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**Datasheet for the decision
of 12 August 2015**

Case Number: T 1977/10 - 3.5.02

Application Number: 07858272.3

Publication Number: 2091139

IPC: H02K53/00

Language of the proceedings: EN

Title of invention:
ROTOR FOR MAGNETIC MOTOR

Applicant:
Freixas Vila, Ramon

Headword:

Relevant legal provisions:
EPC Art. 83, 84

Keyword:
Sufficiency of disclosure - (no)
Claims - clarity (no)

Decisions cited:

Catchword:



**Beschwerdekammern
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Chambres de recours**

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Case Number: T 1977/10 - 3.5.02

**D E C I S I O N
of Technical Board of Appeal 3.5.02
of 12 August 2015**

Appellant: Freixas Vila, Ramon
(Applicant) Targa 32
43424 Sarral, Tarragona (ES)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 23 March 2010
refusing European patent application No.
07858272.3 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman M. Ruggiu
Members: G. Flynn
W. Ungler

Summary of Facts and Submissions

I. Contested decision

The applicant's appeal contests the examining division's decision to refuse Euro-PCT application 07 858 272.3, the English translation of which was published as EP 2 091 139 A1.

In the reasons for the decision the examining division found that the alleged invention was not disclosed in the application as filed in a manner sufficiently clear and complete for it to be carried out by the person skilled in the art, contrary to Article 83 EPC.

The examining division noted that the alleged invention was directed to an electric motor in which both the rotor and the stator just comprise permanent magnets, and considered that it was general knowledge for the person skilled in the art that it was not technically possible to carry out an electric motor only with permanent magnets and without any further source of energy.

The examining division argued further that the person skilled in the art knew that at least one of the stator and the rotor would have to comprise magnetic poles which generated a magnetic field that could be changed in a controlled manner by using energy, such that rotation occurred continuously. The controlled change of the magnetic field used to continuously rotate the rotor could not be the change of the magnetic field caused by the rotation of the rotor itself. Otherwise this would mean that the rotation of the rotor could be achieved without supplying energy from the outside to the motor. Such a motor would function under

circumstances which were not in line with well-established physical laws, which means that such a motor would be a perpetuum mobile. The effect of perpetual motion of the motor according to the application could not be achieved by the person skilled in the art just by applying his technical knowledge, since a perpetuum mobile did not exist.

II. **Basis of the appeal**

The appellant has not filed amended application documents, so the Board understands the appellant's request as being that the decision under appeal be set aside and a patent be granted on the basis of the application documents as set out in the contested decision, namely:

- Description pages 1 to 5 filed on entry into the European phase (letter dated 9 July 2008);
- Amended claims 1 and 2 filed on said entry into the European phase; and
- Drawing sheets 1/2 and 2/2 filed on said entry into the European phase.

Claim 1 reads as follows:

"1. Rotor for magnetic motor, formed by magnets (2) and material (4) that orientates the magnetic field, both elements forming groups arranged around a shaft (5), in the radius of the external circumference of the rotor (1) body, separated by a distance; the immobile stator (3) is close to the external circumference of the rotor (1) body, with the axis of the stator being orthogonal to the rotor radius and parallel to the rotation plane of the rotor; the rotor magnets (2) have an only magnetic pole on the flat faces with the largest surface area; characterized because each group of the

rotor (1) is formed of at least one magnet (2), which has one face with the two magnetic poles facing the stator (3), and a group of the rotor with several magnets (2) has its magnets arranged one after the other with the magnetic poles of the flat faces with the largest surface area in attraction, on a circular, spiral, staggered or oblique line; the material (4) that orientates the magnetic field is placed on the side of the face of the magnet (2) at the end of the group closest to the stator (3), and the material (4) is placed on the side of an only magnetic pole."

III. **Appellant's submissions**

The appellant argued in the grounds for appeal that the invention refers to a rotor with magnets and not to a magnetic motor. Furthermore, the appellant argued that the disclosed invention was able to solve the stated problem and offered to present a model or prototype of the invention, which is "all transparent / clear except the magnets and axles and can turn without any battery, wires or human force".

IV. **Oral Proceedings**

With a communication dated 22 May 2015 the Board issued a summons to oral proceedings to be held on 12 August 2015.

In an annex to the summons to oral proceedings the Board made observations on the appeal and invited the appellant to bring the model or prototype of the invention to the oral proceedings and to demonstrate that its structure is in compliance with claim 1 and that it operated in the manner alleged, in particular that it could create kinetic energy (i.e. generate a

torque) without any battery, wires, human force or any supply of energy.

The appellant did not respond in writing to the summons other than to acknowledge receipt of the summons to oral proceedings.

Oral proceedings took place on 12 August 2015. Nobody was present on behalf of the appellant. The Board pronounced the present decision at the oral proceedings. For details of the oral proceedings reference may be made to the minutes thereof.

Reasons for the Decision

1. Clarity, Article 84 EPC

1.1 Whilst claim 1 is directed to a "Rotor for magnetic motor", it does not just define the rotor itself - it also specifies the relationship between the rotor and the stator of the magnetic motor, see for example:

- "the immobile stator (3) is close to the external circumference of the rotor (1) body, with the axis of the stator being orthogonal to the rotor radius and parallel to the rotation plane of the rotor";
- "each group of the rotor (1) is formed of at least one magnet (2), which has one face with the two magnetic poles facing the stator (3)"; and
- "the material (4) that orientates the magnetic field is placed on the side of the face of the magnet (2) at the end of the group closest to the stator (3)".

Given that the motor and its stator are not defined as part of the claimed subject-matter, the Board finds that the above-mentioned features of claim 1 are not clear in the sense of Article 84 EPC.

- 1.2 The Board considers that if any sense is to be made of the above features, claim 1 has to be interpreted as if it specifies not just a rotor for a magnetic motor, but a magnetic motor comprising a rotor and a stator.

2. **Sufficiency of Disclosure, Article 83 EPC**

- 2.1 According to the application, the invention concerns the technical area of magnetic motors (see paragraph [0001] of the published English translation). The stated problem is that in such a magnetic motor, a "rotor with [permanent] magnets shows difficulty of interaction with a stator formed by permanent magnets, since repulsion takes place at one end of the magnet, while there is attraction at the other end. The problem is that the rotor cannot escape from the attraction of a magnetic pole" (see paragraph [0003]). According to paragraph [0004], the rotor of the present invention interacts with a stator which has permanent magnets and according to paragraph [0016] the application of the present invention is "for magnetic motors whose stator is formed by permanent magnets".

- 2.2 It seems to be generally understood that a "motor" is a mechanical or electrical device that creates motion (cf. <http://en.wikipedia.org/wiki/Motor>).

In physics, the law of conservation of energy states that the total energy of an isolated system remains constant - it is said to be conserved over time. Energy can be neither created nor be destroyed, but it transforms from one form to another (cf. http://en.wikipedia.org/wiki/Conservation_of_energy).

It follows from this well-established physical law that a motor can only create motion (i.e. create kinetic energy) if it is provided with a supply of energy in some form.

- 2.3 In a device which has only a rotor and a stator, each consisting only of permanent magnets there is no supply of energy. Hence, the Board concludes that such a device could not create motion, i.e. it could not act as a motor. For this reason, the Board concurs with the finding in the contested decision that the alleged invention is not disclosed in the application as filed in a manner sufficiently clear and complete for it to be carried out by the person skilled in the art, contrary to Article 83 EPC.

3. **Conclusion**

For the reasons set out above, the Board finds that the application does not meet the requirements of the EPC and that there is no reason to set aside the contested decision as requested.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



U. Bultmann

M. Ruggiu

Decision electronically authenticated