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**Datasheet for the decision
of 6 February 2014**

Case Number: T 0807/12 - 3.2.06

Application Number: 03013411.8

Publication Number: 1433890

IPC: D06F37/22, D06F37/26

Language of the proceedings: EN

Title of invention:

Drum type washing machine

Patent Proprietor:

LG Electronics, Inc.

Opponent:

BSH Bosch und Siemens Hausgeräte GmbH

Headword:

Relevant legal provisions:

EPC 1973 Art. 54, 56, 84

EPC Art. 123(2)

Keyword:

Late submitted material - document admitted by first instance
(yes) - correct exercise of discretion (yes)

Novelty - main request (no) - auxiliary request (yes)

Inventive step - auxiliary request (yes)

Decisions cited:

G 0007/93

Catchword:



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Case Number: T 0807/12 - 3.2.06

D E C I S I O N
of Technical Board of Appeal 3.2.06
of 6 February 2014

Appellant: BSH Bosch und Siemens Hausgeräte GmbH
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Respondent: LG Electronics, Inc.
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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted on
16 February 2012 concerning maintenance of the
European Patent No. 1433890 in amended form.

Composition of the Board:

Chairman: M. Harrison
Members: M. Hannam
W. Sekretaruk

Summary of Facts and Submissions

I. An appeal was filed by the appellant (opponent) against the interlocutory decision of the opposition division which found that European patent No. 1 433 890 in an amended form (according to a first auxiliary request) met the requirements of the EPC. In support of its request to revoke the patent, the appellant submitted objections under Articles 54 and 56 EPC. Of the documents cited in support of the appellant's request, the following are relevant to this decision:

| | |
|-----|----------------|
| D2 | US-A-2 930 217 |
| D4 | DE-B-1 113 439 |
| D11 | US-A-4 327 302 |
| D12 | US-A-4 437 325 |
| D13 | US-A-2 844 225 |
| D14 | US-A-2 987 190 |
| D15 | US-A-2 959 966 |
| D16 | US-A-3 362 198 |
| D17 | US-A-2 644 326 |

Of these cited documents, the opposition division had exercised its discretion in admitting D11-D17 into the opposition proceedings since, despite having been filed at a late stage in the proceedings, they appeared to be *prima facie* of relevance in regard to the novelty and inventive step of the subject-matter of claim 1 of the first auxiliary request before it.

II. The respondent (proprietor) requested that the appeal be dismissed or that the patent be maintained in amended form according to one of auxiliary requests 1a, 1b, or 2 to 11. It additionally requested that documents D11-D17 not be admitted into the proceedings.

It furthermore submitted:

D22 Proceedings of the 4th World Conference on
Detergents: Strategies for the 21st Century; 1999;
pages 93-94

III. The Board issued a summons to oral proceedings including a communication containing its provisional opinion, in which it indicated *inter alia* that the opposition division appeared not to have exercised its discretion incorrectly when deciding to admit D11-D17. It furthermore indicated that the subject-matter of claim 1 of the main request seemingly lacked novelty in view of each of D11 to D16.

IV. Oral proceedings were held before the Board on 6 February 2014, during which the respondent filed auxiliary request 1 replacing all its previous auxiliary requests on file.

The appellant requested that the decision under appeal be set aside and that the European patent No. 1 433 890 be revoked. The respondent requested that the appeal be dismissed or that the European patent be maintained with the following documents (corresponding to auxiliary request 1):

Claims 1-6 and description pages 2, 2a, 3 and 4, all dated 6 February 2014;
drawings: Figures 1-9 as granted.

V. Claim 1 of the main request reads as follows:
'A drum type washing machine comprising:
a cabinet (2) for forming an appearance;
a tub (4,40,50) for storing washing water;
a drum (6) rotatably arranged in the tub (4, 40, 50)
for washing and dehydrating laundry; and

a driving motor (8) positioned at a rear side of the drum (6) for generating a driving force by which the drum (6) is rotated;
characterized in that
the tub (4, 40, 50) is fixed to an inner side of the cabinet (2); and
the washing machine further comprises:
a supporting plate (12), which the driving motor (8) is mounted to and is positioned at a rear side of the tub (4, 40, 50),
wherein a gasket (14) is installed between the supporting plate (12) and the rear side of the tub (4, 40, 50) for reducing vibration induced by the drum (6) from being transmitted to the tub (4, 40, 50); and
a supporting unit, which supports an assembly composed of the drum (6), the driving motor (8), and the supporting plate (12) with buffering and is installed between the supporting plate (12) and the cabinet (2).'

Claim 1 of auxiliary request 1 reads:

'A front-loading drum type washing machine comprising:
a cabinet (2) for forming an appearance;
a tub (4,40,50) for storing washing water;
a drum (6) having a horizontal rotation axis and being rotatably arranged in the tub (4, 40, 50) for washing and dehydrating laundry; and
a driving motor (8) positioned at a rear side of the drum (6) for generating a driving force by which the drum (6) is rotated;
wherein the tub (4, 40, 50) is fixed to an inner side of the cabinet (2); and
the washing machine further comprises:
a supporting plate (12), which the driving motor (8) is mounted to and is positioned at a rear side of the tub (4, 40, 50),
wherein a gasket (14) hermetically connects the

supporting plate (12) and the rear side of the tub (4, 40, 50) for reducing vibration induced by the drum (6) from being transmitted to the tub (4, 40, 50), wherein the gasket (14) is formed as a bellows and has one side fixed to the rear side of the tub (4, 40, 50) and another side fixed to an outer circumference surface of the supporting plate (12); and a supporting unit, which supports an assembly composed of the drum (6), the driving motor (8), and the supporting plate (12) with buffering and is installed between the supporting plate (12) and the cabinet (2).'

VI. The appellant's arguments may be summarised as follows:

Claim 1 was not limited to a front-loading washing machine, such that D11-D17 were highly relevant. Thus, the opposition division had exercised its discretion correctly in admitting those documents.

Main request

D11, particularly Figs. 21 and 25, disclosed all features of claim 1. The expression 'installed between' should be interpreted such that no direct connection between itself and both the supporting plate and rear side of the tub was required. The motor in D11 was directly mounted to plate 251 and the tub 409 was fixed to an inner side of the cabinet at the annular flange 417 in Fig. 25. The components of the 'assembly' (in claim 1) did not provide an exclusive list because, in the patent, the bearing assembly, whilst not being explicitly mentioned, was also clearly part of the assembly. The subject-matter of claim 1 thus lacked novelty (Article 54 EPC).

Auxiliary request 1

The presence of a horizontal rotation axis of the drum could not be unambiguously derived from the application as filed since the Figures were not accurate but merely diagrammatic (Article 123(2) EPC).

D2 (particularly the details in Fig. 4 thereof) disclosed all features of claim 1. The bracket 48 and seal 49 anticipated the supporting plate and gasket of claim 1 respectively; alternatively the tyre 38 could represent the gasket as no sealing function of the gasket was defined. The seal 49 was connected to the outside surface of the bearing housing which, being connected to the bracket 48, corresponded to the outer circumference of the supporting plate.

The subject-matter of claim 1 did not involve an inventive step when starting from D2 as the closest prior art and wishing to solve the objective problem of simplifying the machine of D2 by reducing the number of parts. Claim 1 was reached without inventive skill through a combination with the teaching in D11, D14 or D15. The transmission mechanisms in D11 and D15 would be omitted by the skilled person when combining the documents since a separate drive of the drum and an agitator was not required in a front-loading machine. Indeed, simply the drum drive arrangement of D2 required replacing in order to reach the subject-matter of claim 1. D15 was directed to accommodating maximum vibrations which problem was also addressed in paragraphs [0006] and [0011] of the patent. D14 was equally applicable to front-loading machines as evidenced by independent claim 9 being directed to the vibration isolation arrangement and dependent claim 11 restricting to a vertical axis arrangement. Also, D4

demonstrated that simplified arrangements for reducing vibration effects were known.

VII. The respondent's arguments may be summarised as follows:

D11-D17 should not be admitted since they all disclosed vertical axis machines which were not relevant for considering the novelty of the claimed "drum type" machine which the skilled person knew implicitly had, as was also shown in D22, an essentially horizontal axis of rotation.

Main request

Claim 1 was to be interpreted as defining a rear side of the drum relative both to the user and to the machine in its operating orientation. The subject-matter of claim 1 was thus novel (Article 54 EPC) as D11 failed to disclose the driving motor positioned at a rear side of the drum. D11 also failed to disclose a washing machine comprising a supporting plate (a plate being a substantially two-dimensional element); a tub fixed to an inner side of the cabinet; a gasket installed between the supporting plate and the rear side of the tub; and a supporting unit supporting an assembly composed of drum, driving motor and supporting plate. The expression 'installed between' defined a direct physical contact of the gasket to both the supporting plate and the rear side of the tub. The expression 'composed of' was to be understood as preceding an exclusive list of constituent elements.

Auxiliary request 1

The subject-matter of claim 1 met the requirement of Article 123(2) EPC since all Figures of the application as filed showed an essentially horizontal axis for the claimed washing machine; no suggestion of an axis inclined to the horizontal was to be derived from the patent specification.

Regarding novelty (Article 54 EPC), D2 failed to disclose a hermetical and therefore necessarily direct connection between an outer circumference surface of a supporting plate and a rear side of the tub by a gasket formed as a bellows.

D11, D14 and D15 all disclosed vertical axis machines and would not be considered by the skilled person for combination with D2 in order to deprive the subject-matter of claim 1 of an inventive step (Article 56 EPC). Whilst having to design for vibration, vertical axis machines were supported at their centre of gravity and thus their drive arrangements were not readily exchangeable with those of horizontal axis machines without significant modification.

Reasons for the Decision

1. Admittance of D11-D17
 - 1.1 The opposition division exercised its discretion in admitting D11-D17 into the opposition proceedings with the reasoning that the washing machines disclosed therein showed a very similar structure to that claimed in the patent and that the documents were thus *prima facie* highly relevant for assessing novelty and

inventive step (see point 3.2.1 - point 3.2.3 of the interlocutory decision).

In such cases where a department of first instance has exercised its discretion, it is not the function of a Board of Appeal to review all the facts and circumstances of the case as if it were in the place of the first instance department, in order to decide whether or not it would have exercised such discretion in the same way. Rather, its competence should be limited to establishing whether the first instance department has exercised its discretion in accordance with the right principles or that it has exercised its discretion in a reasonable way (see G 7/93, point 2.6). In the present case, the opposition division presented coherent arguments as to why D11-D17 were admitted. The discretion appears to have been exercised both in accordance with the right principles and in a reasonable way. The respondent notably did not present any arguments contesting the opposition division's use of its discretion, but instead merely contested the relevance of these documents. The Board thus sees no reason to alter the decision of the opposition division to admit D11-D17 into the proceedings.

2. Main request

2.1 Novelty

2.1.1 The subject-matter of claim 1 lacks novelty (Article 54 EPC 1973) in view of D11.

2.1.2 Utilising the following feature-by-feature analysis of the wording of claim 1, D11 discloses (the references in brackets referring to D11):

a drum type washing machine (see Fig. 25 showing a washing machine having a drum 353) comprising:
a cabinet (351) for forming an appearance;
a tub (407) for storing washing water;
a drum (353) rotatably arranged in the tub (407) for washing and dehydrating laundry; and
a driving motor (45) positioned at a rear side of the drum (353) for generating a driving force by which the drum is rotated;
the tub (407) is fixed to an inner side (see Fig. 25 at position 417) of the cabinet (351); and
the washing machine further comprises:
a supporting plate (251; see Figs. 23 and 25), which the driving motor (45) is mounted to (see Figs. 23 and 25) and is positioned at a rear side of the tub (407), wherein a gasket (415) is installed between the supporting plate (251) and the rear side of the tub (407) for reducing vibration induced by the drum (353) from being transmitted to the tub (407); and
a supporting unit (367), which supports an assembly composed of the drum (353), the driving motor (45), and the supporting plate (251) with buffering (via springs, 375) and is installed between the supporting plate (251) and the cabinet (351).

2.1.3 The Board cannot concur with the respondent regarding D11 not disclosing a "drum type" washing machine. The washing machine of D11 includes a drum (353) and, noting particularly that the wording of claim 1 does not provide any further features which specifically characterise a particular drum type washing machine, thus meets the designation of being a drum type washing machine in the sense of claim 1.

D22, which was cited by the respondent to show that a drum type washing machine had a horizontal drum

rotation axis, is inconclusive on this point. Fig. B on page 94 of D22, on which the respondent relied, indeed shows an essentially horizontal axis machine of the front-loading type with the designation "Europe-drum-type washer". However, page 93 of the same document refers to a difference between a front-loading horizontal-axis machine (see paragraph iii Technology) and a top-loading vertical-axis washing machine, without assigning the terminology "drum-type washer" to either of these. D22 therefore does not unambiguously prove that "drum type" washing machines should be understood exclusively to have a horizontal drum rotation axis. No further documents supporting the contention that drum-type washing machines implied a machine with an essentially horizontal axis of drum rotation were presented by the respondent.

The Board thus finds that D11 discloses a drum type washing machine in the sense that this designation is used in claim 1.

- 2.1.4 Regarding the respondent's argument that D11 failed to disclose a rear side of the drum or rear side of the tub, the Board finds otherwise. Claim 1 defines a washing machine as a stand-alone physical entity without any reference to its orientation relative to a datum outside of the machine. Thus, the claimed washing machine remains the same, irrespective of its spatial orientation (e.g. normal operating orientation; upside down; on its side).

With respect to the washing machine of D11, therefore, this can be held against the washing machine of claim 1 in any chosen spatial orientation, as the claim does not restrict the washing machine to any specific orientation. For the purpose of anticipating the

subject-matter of claim 1, the washing machine depicted in Fig. 25 of D11 may be considered when rotated through 90° anti-clockwise, such that the cover 363 faces towards an observer standing to the left of the machine in the figure. In this position and relative to the observer, the cover 363 of the washing machine is the front of the machine, the base 357 the rear of the machine. Also, when the machine is in this position, the expressions 'at a rear side of the drum' and 'at a rear side of the tub' are understood as those parts of the washing machine remote from the observer and on the far side of the drum or tub and behind the closed base of the drum or tub (n.b. this would also be true for a non-tipped vertical orientation). It thus follows that in D11 (see Fig. 25), with the washing machine in this tipped orientation, the following features of claim 1 are unambiguously disclosed:

a driving motor positioned at a rear side of the drum;
a supporting plate is positioned at a rear side of the tub; and

a gasket is installed between the supporting plate and the rear side of the tub.

- 2.1.5 Contrary to the respondent's opinion, the expression 'installed between', with respect to the gasket's location in claim 1, does not define a direct physical contact of the gasket to both the supporting plate and the rear side of the tub. Indeed, the expression *per se* includes neither an explicit nor an implicit restriction to such physical contact between the gasket and the elements which it is installed between. Thus, in the broadest interpretation of the expression, 'installed between' simply indicates that the gasket is located somewhere along the path between two elements; in the present case between the supporting plate and the rear side of the tub, without the exact location

along this path being defined. This location could be in direct contact with each of the supporting plate and the rear side of the tub, in direct contact with only one of these or in direct contact with neither of them. Thus, when interpreting the claim in the latter sense (i.e. with the gasket located in direct contact with neither the supporting plate nor the rear side of the tub), which also makes complete technical sense, the gasket 415 of D11 anticipates this feature.

- 2.1.6 Since no direct physical contact is implied by the expression 'installed between' in the context of the gasket relative to the supporting plate and the rear side of the tub, the essentially two-dimensional lower end wall 251 of the transmission mechanism in D11 can be equated with the supporting plate of claim 1.
- 2.1.7 Regarding the respondent's further argument that the expression 'composed of' in claim 1 was to be understood as preceding an exclusive list of constituent elements, the Board finds, at least in the present case, this interpretation to be unfounded. The expression 'composed of' in its usual interpretation is to be equated with the non-limiting 'comprising' expression, rather than the limiting 'consisting of'. In the present case this is also how the patent intends the expression to be interpreted since the claimed assembly supported by the supporting unit is not limited to the drum, the driving motor and the supporting plate; rather, as is clear from e.g. Fig. 3 of the patent, the assembly also includes at least the shaft 16 and its bearing. It thus follows that the expression 'composed of', at least as used in the present patent, precedes a non-limiting list of included features.

The Board thus finds that the supporting unit (367) of D11, also supports an assembly composed of the drum (353), the driving motor (45), and the supporting plate (251) with buffering (via spings, 375), thus anticipating this feature of claim 1.

2.1.8 Again contrary to the respondent's view, the Board further concludes that the tub 409 of D11 is fixed to an inner side of the cabinet 351. Col. 22, lines 64-68 of D11 describes an annular flange 417 of the tub 409 being in supporting engagement with the cabinet structure 361 and, from Fig. 25 showing the tub being internal to the cabinet and the two elements being joined at the flange 417, also unambiguously discloses the tub being fixed (at least partially) to an inner side of the cabinet.

2.1.9 The subject-matter of claim 1 thus lacks novelty in view of the disclosure of D11 (Article 54 EPC 1973).

3. Auxiliary request 1

3.1 Article 84 EPC 1973 and Article 123(2) EPC

3.1.1 The subject-matter of claim 1 meets the requirement of Article 123(2) EPC.

3.1.2 Claim 1 results from a combination of claims 1, 7, 8 and 9 as originally filed with the addition of a functional feature relating to the gasket 'for reducing vibration induced by the drum from being transmitted to the tub' along with the addition of the expression 'front-loading' and the drum 'having a horizontal rotation axis' taken from the Figures of the patent. The Board views the extraction of just these two features from the Figures for addition to claim 1 as

not extending the subject-matter of claim 1 beyond that originally disclosed, as these features simply restrict the claim to the specific type of machine clearly intended and disclosed throughout the description and Figures of the application as filed.

3.1.3 As regards the appellant's contention that the patent fails to disclose an exactly horizontal rotation axis for the drum, this argument is unconvincing. The skilled person would understand that an absolutely horizontal axis is not of importance for the technical teaching regarding the washing machine of the patent; a small tolerance about a truly horizontal axis would be understood as acceptable, not least due to manufacturing tolerances. It may be added that the patent is also silent regarding any possibility of the axis of rotation being inclined relative to the horizontal, such that it is evident to a skilled person that this is clearly not intended to be covered by the expression 'having a horizontal rotation axis'.

3.1.4 The appellant raised no objections to the clarity of claim 1 and the Board also finds no reason to raise an objection under Article 84 EPC 1973.

3.1.5 Claim 1 of auxiliary request 1 is thus admitted.

3.2 Novelty

3.2.1 The subject-matter of claim 1 is novel (Article 54 EPC 1973) over D2, which fails to disclose the following features of claim 1:
a gasket hermetically connects the outer circumference surface of the supporting plate and the rear side of the tub; and
the gasket is formed as a bellows.

The gasket in D2 corresponding to that of claim 1 is the seal 49 which, according to col. 3, lines 13-14 is a flexible, sleeve form of seal rather than a bellows. This seal 49 is further applied about the (drum drive) shaft between the back wall (11b) of the case (11) and the end of the bearing housing (34; see Fig. 4 and col. 3 lines 14-16), rather than the outer circumference surface of the supporting plate.

The appellant's contention that the tyre 38 might also be considered as a gasket is not agreed, since a gasket in the present context necessarily has a sealing function and this cannot be attributed unambiguously to the tyre in D2, not least since no sealing is described and the tyre might indeed include pathways on its surface such as tread grooves.

3.2.2 The appellant's argument that the seal 49 of D2 was connected to the outside surface of the bearing housing which, being connected to the bracket 48, corresponded to the outer circumference of the supporting plate is not accepted. Claim 1 includes the requirement for the gasket to hermetically connect the supporting plate and the rear side of the tub, which hermetical connection implies a direct, physical connection to the skilled person, rather than an indirect connection via another element. The appellant's argument embodies only an indirect connection between the outer circumference of the supporting plate and the rear side of the tub i.e. via the bearing housing 34. The requirement for the gasket to hermetically connect the supporting plate and the rear side of the tub is thus not disclosed in D2.

3.2.3 The subject-matter of claim 1 is thus novel over the washing machine known from D2. Lacking any additional

objection under Article 54 EPC 1973 with respect to any further documents, the subject-matter of claim 1 is found to be novel with respect to the cited prior art.

3.3 Inventive step

3.3.1 The Board finds the subject-matter of claim 1 to involve an inventive step (Article 56 EPC 1973) over the document combinations D2 with D11, D2 with D14 and D2 with D15.

3.3.2 Starting from D2, which the parties considered to represent the closest prior art for the consideration of inventive step, the subject-matter of claim 1 differs therefrom through the following features: a gasket hermetically connects the outer circumference surface of the supporting plate and the rear side of the tub; and the gasket is formed as a bellows.

Based on these features, the objective technical problem may be formulated as to provide a simplified washing machine structure with fewer parts. Both parties also concurred that this was an appropriate objective problem.

3.3.3 When starting from D2 and combining this with the teaching of D11 in consideration of the problem to be solved, it is first noted that D11 discloses a top-loading vertical rotation axis washing machine which presents the skilled person with a clear hindrance to an obvious combination of this washing machine with the front-loading horizontal axis machine disclosed in D2. A (broadly-termed) "vertical axis" machine, whilst being designed to accommodate vibrations associated with rotation of the drum, supports the drum

essentially at its centre of gravity. In contrast, the front-loading horizontal axis washing machine disclosed in D2 supports the drum on a cantilever principle from the bearings supporting the drum drive shaft. Thus, the drum support arrangements in the two documents are very different, already making the extraction of features from D11 for combination with the washing machine of D2 in order to reach the subject-matter of claim 1 not obvious to the skilled person.

Regarding the alleged "simple" removal of the transmission mechanism of D11 prior to combining its teaching with D2, the Board concludes that such a modification would still require the skilled person to exercise an inventive step. The suggested modification would require the removal of the tub supporting structure 35 in D2 in order for the seal 49 to hermetically connect with the supporting plate 251 of D11. However, such a structural alteration of the washing machine of D2 would fundamentally change the manner in which the drum of D2 is supported, thus requiring significant redesign and further modification work necessitating the skilled person exercising inventive activity. No teaching towards such a modification is disclosed in the documents in the appeal proceedings.

Thus, when starting from D2 and considering the objective problem to be solved, the skilled person would not arrive at the subject-matter of claim 1 when considering the teaching of D11 unless inventive skill were used. Thus, the combination of D2 with D11 does not deprive the subject-matter of claim 1 of an inventive step (Article 56 EPC 1973).

3.3.4 When starting from D2, in consideration of the problem to be solved, the combination with the teaching of D14 also suffers from the incompatibility resulting from the washing machine of D2 having a horizontal drum rotation axis, that of D14 being vertical. The appellant's contention that D14 also covers horizontal axis machines fails to convince the Board of the skilled person being able, from this disclosure, to construct such a horizontal axis machine. All the embodiments of D14 relate to vertical axis machines and thus each include a drum support arrangement specifically suited to the drum being supported at its centre of gravity. Transferring such an arrangement to a horizontal axis machine would, as presented in point 3.3.3 above, require extensive modification.

Regarding the appellant's argument that simply the drive arrangement from the vertical axis machine of D14 would be used to replace the drive arrangement of D2, the Board concludes that such an exchange would require significant further modification by the skilled person. As described in point 3.3.3 above, such a replacement of the drive arrangement would require the removal of the tub supporting structure 35 in D2 in order for the related seal 49 to hermetically connect with the supporting plate 29 of D14; such a structural alteration cannot be regarded as an obvious modification to the skilled person, who would have to exercise an inventive step in order to further modify the resultant arrangement.

The combination of D2 with the teaching of D14 is thus found not to solve the objective technical problem, nor for the subject-matter of claim 1 to be reached without the skilled person using inventive skill. The subject-

matter of claim 1 is thus found to involve an inventive step (Article 56 EPC 1973).

3.3.5 Similarly to the previous two document combinations, the combination of D2 with the teaching of D15 also suffers from the incompatibility of the two washing machines having differently oriented drum rotation axes.

Regarding the appellant's argument that D15 was directed to accommodating maximum vibrations, which problem was also addressed in paragraphs [0006] and [0011] of the patent, the Board notes that this problem is unrelated to the objective problem to be solved. Simply because a prior art document is directed to a solution to a problem also mentioned in the opposed patent, does not make the technical teachings therein relevant to the solution of the objective technical problem formulated in the light of the features of claim 1 which differ with respect to the closest prior art. Indeed D15 shows no recognisable drum drive arrangement which could be regarded as providing a solution to the objective problem of simplifying the washing machine drive structure of D2. If anything, D15 discloses a more complex drive arrangement (see e.g. Fig. 1) in that the drive motor directly drives pump 25 whilst the drum and agitator are driven via a belt/pulley arrangement in combination with the transmission 16.

The further argument of the appellant that the transmission 16 of D15 could be omitted in order to simply replace the drive arrangement of D2 with that of D15 is not accepted. As explained in point 3.3.3, such a substitution would require the removal of the tub supporting structure 35 in D2 in order for the related

seal 49 to hermetically seal with the supporting plate 21 of D15; this is not to be regarded as an obvious modification to the skilled person, who would have to exercise an inventive step in order to further modify the resultant arrangement.

The subject-matter of claim 1 is thus found to involve an inventive step (Article 56 EPC 1973) over the combination of D2 with D15.

- 3.3.6 The appellant's reference to D4 fails to provide a convincing argument challenging the above conclusions regarding the presence of an inventive step starting from D2 when combined with the teaching of D11, D14 or D15. Whilst disclosing an arrangement for a drum (3) driven directly by a motor (4) with a rubber ring (9) both sealing the tub and accommodating vibration, the vertical axis machine of D4 provides no teaching of how D2 may be simplified in order to reach the subject-matter of claim 1. Furthermore, a supporting plate to which the motor was mounted could not be identified in D4, such that any meaningful teaching from this document regarding a simplification transferable to D11, D14 or D15 was not unambiguously to be extracted.
- 3.3.7 Absent further arguments of the appellant against the presence of an inventive step, the subject-matter of claim 1 is considered as involving an inventive step.
4. The appellant raised objections neither to the claims dependent on claim 1 nor to the adapted description. The Board also finds no reason of its own to raise an objection in this respect.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the opposition division with the order to maintain the European patent with the following documents:

Claims: 1-6,

Description: pages 2, 2a, 3 and 4, all dated
6 February 2014, and

Drawings: Figures 1-9 as granted.

The Registrar:

The Chairman:



M. H. A. Patin

M. Harrison

Decision electronically authenticated