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**Datasheet for the decision  
of 11 May 2016**

**Case Number:** T 0863/13 - 3.2.01

**Application Number:** 07101444.3

**Publication Number:** 1777087

**IPC:** B60H1/00

**Language of the proceedings:** EN

**Title of invention:**

Dual zone vehicle air distribution apparatus

**Patent Proprietor:**

Valeo Climate Control Corp.

**Opponent:**

MAHLE Behr GmbH & Co. KG

**Headword:**

**Relevant legal provisions:**

EPÜ 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 0863/13 - 3.2.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.01**  
**of 11 May 2016**

**Appellant:** MAHLE Behr GmbH & Co. KG  
(Opponent) Mauserstr. 3  
70469 Stuttgart (DE)

**Representative:** Grauel, Andreas  
Grauel IP  
Patentanwaltskanzlei  
Wartbergstrasse 14  
70191 Stuttgart (DE)

**Respondent:** Valeo Climate Control Corp.  
(Patent Proprietor) 4100 North Atlantic Blvd.  
Auburn Hills, MI 48326 (US)

**Representative:** Léveillé, Christophe  
Valeo Systemes Thermiques  
Service Propriété Industrielle  
Branche Thermique Habitacle  
8, rue Louis Lormand  
La Verrière BP 513  
78321 Le Mesnil-Saint-Denis Cedex (FR)

**Decision under appeal:** **Decision of the Opposition Division of the European Patent Office posted on 13 February 2013 rejecting the opposition filed against European patent No. 1777087 pursuant to Article 101(2) EPC.**

**Composition of the Board:**

**Chairman**            G. Pricolo  
**Members:**            H. Geuss  
                             P. Guntz

## Summary of Facts and Submissions

- I. The appeal is directed against the decision of the Opposition Division of the European Patent Office posted on 13 February 2013 rejecting the opposition filed against European patent No. 1777087 pursuant to Article 101(2) EPC.
- II. The opposition division held that the subject-matter of claim 1 as granted is novel and involves an inventive step, having regard to documents

DE 197 56 166 A1 (D5),  
DE 2310934 (D1) and  
US 5,101,883 (D4).

- III. During oral proceedings held on 11 May 2016 the appellant (opponent) requested that the decision under appeal be set aside and the patent be revoked.

The respondent (patent proprietor) requested that the appeal be dismissed.

- IV. Claim 1 of the patent as granted reads as follows:

An air distribution apparatus for a vehicle comprising:  
a housing (11);  
a blower (16) mounted in the housing (11) in communication with an inlet in the housing (11) and an outlet;  
a plenum (52) formed within the housing (11), the plenum (52) having an inlet for receiving air discharged from the outlet of the blower (16);  
a partition (64) disposed within the housing (11) and communicating with the plenum (52), the partition (64) having a first section (66) which separates the air

flow through the plenum (52) into first and second separate air passages (58,76) for first and second airstreams, each having a first flow direction; a heater element (22) disposed within the housing (11) downstream of the plenum (52) for heating air discharged to the plenum (52); movable blend members (24,26,28,30), mounted in the housing (11) and movable between positions, to determine the volume of air of each of the first and second airstreams which bypasses the heater element (22) and the volume of air in the first and second airstreams which flows through the heater element (22) to be discharged into the first and second airstreams as heated air; characterized in that the partition (64) is cooperating with the housing (11) formed of an upper housing section (12) and a lower housing section (14) for redirecting the first and second airstreams from the first flow direction to a second flow direction angularly disposed from the first flow direction; and in that the first section (66) of the partition (64) is disposed in parallel to a bottom wall of the lower housing section (14), and in that the partition (64) comprises:  
the first section cooperating with the housing (11) to form the first and second airstreams downstream of the plenum (52); and  
a second section disposed at an angle to the first section, cooperating with the housing (11) to redirect the first and second airstreams to the second direction,  
wherein the first and second sections of the partition (64) are formed as a unitary one-piece member.

V. The appellant's (opponent) submissions as relevant to the present decision may be summarized as follows:

Document D5 discloses all features of granted claim 1, in particular features 1.84 and 1.85 (cf. the structuring of features according to the decision of the opposition division, page 2, 1.8) according to which "a second section is disposed at an angle to the first section, cooperating with the housing (11) to redirect the first and second airstreams to the second direction" (feature 1.84) and "wherein the first and second sections of the partition (64) are formed as a unitary one-piece member" (feature 1.85).

According to the wording of the claim, the partition (64) (feature 1.5) is disposed within the housing (11) (feature 1.51) and communicates with the plenum (52) (feature 1.52), the partition (64) having a first section (66) which separates the air flow through the plenum (52) into first and second separate air passages (58,76) for first and second airstreams (feature 1.53), each having a first flow direction (feature 1.54). This partition is represented in D5 by the wall between the inlet 72 and the inlet 74.

This wall (depicted as wall A in the decision of the opposition division) is made as a unitary piece (feature 1.85) and has its first section in which the airflow is directed in a horizontal direction in the lower part of the air distribution box, shown exemplarily in figures 3 to 7.

This partition has a more or less vertical direction to redirect the airflow in the vertical direction (cf. feature 1.84) in its upper region.

Claim 1 does not define that the whole partition part is made as a unitary piece and consequently, wall 20 in D5 can be seen as part of the partition in the sense of claim 1.

Further, wall A keeps the first and second air passages separated which meets feature 1.53 of claim 1 in suit. This feature merely describes that the partition wall separates the airflow, in other words claim 1 does not define that the partition wall is the part which performs the separation of the airflows. Thereby it is not relevant that D5 discloses a further section of the partition, namely wall 20, which is not one-piece with the first and second section of the air distribution box 60.

It is obvious for a skilled person to produce wall 20 and the first and second section of the air distribution box as a unitary one-piece member. The skilled person would always consider a design allowing to reduce the number of parts, which is an obvious advantage in view of costs. Furthermore, documents D1 or D4 disclose one-piece partition walls so that the skilled person would get a hint from these documents.

VI. The respondent's (patent proprietor) rebuttal was essentially the following:

Document D5 discloses a partition wall which consists of two elements, namely wall 20 and the horizontal wall between inlet 72 and inlet 74 (so called wall A in the decision of the opposition division). According to features 1.5 to 1.53 of claim 1, the partition communicates directly with the plenum; however, in D5 the part of the partition communicating with the plenum is wall 20 which is not formed as a unitary one-piece member with wall A.

The skilled person would not integrate the wall 20 in the air distribution box 60, in order to reduce the



number of parts. Since wall 20 is a rather large part (cf. figure 1), the resulting piece would be much bigger, which is a disadvantage in view of tolerances and handling. Further this measure would cause a loss of flexibility. Thus, there is no reason for the skilled person to modify the existing design of D5 by integrating wall 20 in the air distribution box.

### **Reasons for the Decision**

1. The appeal is admissible.
2. The invention as claimed in claim 1 of the contested patent is novel with regard to D5, Article 54(1) EPC.
  - 2.1 The Board judges that the feature that the first and second sections of the partition are formed as a unitary one-piece member (feature 1.85, cf. structure of features according to the decision of the opposition division, page 2, 1.8) is not disclosed in document D5.
    - 2.1.1 In this respect, the Board does not follow the appellant's argument that the partition according to feature 1.5 to 1.53 of claim 1 corresponds to the element of D5 that starts with the separation wall between inlet 72 and inlet 74 in the air distribution box 60 (indicated as wall A in the decision of the opposition division). In particular, the appellant points out that wall A keeps the first and second air passages separated and claim 1 fails to define that the partition has to be at the very beginning of the separation of air flows.
    - 2.1.2 The Board agrees with the appellant that the so called wall A in D5 keeps the first and second airflow

separated and furthermore, that wall A is formed as a unitary one-piece member with the first and second sections of the partition. However, wall A does not separate "the airflow through the plenum into first and second separate air passages ... for first and second airstreams" according to features 1.5 to 1.53 of claim 1 as granted.

- 2.1.3 Features 1.5 to 1.53 define that the partition 64 consists of two sections (1.53 and 1.84), that the partition 64 communicates with the plenum (1.52) and that the first section separates the airflow through the plenum into a first and a second airflow (1.53). It is perfectly clear from the wording of feature 1.53 that the first section is provided for separating the airflow coming from the plenum and not only for keeping the airflows separated ("which separates ... into ..."). The separation of the airflow in D5 takes place in the HVAC module according to figure 1, whereby the wall which communicates with the plenum and which separates the airflow is wall 20.

Thus, since wall 20 is not a unitary one-piece member with wall A, feature 1.85 is not disclosed in D5.

- 3. Furthermore, the invention as claimed in claim 1 is not rendered obvious by the state of the art for a skilled person, since it is not obvious for a skilled person to produce wall 20 and wall A of the apparatus according to D5 as a unitary one-piece member.
- 3.1 The appellant submits that reducing the number of parts is a normal task for a skilled person, in order to save costs and time. Therefore, the production of wall 20 and wall A as a single piece is an obvious alternative for the skilled person, that offers well-known

advantages.

The Board follows the appellant in his argument that it is common practice for a skilled person to reduce the number of parts of a device whenever this is feasible, in view of the advantages in terms of logistics, assembly, etc. However, in the underlying situation the reduction of parts by forming wall 20 and the air distribution box 60 as a unitary one-piece member would rather result in increased complexity, as this would request a substantial redesign of the apparatus.

As can be deduced from figure 1 of D5, wall 20 is a rather large part, which extends over the whole left part of figure 1, over the blend members 26 and 56 and over the heaters 16 and 18.

Thus, the piece resulting from the above-mentioned modification would be very large, and this would be a clear disadvantage in terms of tolerances and handling. Further this measure would cause a loss of flexibility, as any given HVAC module would then have its specific, dedicated distribution box 60. Hence, there is no reason for the skilled person to modify the existing design of D5 by integrating wall 20 in the air distribution box.

## **Order**

**For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chairman:



N. Schneider

G. Pricolo

Decision electronically authenticated