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Case Number: T 1886/13 - 3.2.01

Application Number: 05006980.6

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Language of the proceedings: EN

Title of invention:
Airbag assembly mounting system

Patent Proprietor:
KEY SAFETY SYSTEMS, INC.

Opponent:
Volkswagen Aktiengesellschaft

Headword:

Relevant legal provisions:
EPC Art. 54, 56

Keyword:
Novelty (yes)
Inventive step (yes)

Decisions cited:

Catchword:

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Case Number: T 1886/13 - 3.2.01

D E C I S I O N
of Technical Board of Appeal 3.2.01
of 27 September 2016

Appellant: (Opponent)	Volkswagen Aktiengesellschaft Berliner Ring 2 38440 Wolfsburg (DE)
Representative:	Gulde & Partner Patent- und Rechtsanwaltskanzlei mbB Wallstraße 58/59 10179 Berlin (DE)
Respondent: (Patent Proprietor)	KEY SAFETY SYSTEMS, INC. 7000 Nineteen Mile Road Sterling Heights, MI 48314 (US)
Representative:	Gislon, Gabriele Marietti, Gislon e Trupiano S.r.l. Via Larga 16 20122 Milano (IT)
Decision under appeal:	**Decision of the Opposition Division of the European Patent Office posted on 4 July 2013 rejecting the opposition filed against European patent No. 1584521 pursuant to Article 101(2) EPC.**

Composition of the Board:

Chairman	G. Pricolo
Members:	C. Narcisi
	S. Fernández de Córdoba

Summary of Facts and Submissions

I. The Opposition against European patent No. 1 584 521 was rejected by the decision of the Opposition Division posted on 4 July 2013. Against this decision an appeal was lodged by the Opponent on 4 September 2013 and the appeal fee was paid at the same time. The statement of grounds of appeal was lodged on 8 November 2013.

II. Oral proceedings were held on 27 September 2016. The Appellant (Opponent) requested that the impugned decision be set aside and the patent be revoked. The Respondent (Patentee) requested that the appeal be dismissed (main and sole request).

III. Claim 1 as granted reads as follows:

"An airbag assembly mounting system comprising: a fastener (10, 110, 210, 310) having an abutment element (2, 22, 26) with a front side (6) and a reverse side (8), an expansion element (11, 111, 211) is arranged on the reverse side (8) of the abutment element (2, 22, 26) and is extendable through an opening in a structural member (50) of a vehicle so as to clamp the structural member (50) of a vehicle and a component of an airbag (54) or an airbag cover (52) between the reverse side (8) of the abutment element (2, 22, 26) and the expansion element (11, 111, 211), whereby the expansion element (11, 111, 211) can be arranged on the structural member (50) in a detachable manner and from the front side (6) can be directly or indirectly detached from the structural member (50) using unlocking means,
characterized in that
the expansion element (11, 111, 211) comprises at least two spring arms that comprise first legs (12) extending

from the reverse side (8) of the abutment element (2, 22, 26) and forming essentially a V-shape, from the end regions of which second legs (14) extend toward the reverse side (8) of the abutment element."

IV. The Appellant's arguments may be summarized as follows:

The subject-matter of claim 1 lacks novelty over E1 (US-A-3 441 986) since the disputed features (a) (i.e. an air bag assembly mounting system comprising a fastener"), (f) (i.e. "so as to clamp the structural member of a vehicle and a component of an air bag or an air bag cover between the reverse side of the abutment element and the expansion element"), (g) (i.e. "whereby the expansion element can be arranged on the structural member in a detachable manner") and (h) (i.e. "and from the front side can be directly or indirectly detached from the structural member using unlocking means") of claim 1, in addition to the remaining features, are also known from D1. Feature (a) merely requires that the device of E1 be suitable or apt for use as an airbag assembly mounting system including a fastener, and this in terms of both its material as well as of its geometry. This is certainly the case for the device of E1, given that according to figures 2, 4 an airbag "component" (such as for instance a tab but not necessarily an airbag fabric, which is not required by claim 1) and a structural member 110 of a vehicle may be clamped between the reverse side of the abutment element 20 and the expansion element 40. The use of said device in a vehicle is explicitly disclosed in E1 (column 2, lines 20, 21). From the aforesaid it follows that feature (f) can also be inferred from E1. As to features (g) and (h) it results in particular from figures 1, 3 and 4 of E1, that regardless of whether or not the upper ends (or edges) 60 of upwardly extending

legs 48 (of the expansion element 40) might possibly be accessible from above, such as to be contacted by downward vertical movement of a tool (i.e. unlocking means) (upper ends 60 being apparently hidden underneath legs 70, 72, 84, 86 included in abutment element 20 (see figures 1, 3) and underneath structural member 110 (see figure 4)), nevertheless these upper ends 60 can surely be contacted (from the front side of the abutment element 20) by downward oblique or transverse movement of an appropriate tool and can be pushed out of engagement with the underside of structural element 110 (in the vicinity of aperture 112). Thereby the entirety of the claimed features is known from E1.

The subject-matter of claim 1 is not inventive over the obvious combination of E1 with the skilled person's common general knowledge, of E1 with E2 (EP-B1-980 796), or of E1 with E4 (EP-B1-1 291 534). On the assumption that features (g) and (h) are not known from E1, the skilled person starting from E1 would search for a way to improve the device of E1, by rendering possible disengaging or dismounting the expansion element 40 from structural member 110 (object of the invention). Hence, the skilled person would modify the structural member 50 and the expansion element 40 in an obvious manner which comes within its customary practice. Thereby the skilled person would arrive at the subject-matter of claim 1. Alternatively, the skilled person starting from E1 would further consider document E2, which proposes releasable means (E2, paragraphs [0022], [0023]; bolts or grommet with elastically deformable legs) for fastening an airbag component (tab) to a structural member of a vehicle. Hence, by implementing corresponding or equivalent modifications to the structural member and the

expansion element in the device of E1 the claimed subject-matter would be obtained in an obvious manner. Finally, the skilled person starting from E1 would further look at E4, disclosing (in figures 9 to 12) a releasable fastener, for instance for an airbag, and a tool for dismounting the fastener from a structural member. Again, by enacting corresponding or analogous modifications in the device of E1, the skilled person would arrive in an obvious way at the subject-matter of claim 1.

V. The Respondent's arguments may be summarized as follows:

The subject-matter of claim 1 is new over E1 since above mentioned features (a), (f), (g) and (h) are not disclosed in E1. Features (a) and (f) are neither explicitly nor implicitly inferable from E1, given that the device shown in E1 is not suited or apt for use as an airbag assembly mounting system. This is due to the C-portions (or clip-portions) provided for holding tubes or rods, definitely not suitable for airbags, and to the dimensions and clamping forces appropriate for an airbag system, which are not disclosed in E1. Features (g) and (h) are similarly not derivable from E1, given that the ends or edges 60 of the legs 48 (of expansion element 40) are not accessible from above. This since they are hidden underneath legs 70, 72, 84, 86 included in abutment element 20 (see figures 1, 3) and underneath structural member 110 (see figure 4).

The subject-matter of claim 1 involves an inventive step over E1 and the skilled person's common general knowledge, as well as in view of E1 and E2 or E1 and E4. The skilled person starting from E1 would have no motivation or incentive to improve the device of E1 in

the way indicated by the Appellant. This for the reason that said device is intended merely as a means for holding or retaining objects (e.g. tubes or rods) within said C-shaped holding clips (or portions). These objects are already removably or releasably held in said C-shaped portions. Therefore there would be no need for the skilled person to further allow said expansion element to be dismounted from the structural element, let alone in the manner as claimed and for the purpose of clamping an airbag component between said expansion element and the abutment element. No such hint or suggestion is to be found in E1. Moreover, even on the assumption that the skilled person would consult E2 or E4 (quod non), it would get no hint at the claimed features (g) and (h), for the devices of E2 and E4 disclose fasteners having entirely different structures as compared to E1. In conclusion, the subject-matter of claim 1 is not rendered obvious by the available prior art.

Reasons for the Decision

1. The appeal is admissible.

2. The subject-matter of claim 1 is new over E1, as none of features (a), (f), (g) and (h) are known from E1 (Article 54 EPC). In effect, since they are not explicitly stated or shown in E1 they could only be known therefrom by implicit disclosure, i.e. in the present case if the fastening clip of E1 would be apt or suitable for use in an airbag assembly mounting system according to claim 1. This however requires that such an implicit disclosure be clear and unambiguous, without any doubts. According to E1 the fastening clip is intended "for securing cables, tubes, rods and the like to a support" (E1, column 1, lines 12-13) and

further it "may be used for holding tubing of different diameters, such as brake and gasoline lines on automobiles" (E1, column 2, lines 20, 21). The mentioned objects are held within the C-shaped portions of the clip (E1, figures 2, 4). It ensues that a fastener designed for holding said objects does not necessarily have the proper dimensions to be apt for use in an airbag mounting system, given that airbags (and their components) are to be mounted in the passenger's compartment in a very limited amount of space and therefore fulfil very stringent spatial constraints and requirements. In this respect it is noted, for instance, that said C-shaped portions intended for receiving brake lines or fuel lines on a vehicle (according to E1) are redundant and useless in an airbag (airbag-component) mounting fastener, even if used for holding electric wires (for triggering a firing circuit to deploy the airbag), as suggested by the Appellant. Indeed, since they are intended for holding brake or gasoline lines they most probably would be too large to hold electric wires and would cause a waste of available space. Obviously, the abutment part 20 and the expansion element 40, having dimensions proportionate and conforming to the dimensions of the C-shaped portions (clips), also in all likelihood would be too large for use in an airbag assembly mounting system. Moreover, there is no evidence that the clamping force exerted by the abutment element 20 and the expansion element 40 (see E1, figure 4) would suffice and be adequate to hold the airbag when it is abruptly deployed and expanded by an extremely fast gas blast. Consequently, there being no clear and unambiguous evidence derivable from E1 that necessary constraints or requirements for use in an airbag mounting system are fulfilled, it must be

concluded that features (a) and (f) are not known from E1.

In relation to features (g) and (h) similar considerations as above do apply. In particular, it appears clearly from figures 1, 3 and 4 in E1, as discussed during oral proceedings, that (some of) the upper edges (ends) 60 of the expansion element 40 are hidden (all the more so in the mounted state, since the legs 70, 72, 84, 86 are in an extended position) underneath the legs 72, 70, 84, 86 and are contiguous to the latter. Therefore they are not accessible from above (i.e. front side of the abutment element 20) for the purpose of disassembling the fastener by a vertically and downwardly movable tool. This holds true also for the (remaining) upper edges 60 which are located underneath the structural member 110 (E1, figure 4) and are not visible (from above) through the aperture 112 (used to insert the expansion element in the structural element). Hence, no clear and unambiguous (implicit) disclosure of features (g) and (h) is to be found in E1 either.

3. The subject-matter of claim 1 involves an inventive step over the cited prior art (Article 56 EPC). The skilled person starting from E1 would have no incentive or motivation to modify the known fastener such as to include above mentioned features (a), (f), (g) and (h). Indeed, as discussed above, the fastener of E1 is intended for a completely different purpose or use and no suggestion can be found in E1 to adopt and implement these features. There is also no evidence that its common general knowledge or its usual capabilities would lead the skilled person to introduce such modifications in the device of E1, given that e.g. in the device of E1 the abutment element 20 and the

expansion element 40 are not used for fastening an airbag component but fulfill a totally different purpose, i.e. fixing the fastener (or clip) to an external structural member. This specific use (according to feature (f)) of the abutment and expansion elements is not suggested anywhere in the cited prior art. This is confirmed by documents E2 and E4, which similarly do not hint at the aforesaid features and disclose airbag fasteners having a very different structure as compared to the fastener of E1. Therefore, the skilled person starting from E1 and consulting E2 or E4 would not arrive in an obvious manner at the claimed subject-matter either.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

A. Vottner G. Pricolo

Decision electronically authenticated