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**Datasheet for the decision
of 8 March 2013**

Case Number: T 1250/12 - 3.2.03

Application Number: 08445027.9

Publication Number: 2161531

IPC: F41A 1/10, F041F 3/045

Language of the proceedings: EN

Title of invention:
Countermass weapon

Applicant:
Saab AB

Headword:
-

Relevant legal provisions:
EPC Art. 84

Keyword:
"Claims - clarity (yes)"

Decisions cited:
-

Catchword:
-



Case Number: T 1250/12 - 3.2.03

D E C I S I O N
of the Technical Board of Appeal 3.2.03
of 8 March 2013

Appellant: Saab AB
(Applicant) SE-581 88 Linköping (SE)

Representative: Falk, Bengt
Saab Bofors Support AB
Patents and Trademarks
SE-691 80 Karlskoga (SE)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 28 December 2011
refusing European patent application
No. 08445027.9 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: U. Krause
Members: G. Ashley
I. Beckedorf

Summary of Facts and Submissions

I. This appeal lies from the decision of the Examining Division to refuse European patent application EP-A-08 445 027.9 for lack of clarity (Article 84 EPC).

II. The decision was posted on 28 December 2011. The Appellant (the Applicant) filed notice of appeal on 21 February 2012, paying the appeal fee on 22 February 2012; a statement containing the grounds of appeal was filed on 15 March 2012.

III. In accordance with Rule 100(2) EPC, the Board issued a preliminary opinion concerning *inter alia* Article 84 EPC. In response, the Appellant filed, with the letter dated 19 February 2013, an amended set of claims.

IV. Requests

The Appellant stated in the letter of 19 February 2013 that it believed the revised set of claims is in condition for the remittal of the case to the Examining Division for further examination and await such a decision.

The Board understands this to be a request to set aside the decision under appeal and to remit the case to the Examining Division for further examination on the basis of the set of claims filed with the letter of 19 February 2013.

V. Claims

(a) Claim 1 before the Examining Division read as follows:

"1. A counter-mass weapon (1) comprising a launching tube (2) open or openable in both ends, the launching tube (2) housing a launchable unit (3) such as a rocket, a projectile, a shell or the like, a counter-mass (6), a pressure chamber (5), a propellant charge (4) that upon firing and combustion of the charge in cooperation with the pressure chamber (5) and the counter-mass (6) accelerates the launchable unit (3) forwards in the tube (2) at the same time as the counter-mass (6) accelerates backwards in the tube (2), and a firing and support unit (10) connected to the outside of the launching tube (2),

characterized in that

the launching tube (2) is disengaged by a connection from the firing and support unit (10) allowing the launching tube (2) to move forwards relative to the firing and support unit (10) during a forward directed recoil obtained by that the counter-mass (6) is provided with indications of fractions (7) on the surface (8) of the counter-mass (6)."

(b) Present claim 1 is as follows.

The amendments with respect to the claim before the Examining Division are indicated by strikethrough and underlining:

"1. A countermass weapon (1) comprising a launching tube (2) open or openable in both ends, the launching tube (2) housing a launchable unit (3) such as a rocket, a projectile, a shell or the like, a countermass (6), a pressure chamber (5), a propellant charge (4) that upon firing and combustion of the charge in cooperation with the pressure chamber (5) and the countermass (6) accelerates the launchable unit (3) forwards in the tube (2) at the same time as the countermass (6) accelerates backwards in the tube (2), and a firing and support unit (10) connected to the outside of the launching tube (2),

characterized in that

the launching tube (2) is disengaged by a connection from the firing and support unit (10) allowing the launching tube (2) to move forwards relative to the firing and support unit (10) during a forward directed recoil obtained by that the countermass (6) ~~is provided with indications of fractions (7) on the surface (8) of the countermass (6)~~ accelerates backwards."

Dependent claims 2 to 13 concern preferred embodiments of the countermass weapon of claim 1.

VI. Submissions of the Appellant

The Appellant filed an amended claim 1 in which the feature objected to by the Examining Division has been deleted. It was submitted that the present set of claims now meets the requirements of Article 84 EPC.

Reasons for the Decision

1. The appeal is admissible.

2. Article 84 EPC

2.1 Claim 1 before the Examining Division contained the following feature:

"... allowing the launching tube (2) to move forwards relative to the firing and support unit (10) during a forward directed recoil obtained by that the counter-mass (6) is provided with indications of fractions (7) on the surface (8) of the counter-mass."

The Examining Division held the view that it is not clear from either the claim or the description how "indications of fractions" on the surface of the counter-mass could yield a forward directed recoil that would move the launching tube forward (see points 2.2 and 2.3 of the decision).

2.2 In the present set of claims, the above feature has been removed from claim 1 and replaced by the expression "accelerates backwards".

Since the disputed feature has been deleted from claim 1, the objections raised by the Examining Division under Article 84 EPC are no longer relevant.

3. Article 123(2) EPC

It is clear from the application that the function of the counter-mass is to accelerate backwards, and this is

disclosed specifically in paragraph [0001] (lines 11 and 12) of the published application. Consequently, there is no objection to the amendment under Article 123(2) EPC.

4. Remittal

The decision of the Examining Division was based solely on Article 84 EPC. It is therefore necessary to remit the case for further examination, in particular with regards to novelty and inventive step.

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 for further examination.

The Registrar:

The Chairman:

C. Spira

U. Krause