formed into a single, sinuous edge or face of the unit, in which the unit is hollow and bicycle accessories can be stored within the hollow unit, and in which the unit is a one piece moulded object.

It follows that the subject-matter of claim 1 is novel over D3 (Article 54(1) EPC).

3.2 Moreover, the subject-matter of claim 1 is also novel (Article 54(1) EPC) over the remaining available prior art, since none of the documents cited in the search report, or the additional documents relied upon by the examining division during examination proceedings (US2002/0125681A1 and US2002/0125681A1), discloses a bicycle storage unit which is a hollow, one piece moulded object being suitable for storing bicycle accessories within the unit.

Documents US-A-5 082 123 (see Fig. 1), US-A-5 074 419 (see Fig. 1), DE9204396U (see Fig. 1), DE8712210U (see Fig. 1), US-A-5 332 104 (see Fig. 1), US-A-5 054 628

(see Fig. 2), US-A-5 078 276 (see Fig. 1), DE-C-440 532 (see Fig. 2), US2002/0125681A1 (see Fig. 1), all relate to bicycle racks comprising one or more bars intended for supporting a bicycle frame from its lower surface only. Such bars are either massive (such as in US-A-5 294 006, see clamp bar 30 in Fig. 2), i.e. not hollow, or, even if hollow (such as e.g. in D1, see Fig. 6), anyway of dimensions (cross-section) such that it is impossible to store bicycle accessories at their interior.

Finally, document US2002/0125681A1 relates to a different device, namely a device for lifting and towing in particular a bicycle (see 10), which consists of a one piece, massive unit (see par. [0023] and Figs. 1 and 6).

4. Inventive step

The Board agrees with the appellant's view that document D3 represents the closest prior art, as it is the only available prior art document showing a bicycle storage unit which is intended for supporting a bicycle frame on a lower surface and on an upper surface thereof.

The question of whether the distinguishing features according to the characterising portion of claim 1 effectively solve the problem of improving the strength of the bicycle storage unit according to D3 (in fact, this effect would also depend on the material used for the unit, which is not defined in claim 1) as argued by the appellant can be left aside, as the non-obviousness of the claimed subject-matter is already evident from the above analysis of the prior art (see points 3.1 and 3.2 above). Indeed it is clear from the above that the

available prior art does not suggest the provision of a hollow one-piece unit which, in addition to the conventional function of supporting the bicycle frame, is such as to allow for storing bicycle accessories within the hollow unit.

Therefore, the subject-matter of claim 1 involves an inventive step as required by Article 56 EPC.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the Examining Division with the order to grant a patent on the basis of the following documents:
 - Claims: 1 to 3 filed with letter of 24 June 2013;
 - Description: pages 1 to 5 filed with letter of 24 June 2013;
 - Drawings: sheets 1/8 to 8/8 as originally filed.

The Registrar:

The Chairman:



L. Fernández Gómez

G. Pricolo

Decision electronically authenticated