

Internal distribution code:

- (A) [-] Publication in OJ
- (B) [-] To Chairmen and Members
- (C) [-] To Chairmen
- (D) [X] No distribution

**Datasheet for the decision
of 30 October 2018**

Case Number: T 1192/15 - 3.2.01

Application Number: 02765397.1

Publication Number: 1424228

IPC: B60H1/32, B60H1/00

Language of the proceedings: EN

Title of invention:
AIR CONDITIONER FOR VEHICLE

Patent Proprietor:
Japan Climate Systems Corporation

Opponent:
MAHLE Behr GmbH & Co. KG

Headword:

Relevant legal provisions:
EPC Art. 111(1)

Keyword:
Remittal to the department of first instance - adaptation of
the description and figures

Decisions cited:

Catchword:



Beschwerdekammern
Boards of Appeal
Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0
Fax +49 (0)89 2399-4465

Case Number: T 1192/15 - 3.2.01

D E C I S I O N
of Technical Board of Appeal 3.2.01
of 30 October 2018

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

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

Respondent: Japan Climate Systems Corporation
(Patent Proprietor) 3-11, Yoshikawakogyodanchi
Higashihiroshima-shi,
Hiroshima 739-0153 (JP)

Representative: Zinnecker, Armin
Lorenz Seidler Gossel
Rechtsanwälte Patentanwälte
Partnerschaft mbB
Widenmayerstraße 23
80538 München (DE)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 13 May 2015
rejecting the opposition filed against European
patent No. 1424228 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman	G. Pricolo
Members:	S. Mangin
	O. Loizou

Summary of Facts and Submissions

- I. The appeal is directed against the decision of the opposition division of the European Patent Office rejecting the opposition filed against European patent 1 424 228 pursuant to Article 101(2) EPC.
- II. The opposition division held that none of the grounds for opposition under Article 100(c), Article 100(b) and Article 100(a) EPC prejudiced the maintenance of the European patent in the form as granted.
- III. Oral proceedings before the Board of appeal were held on 30 October 2018. The appellant (opponent) requested that the decision under appeal be set aside and that the patent be revoked.

The respondent (patent proprietor) requested that the patent be maintained in amended form on the basis of the main request, filed as auxiliary request XI with letter of 11 January 2016.

- IV. Claim 1 of the main request reads as follows:

1. A vehicle air conditioner comprising:

an air conditioning unit (4) disposed substantially in the middle of the inside of an instrument panel (2) in a widthwise direction of a vehicle;

an air blowing unit (3) disposed to a front-passenger's side of the air conditioning unit (4); and

an intermediate duct (5) for ducting an air from the air blowing unit (3) to the air conditioning unit (4);

said air conditioner allowing the air introduced from the intermediate duct (5) into the air conditioning unit (4) to pass through a cooling heat exchanger (33) and a heating heat exchanger (34) juxtaposed one above the other in the air conditioning unit (4) to produce a conditioned air;

whereby cooler pipes (90) connected to the cooling heat exchanger (33) and heater pipes (91) connected to the heating heat exchanger (34) are arranged to extend from the same side of the air conditioning unit (4) in the widthwise direction of the vehicle,

characterized in that

the heater pipes (91) and cooler pipes (90) are supported to the air conditioning unit (4) by a bracket (92),

the bracket (92) includes a fixed bracket (92a) integrally formed with the casing (30) in the air conditioning unit (4) and a detachable bracket (92b) which is detachable from the fixed bracket (92a),

the fixed bracket (92a) and the detachable bracket (92b) have recesses corresponding to arcs obtained by halving the heater pipes (91) and cooler pipes (90),

the recesses form openings (94, 95) for the cooler pipes (90) and the heater pipes (91) when both the brackets (92a, 92b) are abutted on each other,

the bracket (92) supports portions of the cooler pipes (90) and heater pipes (91) extending toward the front of a vehicle body,

the bracket (92) is formed to be separable on vertical center lines of all the cooler and heater pipes (90, 91), and

openings (95) for cooler pipes (90) formed in the bracket (92) have a diameter with a predetermined clearance left from the outer diameter of the cooler pipes (90), the bracket (92) includes a seal plate (93) detachable with respect to the openings (95) for cooler pipes (90), and the cooler pipes (90) are fixed to the bracket (92) by fitting the seal plate (93) to the bracket (92).

V. The appellant had no objections regarding the main request filed as auxiliary request XI with letter of 11 January 2016.

The parties agreed that the description had to be adapted and that this could be done before the department of first instance following remittal of the case.

Reasons for the Decision

1. The appellant had no objections regarding the main request, in which claim 1 is substantially restricted as compared to granted claim 1. The Board sees no objections either. The patent can therefore be maintained on the basis of the main request filed as auxiliary request XI with letter of 11 January 2016.

2. In view of the necessary amendments to adapt the description to the wording of the claims of the main request, the Board considers it appropriate to remit the case to the department of first instance for this purpose (Article 111(1) EPC). This course of action was expressly agreed by the parties.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the department of first instance with the order to maintain the patent in amended form on the basis of the claims of the main request filed as auxiliary request XI with letter of 11 January 2016 and a description and drawings to be adapted thereto.

The Registrar:

The Chairman:



A. Vottner

G. Pricolo

Decision electronically authenticated