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**Datasheet for the decision  
of 19 May 2017**

**Case Number:** T 0712/15 - 3.2.01

**Application Number:** 06793331.7

**Publication Number:** 1931535

**IPC:** B60N2/58, B60R21/01

**Language of the proceedings:** EN

**Title of invention:**  
SEAT FOAM WITH SENSOR MAT

**Patent Proprietor:**  
IEE INTERNATIONAL ELECTRONICS & ENGINEERING S.A.

**Opponent:**  
I.G. Bauerhin GmbH

**Headword:**

**Relevant legal provisions:**  
EPÜ Art. 84

**Keyword:**  
Clarity (NO)

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
**Chambres de recours**

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Case Number: T 0712/15 - 3.2.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.01**  
**of 19 May 2017**

**Appellant:** I.G. Bauerhin GmbH  
(Opponent) Wiesenstrasse 29,  
63584 Gründau (DE)

**Representative:** Grimm, Ekkehard  
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63075 Offenbach/Main (DE)

**Respondent:** IEE INTERNATIONAL ELECTRONICS & ENGINEERING S.A.  
(Patent Proprietor) Zone Industrielle  
6468 Echternach (LU)

**Representative:** Office Freylinger  
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**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
25 February 2015 concerning maintenance of the  
European Patent No. 1931535 in amended form.

**Composition of the Board:**

**Chairman** G. Pricolo  
**Members:** H. Geuss  
O. Loizou

## Summary of Facts and Submissions

- I. The appeal of the opponent is directed against the interlocutory decision of the Opposition Division of the European Patent Office posted on 25 February 2015 concerning maintenance of the European Patent No. 1931535 in amended form.
- II. The opposition division held inter alia that claim 1 meets the requirements of Articles 83 and 84 EPC.
- III. Claim 1 according to the interlocutory decision of the opposition division reads as follows (version as electronically filed on 18 November 2014, underlines and strikeouts indicate the amendments with respect to claim 1 as granted):
1. An assembly comprising a seat foam and a sensor mat, said seat foam having at least one incision and said sensor mat having at least one anchor tab integrally formed with said sensor mat, said anchor tab being adapted to be inserted into said at least one incision formed as a channel for accommodating said anchor tab, thereby securely holding said sensor mat on a surface of said seat foam, ~~characterised in that~~wherein said seat foam comprises at least one retaining element at said incision for retaining said anchor tab in said incision, said retaining element comprising a foam portion between said channel and the surface of said seat foam, wherein~~in that~~ said channel comprises a proximal region and a distal region, said distal region being farer away from said sensor mat, said channel being broader in said distal region than in said proximal region, and ~~in that~~wherein said anchor tab comprises a stem corresponding to said proximal region and a head corresponding to said distal region, said head being broader than the proximal region of said channel and bendable in such a way that, when said anchor tab is inserted into said incision, said head may pass through the proximal region of said channel and then deploy in said distal region, characterized in that said channel extends from the surface of said seat foam into said seat foam in a direction heading away from said sensor mat in such a way that a maximal angle between said surface of said seat foam and said channel does not exceed 45 degrees.

IV. With a communication according to Article 15 (1) RPBA the Board stated the following in respect of the issues under Article 83 and 84 EPC:

1. The opponent / appellant states that the angle of max. 45 degrees according to the characterizing feature of claim 1 is not properly defined. In particular, the feature defines a maximal angle between the top surface and the channel of 45 degrees. However the skilled person would not know how exactly this angle has to be determined, since a single (one dimensional) value is not able to define the relationship between a plane (the surface of the seat foam) and a three-dimensional channel.

1.1 At the moment the Board shares this view, even if it seems that the objections of the opponent/appellant rather relate to lack of clarity according to Article 84 EPC than to lack of disclosure according to Article 83 EPC (see in this respect point 2.2 of the impugned decision referring also to Article 84 EPC).

V. With letter of 5 May 2017 the respondent/patent proprietor stated that he would not attend oral proceedings and did not file any observations in reply to the communication of the Board.

VI. Oral proceedings were held on 19 May 2017.

The appellant (opponent) requested that the decision under appeal be set aside and that the patent be revoked.

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

### **Reasons for the Decision**

1. The appeal is admissible.
2. Claim 1 according to the interlocutory decision of the opposition division is not clear, Article 84 EPC.
  - 2.1 The feature of claim 1 which introduces a lack of clarity (see below) is the feature according to which "a maximal angle between said surface of said seat foam and said channel does not exceed 45 degrees". This feature is taken from the description (paragraph [0008]) and thus the lack of clarity results from the amendments made.
  - 2.2 In its communication according to Article 15 (1) RPBA (cf. point IV, above) the Board pointed out that it shared the opponent's view according to which the skilled person would not know how exactly the above-mentioned maximal angle not exceeding 45° has to be determined, a single (one dimensional) value being not able to define the relationship between a plane (the surface of the seat foam) and a three-dimensional channel. The Board further stated that rather than introducing a lack of disclosure (Article 83 EPC), this feature introduced a lack of clarity under Article 84 EPC.
  - 2.3 In the absence of any reply of the respondent/patent proprietor, the Board sees no reason to deviate from

its opinion as set out in the communication and thus judges that claim 1 does not meet the requirements of Article 84 EPC for the above-mentioned reasons.

## Order

### For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairman:



A. Vottner

G. Pricolo

Decision electronically authenticated