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**Datasheet for the decision
of 26 October 2016**

Case Number: T 0974/15 - 3.2.01

Application Number: 10164859.0

Publication Number: 2258567

IPC: B60D1/52, B60R9/06, B60D1/06

Language of the proceedings: EN

Title of invention:
Vehicle hitch device

Patent Proprietor:
Brink Towing Systems B.V.

Opponent:
Scambia Holdings Cyprus Limited

Headword:

Relevant legal provisions:
EPC Art. 54(1), 56, 123(2)

Keyword:

Novelty - main request (no) - first and second alternative main requests (no) - first auxiliary request (no)
Amendments - extension beyond the content of the application as filed - second and third auxiliary requests (yes)
Inventive step - fourth auxiliary request (yes)

Decisions cited:

Catchword:



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Case Number: T 0974/15 - 3.2.01

D E C I S I O N
of Technical Board of Appeal 3.2.01
of 26 October 2016

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Decision under appeal: **Interlocutory decision of the Opposition**
Division of the European Patent Office posted on
18 March 2015 concerning maintenance of the
European Patent No. 2258567 in amended form.

Composition of the Board:

Chairman G. Pricolo
Members: W. Marx
S. Fernández de Córdoba

Summary of Facts and Submissions

- I. The appeals by the opponent (appellant I) and the patent proprietor (appellant II) are directed against the decision of the opposition division to maintain European patent No. 2 258 567 in amended form on the basis of the sixth auxiliary request filed during the oral proceedings.
- II. In its decision the opposition division held *inter alia* that the subject-matter of claim 1 as granted (main request) and claim 1 of the first auxiliary request lacked novelty over document D1 (US 3 694 006 A) and that the second to fifth auxiliary requests were not allowable under Article 123 EPC.
- III. Oral proceedings before the board took place on 26 October 2016.

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

The appellant II (patent proprietor) requested that the decision under appeal be set aside and that the patent be maintained in its granted form (main request) or, in the alternative, that the patent be maintained in amended form according to the claims of the first or second alternative main requests, filed with the letter of 5 October 2016, or of the first auxiliary request, filed with the grounds of appeal, or of the second auxiliary request, filed with the letter of 5 October 2016, or of the third auxiliary request, filed with the grounds of appeal, or in the form found allowable by the opposition division (fourth auxiliary request, i.e. dismissal of the appeal of appellant I),

or according to the fifth auxiliary request, filed by letter of 27 November 2015.

IV. Claim 1 as granted (main request) reads as follows:

"An accessory coupling for the attachment of accessories at the rear side of a vehicle, which accessory coupling is provided with a neck portion (22) whose centreline (S) runs substantially vertically, a ball element (23, 123) connected to the neck portion (22), and a blocking body (30, 130, 60, 62) connected to the ball element (23, 123), which ball element (23, 123) has a spherical external surface substantially situated on a notional sphere whose centre point (C) is situated on the centreline (S), and which blocking body (30, 130, 60, 62) is at least partly situated outside the notional sphere,

characterized in that

the blocking body (30, 130, 60, 62) is provided, at a distance from the centreline (S), with corner points which are situated outside the notional sphere."

Claim 1 according to the first and second alternative main requests (shown below by round and square brackets respectively) has been amended with regard to the introductory feature of granted claim 1 ("An accessory coupling for the attachment of accessories at the rear side of a vehicle, ..."), which reads (additions to claim 1 of the main request are underlined, deletions are marked by strike-through):

"An accessory coupling in the form of an accessory carrier (for the attachment of ~~accessories~~ cycle carriers) [~~for the attachment of attaching~~ accessories solely rigidly] at the rear side of a vehicle,..."

Claim 1 of the first auxiliary request is a combination of claims 1 and 14 as granted. The additional feature in comparison to granted claim 1 reads:

"..., and in that at an upper end on the centreline (S) the blocking body (30, 130), or the ball element (23), is within or tangential to the notional sphere with centre point (C)."

Claim 1 of the second auxiliary request reads as follows (additions to claim 1 of the first auxiliary request are underlined, deletions are marked by strike-through):

"An accessory coupling for the attachment of accessories at the rear side of a vehicle, which accessory coupling is provided with a neck portion (22) whose centreline (S) runs substantially vertically, a ball element (23, 123) connected to the neck portion (22), and a blocking body (30, 130, 60, 62) connected to and located on the ball element (23, 123), which ball element (23, 123) has a spherical external surface substantially situated on a notional sphere whose centre point (C) is situated on the centreline (S), and which blocking body (30, 130, ~~60, 62~~) is at least partly situated outside the notional sphere, characterized in that the blocking body (30, 130, 60, 62) is provided, at a distance from the centreline (S), with corner points which are situated outside the notional sphere, and in that at an uppermost end on the centreline (S) the blocking body (30, 130), or, when the blocking body is not present at the uppermost end on the centreline, the

ball element (23), is within or tangential to the notional sphere with centre point (C)."

Claim 1 according to the third and fourth auxiliary requests, respectively, is restricted to the first alternative of granted claim 14 and reads:

"An accessory coupling for the attachment of accessories at the rear side of a vehicle, which accessory coupling is provided with a neck portion (22) whose centreline (S) runs substantially vertically, a ball element (23, 123) connected to the neck portion (22), and a blocking body (30, 130, 60, 62) connected to the ball element (23, 123), which ball element (23, 123) has a spherical external surface substantially situated on a notional sphere whose centre point (C) is situated on the centreline (S), and which blocking body (30, 130, 60, 62) is at least partly situated outside the notional sphere, characterized in that the blocking body (30, 130, 60, 62) is provided, at a distance from the centreline (S), with corner points which are situated outside the notional sphere, and in that at an upper end on the centreline (S) the blocking body (30, 130) is within or tangential to the notional sphere with centre point (C)."

Claim 13 according to the third auxiliary request is directed to the second alternative of granted claim 14 in a modified form, so the characterising portion of claim 13 reads (additions to claim 14 as granted are underlined, deletions are marked by strike-through):

"characterized in that the blocking body (30, 130, 60, 62) is provided, at a distance from the centreline (S), with corner points which are situated outside the notional sphere, and in that at an upper end of the

accessory coupling on the centreline (S) the ball element ~~(23)~~, is present and is within or tangential to the notional sphere with centre point (C)."

The characterising portion of claim 13 according to the fourth auxiliary request reads as follows:

"characterized in that the ball element (23, 123) comprises two blocking bodies (30) where each blocking body (30) is a singular protrusion (60, 62) from the ball element (23, 123) which are provided at a distance from the centreline (S), and in that the singular protrusions (60, 62) comprise corner points which are situated outside the notional sphere."

V. Appellant I (opponent) essentially argued as follows:

According to the contested patent (paragraphs [0001] and [0002]), trailers and accessories were attached to known towing hooks. Accessories could also be trailers, and the term "for accessories" did not limit in any way the subject-matter of claim 1, which accordingly also encompassed the trailer couplings known from Figure 6 of document D1. The coupling 40 according to Figures 1A and 1B of the contested patent was suitable to be used together with the coupling ball known from Figure 6 of D1, since the latter was only clamped via side shells 45 in said Figures 1A and 1B.

As regards the alternative main requests, what mattered was what was known not at the publication date of D1 but when the patent was filed. Claim 1 did not specify which accessory was meant, and the term "solely rigidly" was not limiting.

Claim 1 of the first auxiliary request comprised two alternatives. The second alternative ("upper end of ball element") was clearly shown in Figure 6 of D1.

The amendments provided in claim 1 of the second auxiliary request or in claim 13 of the third auxiliary request were not supported by the application as filed, due to the combination of the feature concerning the presence of one blocking body with corner points and the feature that the blocking body was not present at the uppermost end on the centreline.

Claim 1 of the fourth auxiliary request, based on granted claims, was not open to a clarity objection, although it did not clearly indicate that the upper **end** of the blocking body was within or tangential to the notional sphere. Moreover, it was not clear whether the notional sphere in the characterising portion was the same as that in the preamble. Therefore, claim 1 was to be interpreted broadly and lacked novelty over D1, because the blocking body of D1 was situated in part within the notional sphere. In any event, claim 1 was not inventive over D1, which showed corner points outside the notional sphere.

Claim 13 of the fourth auxiliary request had been amended on the basis of paragraph [0037] of the description and was directed to two blocking bodies, which was inconsistent with the single blocking body originally recited in claim 1. It also comprised the unclear relative clause "which are provided at a distance from the centreline" (whereby "which" should refer to "two singular protrusions"). The feature that "the ball element comprises two blocking bodies" was not originally disclosed in column 7, lines 14 to 17 of the patent specification. In any case, although D1 only showed one blocking body, it was not inventive to

provide two blocking bodies at a distance from the centreline.

VI. The arguments of appellant II (patent proprietor) may be summarised as follows:

Claim 1 of the main request was directed to an accessory coupling. A trailer was not an accessory within the meaning of the patent, which according to established case law could be its own dictionary (a clear distinction was made in paragraph [0002] between "accessories" and - not in the plural - "a trailer"). The whole teaching of the patent specification was about an accessory coupling for the attachment of accessories but excluding trailers, i.e. the accessory coupling was not a tow hitch. D1 (which prevented excessively heavy trailers from being attached) had to be read without knowledge of the invention. The tow hitch of D1 was completely unsuitable for the attachment of accessories. The opposition division was wrong in holding that the cycle carrier depicted in Figure 1B of the patent could be mounted on the coupling of Figure 6 of D1, since the top of D1's pin 74 was at a considerable distance from the hitch ball 14. Claim 1 was therefore novel over D1, since D1 was not an accessory coupling. Claim 1 was also novel over D1, because the hitch of D1 was not suitable for attaching an accessory.

In determining novelty, a prior-art document should be read as it would have been by the skilled person on the publication date of the document. When reading D1 in September 1972, the skilled person would not have regarded the hitch of D1 as being in the form of an accessory carrier (a trailer is not "carried" but towed) or as being suitable for use with a cycle

carrier ("carriers", e.g. for cycles, did not exist in 1972), which showed differences in load. There was nothing in D1 indicating that the hitch according to Figure 6 could be used for attaching something other than a trailer. Hence, claim 1 of the first alternative main request, which required the accessory coupling to be in a form suitable for the attachment of cycle carriers, was novel with respect to Figure 6 of D1. The hitch of D1 was expressly designed to allow the attachment of a particular trailer. Since a trailer had to be able to move with respect to the vehicle hitch about three degrees of freedom, the hitch of D1 was not suitable for attaching accessories solely rigidly at the rear side of a vehicle. Hence, claim 1 of the second alternative main request, which excluded relative movements or trailers, was novel with respect to D1.

Claim 1 of the first auxiliary request corresponded to a combination of claim 1 and 14 as granted. The skilled person, reading the patent as a whole, would understand that the additional feature of claim 1 made a distinction between embodiments in which the blocking body was present at the top of the ball element (see Figs. 1 to 5C) and embodiments in which the blocking body was laterally disposed with respect to the centre line (see Figs. 6 and 7) and the ball element was located uppermost ("upper end"). Furthermore, the skilled person would appreciate that the inventive concept underlying the invention was that, although a blocking body was present on the ball element, no part of the accessory coupling projected beyond the notional sphere at the uppermost end on the centre line, i.e. the upper end of the coupling (and not of the ball element) was meant. Only in this manner was it possible to permit an accessory to be attached to the coupling

whilst preventing the attachment of a trailer. Thus, the skilled person would appreciate that the only sensible interpretation was that the blocking body, at an upper end on the centre line, was within or tangential to the notional sphere with the centre point, or (i.e. when the blocking body was not present at the upper end on the centre line) that the ball element, at an upper end on the centre line, was within or tangential to the notional sphere with the centre point. In D1, the tip of pin 74 in Figure 6 constituted the upper end on the centre line, and the pin was clearly outside the notional sphere of the ball 14. As regards Figure 4 of D1, the term "blocking element ... connected to the ball element" in claim 1 should be given a technically sensible interpretation and meant a blocking element located on the ball element.

The purpose of the amendment according to claim 1 of the second auxiliary request or claim 13 of the third auxiliary request was simply to clarify the only true meaning of the alternative embodiment of claim 14 as granted. As such, it did not provide the skilled person with any new information with respect to the application as filed. According to paragraph [0022] of the contested patent, the blocking body was a singular protrusion from the ball element, i.e. the invention also addressed only one blocking body, and two blocking bodies were only disclosed as a preferred embodiment in paragraph [0038]. Claim 13 of the third auxiliary request explicitly stated that the "upper end" was that of the accessory coupling and that the ball element was present at the upper end, in contrast to D1's Figure 6.

As regards claim 1 of the fourth auxiliary request, the skilled person should rule out interpretations which were illogical or which did not make technical sense.

The only technically sensible interpretation of the second characterising feature was that the blocking body, at its upper end (as opposed to its lower end) on the centre line, was within or tangential to the notional sphere with centre point (C). Since the preamble of the claim referred to "a notional sphere whose centre point (C) is situated on the centreline (S)", there was no doubt that the reference in the characterising portion to "the notional sphere with centre point (C)" could only mean the same notional sphere referred to in the preamble. The blocking device in D1 (Figure 6: pin 74 at least partially situated outside the notional sphere, the upper end being the summit of the pin) was not within, or tangential to, the notional sphere at the upper end of the centre line as required by claim 1. Hence, the subject-matter of claim 1 was novel with respect to D1.

As regards claim 13 of the fourth auxiliary request, there was no inconsistency between the preamble referring to a (i.e. at least one) blocking body and the characterising portion reciting two blocking bodies. There was nothing unclear about the clause "which are provided at a distance from the centreline". If the blocking bodies were provided at a distance from the centre line, then so too were the singular protrusions, and *vice versa* (see column 7, lines 14 to 15). The wording "the ball element comprises two blocking bodies" did not contravene Article 123(2) EPC, because once the ball element has been provided with blocking bodies (see column 7, lines 22 to 26), it comprised them.

In terms of inventive step, the opponent had failed to explain what would motivate the skilled person to modify the Fig. 6 embodiment of D1 to arrive at something falling within the ambit of claim 1 or 13.

Reasons for the Decision

1. *Main request (patent as granted)*
- 1.1 The subject-matter of granted claim 1 lacks novelty in view document D1 (Article 54(1) EPC).
- 1.2 D1 shows (see embodiment according to Figure 6) a coupling comprising the structural features (neck portion, ball element, blocking body) as specified in claim 1 and explained in Annex A1 filed with the notice of opposition (see chapter 7.2.1 of the contested decision). This was not disputed by the parties.
- 1.3 Appellant II considered claim 1 to be novel over D1, since D1 was not an accessory coupling and the hitch of D1 was not suitable for attaching an accessory.

The term "an accessory coupling" is synonymous with "a coupling for an accessory", which according to the established case law is to be interpreted as meaning a coupling which is suitable for the stated use. The contested patent (see paragraph [0002]) might distinguish between "accessories" and a "trailer", so that a trailer might not be an accessory within the meaning of the patent, as argued by appellant II. But even following this argument that the contested patent is its own dictionary, the feature "accessory coupling for the attachment of accessories" of granted claim 1 merely specifies a coupling which is suitable for attaching accessories, which are not further defined in claim 1 and, in addition, do not form part of the claimed subject-matter.

The board cannot see why the coupling known from D1 would not be suitable for attaching undefined accessories, including something different from a trailer as described in D1, since the coupling as disclosed in Figure 6 of D1 only requires an accessory to have a corresponding shape of the coupler interacting with the accessory coupling. The subject-matter as defined by claim 1 does not exclude a coupling typically used for the attachment of trailers possibly also being used for attaching further "accessories", irrespective of whether e.g. cycle carriers were known at the date of publication of D1.

2. *First and second alternative main requests*

2.1 In both alternative wordings of claim 1 proposed for the main request, the feature "accessory coupling" has been supplemented with the words "in the form of an accessory carrier". The board considers that this addition cannot limit the claimed subject-matter in any way which could establish novelty over D1. It simply specifies that the accessory coupling has the form of an accessory carrier, i.e. a carrier suitable for carrying an accessory. The board cannot see that the coupling known from Figure 6 of D1 is not suitable for carrying an accessory, since it simply depends on how the coupler of the accessory - which is not part of the subject-matter of claim 1 - is formed. As already argued above, it only requires an accessory that is formed correspondingly.

2.2 Further defining in claim 1 of the first alternative main request that the accessory carrier is "for the attachment of cycle carriers" does not further limit the subject-matter over D1. Again, it depends on how

the cycle carrier - not forming part of the claimed invention - is formed, i.e. it has to match the design of the coupling of D1. There might be differences in load when attaching a trailer or cycle carriers, as argued by appellant II, since a trailer is towed and thus exerts e.g. a longitudinal force on the coupling, whereas a cycle carrier primarily represents a vertical load. However, vertical forces also occur when towing a trailer along a road, due to road inclination or vertical movements of the towing vehicle. Therefore, the board does not follow the assertion of appellant II that the coupling known from D1 was not suitable for the attachment of cycle carriers, irrespective of whether D1 explicitly mentions attachment of something other than a trailer.

- 2.3 Claim 1 of the second alternative main request further specifies, instead of the additional feature of the first alternative main request, that the accessory coupling is "for attaching accessories solely rigidly". The characteristic of establishing a rigid coupling between an accessory and the claimed coupling depends on the means which are provided to ensure a rigid connection, and which might only depend upon means provided on the accessory, such as appropriate clamping means. Since, as argued above, the accessory itself does not form part of the subject-matter claimed, the board takes the view that the coupling known from Figure 6 of D1 is also suitable for establishing a rigid connection between an accessory to be attached - which is not further defined in claim 1 - and the coupling of D1, again solely depending on how the accessory is formed. It might have been intended to exclude relative movements or trailers, as argued by appellant II, but this is not necessarily a requirement imposed by the features of claim 1.

2.4 It follows from the foregoing that D1 is also novelty-destroying for the subject-matter of claim 1 according to both the first and second alternative main requests.

3. *First auxiliary request*

3.1 The subject-matter of claim 1 of the first auxiliary request is not new over D1 (Article 54(1) EPC).

3.2 The characterising portion of claim 1 of the first auxiliary request specifies a blocking body with corner points (i.e. with at least two corner points) and, further to granted claim 1, requires that, at an upper end on the centreline, the blocking body, or (alternatively) the ball element, is within or tangential to the notional sphere.

D1 shows in Figure 6 a blocking body which is situated nearly completely outside the notional sphere, but the ball element in this embodiment is within or tangential to the notional sphere. Therefore, in addition to the features already discussed in relation to claim 1 as granted, the second alternatively claimed embodiment of claim 1 according to the first auxiliary request is also known from D1, which is therefore novelty-destroying for the subject-matter of claim 1.

3.3 The board does not follow the assertion of appellant II that the second embodiment claimed ("... at an upper end on the centreline ... the ball element is within or tangential to the notional sphere with centre point") is restricted in the sense suggested by the example embodiments according to Figure 6 or 7 of the contested patent, in which the ball element is located uppermost

on the centreline and within or tangential to the notional sphere at the upper end of the coupling.

According to the first characterising feature, which also applies to the second embodiment specified in claim 1, "the blocking body is provided, at a distance from the centreline, with corner points". Appellant II asserts that the skilled person would appreciate that the only sensible interpretation of the second embodiment was that ball element - not the blocking body - was present at the upper end on the centreline. However, such an interpretation has no basis in the patent specification (as shown below with regard to the second and third auxiliary requests), because the first characterising feature still requires a blocking body provided with corner points to be present (a blocking body with corner points present but not at the upper end on the centreline is not originally disclosed).

Hence, the board finds that, on a reasonable reading of claim 1 in the light of the patent specification as a whole, the subject-matter of claim 1 includes embodiments as depicted e.g. in Figures 1D or 5C of the patent specification, comprising one blocking body ("the blocking body") with more than one corner point (due to the plural "with corner points") present at the upper end of the coupling on the centreline. These embodiments fully comply with the wording of claim 1, in that the blocking body is tangential to and the ball element within the notional sphere.

Thus, the words "at an upper end on the centreline" do not necessarily refer to the upper (or uppermost) end of the coupling, but to the upper end of the blocking body or the ball element. As can be seen in Figure 6 of D1, the upper end of the ball element is "within or

tangential to the notional sphere with centre point (C)" as specified in claim 1 for the second embodiment claimed, i.e. is considered to fall under the wording of claim 1.

3.4 Therefore, in comparison to claim 1 as granted, the modified characterising portion of claim 1 according to the first auxiliary request cannot establish novelty over D1.

4. *Second auxiliary request*

4.1 Contrary to the requirements of Article 123(2) EPC, claim 1 of the second auxiliary request has been amended in such a way as to contain subject-matter which extends beyond the content of the application as filed.

4.2 The characterising portion of claim 1 specifies that "the blocking body (30, 130, 60, 62) is provided, at a distance from the centreline (S), with corner points" and in addition, by way of two alternatives, the position of the blocking body or the position of the ball element in relation to the notional sphere. According to the second alternative, "when the blocking body is not present at the uppermost end on the centreline, the ball element (23) is within or tangential to the notional sphere", i.e. in comparison to original claim 14 embodiments are excluded where the blocking body is present at the uppermost end on the centreline. However, claim 1 still requires - due to the first characterising feature - one single blocking body with two corner points (as depicted in Figures 1 to 5C), and this blocking body - due to the condition "when the blocking body is not present at the uppermost end on the centreline" - must not be present at the

uppermost end on the centreline. The wording of amended claim 1 according to the second auxiliary request therefore includes embodiments in which the blocking body with two corner points is e.g. offset from the centreline or positioned on the side face of the ball element, which is nowhere disclosed in the contested patent. The application as filed only shows embodiments having one blocking body with two corner points which is positioned on the vertical axis ("the centreline") of the neck portion, or a ball element present at the uppermost end on the centreline but not comprising a blocking body with (at least two) corner points on the centreline. Therefore, the formulation of claim 1 of the second auxiliary request contains new teaching not disclosed in the application as filed.

4.3 Appellant II argues that the true meaning of the alternative (second) embodiment of granted claim 14 was to make a distinction between embodiments in which the blocking body was present at the top of the ball element (as depicted in Figs. 1 to 5C) or embodiments in which the ball element was located uppermost (as depicted in Figs 6 and 7). However, as shown above, the embodiments according to Figs. 6 and 7 do not show a blocking body having at least two corner points, as required by the first characterising feature.

Appellant II also points to paragraph [0022] of the summary of the invention in the patent specification, describing example embodiments according to which "the blocking body is a singular protrusion from the ball element". Said passage might leave open whether it refers to the single blocking body present at the top of the ball element (as shown in Figs. 1 to 5C), or to one of the two blocking bodies in the form of singular protrusions as shown in Figs 6 and 7 and as explicitly

described in the paragraph [0037] for example embodiments. In the first case, the blocking body would also be the blocking body as described in the first paragraph [0007] of the summary of the invention, and paragraph [0022] would only describe in more detail the first characterising feature of a blocking body with (at least two) corner points without supporting the new technical teaching, as already explained above in paragraph 4.2. In the second case, it might specify a further embodiment which deviates from Figures 6 and 7 in that only a single protrusion is provided on the ball element, but without giving any information as to where the single protrusion is positioned on the ball element. As a consequence, claim 1 as amended would also give new technical information, because it requires the ball element to be at the uppermost end of the centreline, i.e. the new teaching given in claim 1 excludes positioning the single protrusion on the centreline.

5. *Third auxiliary request*

- 5.1 Claim 13 of the third auxiliary request is directed to an accessory coupling provided with a blocking body with corner points outside the notional sphere, i.e. - as argued already above - corresponding to what is disclosed in the application as filed in relation to the embodiments according to Figures 1 to 5C. Furthermore, claim 13 specifies that "at an upper end **of the accessory coupling** on the centreline the ball element **is present** and is within or tangential to the notional sphere", which excludes the blocking body being present at the uppermost end on the centreline.

However, following the same line of argument as above with regard to the second auxiliary request, combining

the feature of a singular blocking device with corner points - which is not present at the upper end - with the feature of a ball element present at an upper end of the accessory coupling, gives a new teaching of an embodiment which was not originally disclosed.

5.2 For this reason, the third auxiliary request is not allowable under Article 123(2) EPC.

6. *Fourth auxiliary request*

As regards the fourth auxiliary request, corresponding to maintaining the patent in the form in which the opposition division upheld it (i.e. to dismissing the opponent's appeal), the board confirms the decision of the opposition division that the requirements of the EPC are met as regards independent claims 1 and 13.

6.1 As regards the term "notional sphere" used in the preamble ("a notional sphere whose centre point (C) is situated on the centreline (S)") and again in the characterising portion of claim 1 ("the notional sphere with centre point (C)"), the board cannot see any clarity issue requiring interpretation, as alleged by appellant I.

Appellant I also points to the unclear (although granted) wording in claim 1: "at an upper end on the centreline the blocking body is...". It concedes that the granted feature is not open to a clarity objection, but says it needs interpretation. However, it is not the broadest possible interpretation that has to be applied, as argued by appellant I, but a meaningful interpretation in the light of the teaching of the patent specification. Although claim 1 does not explicitly state that the upper end **of the blocking**

body is within or tangential to the notional sphere, the board finds that this is the only technically sensible interpretation in view of the description and the drawings of the patent.

On the basis of that interpretation, the board holds that the subject-matter of claim 1 according to the fourth auxiliary request is new over D1.

D1 only shows (see Figure 6) that a small lower portion of the blocking body - not its upper end - is within or tangential to the notional sphere, in contrast to what is required by the wording of claim 1 (see preceding two paragraphs regarding the board's interpretation).

6.2 Claim 13 has been amended on the basis of the example embodiments described in paragraphs [0037] and [0038] or Figures 6 and 7 of the application as filed.

The board follows appellant II in finding no inconsistency between the preamble referring to "a (i.e. at least one) blocking body" and the two blocking bodies now specified in the characterising portion.

Appellant I raises a clarity objection against the feature "which are provided at a distance from the centreline". However, due to the plural "which are", it is clear that the two blocking bodies previously defined in the characterising portion are being referred to. Moreover, since claim 13 recites that "each blocking body is a singular protrusion", it is also clear that the two singular protrusions are provided at a distance from the centreline. Therefore, no clarification of claim 13 is required, as alleged by appellant I.

The feature that "the ball element comprises two blocking bodies" does not contravene Article 123(2) EPC, as alleged by appellant I. The example embodiments described on pages 11 and 12 of the application as filed (or column 7 of the A-publication, referring to Figures 6 and 7), recite that the ball element "is provided with" two blocking bodies, so the board finds that a ball element "comprising" two blocking bodies was originally disclosed.

Novelty of claim 13 was not contested, and the board too finds its subject-matter to be new over D1.

6.3 The opponent merely alleges lack of inventive step of the subject-matter of claims 1 and 13 in view of document D1, without further substantiation. D1 only shows one blocking body with corner points situated at least partly outside the notional sphere at an upper end on the centreline. However, in the absence of any detailed reasoning as to why the skilled person would be motivated to modify the embodiment of D1 to arrive at an accessory coupling as specified in claims 1 and 13, the board sees no reason why the contested decision, which acknowledged inventiveness of the former sixth (now fourth) auxiliary request should be corrected in this respect.

7. From the above it follows that the appeals of the opponent and of the patent proprietor must be dismissed.

Order

For these reasons it is decided that:

Both appeals are dismissed.

The Registrar:

The Chairman:



A. Vottner

G. Pricolo

Decision electronically authenticated