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**Datasheet for the decision  
of 13 June 2018**

**Case Number:** T 1195/15 - 3.2.03

**Application Number:** 11718527.2

**Publication Number:** 2590523

**IPC:** A23L3/005, H05B3/00, A23L1/01

**Language of the proceedings:** EN

**Title of invention:**  
DEVICE FOR COOKING BY MEANS OF ELECTRICAL RESISTANCE

**Applicant:**  
L.Y.R.A. Gida Sanayi Anonim Sirketi

**Headword:**

**Relevant legal provisions:**  
EPC Art. 123(2)

**Keyword:**  
Amendments - extension beyond the content of the application  
as filed (yes)

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
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Case Number: T 1195/15 - 3.2.03

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.03**  
**of 13 June 2018**

**Appellant:** L.Y.R.A. Gıda Sanayi Anonim Şirketi  
(Applicant) Tuzla KOSB Molekül Cad. No:12  
Tuzla, İstanbul (TR)

**Representative:** Yamankaradeniz, Kemal  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 22 December  
2014 refusing European patent application No.  
11718527.2 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** C. Donnelly  
**Members:** B. Miller  
R. Winkelhofer

## **Summary of Facts and Submissions**

- I. The examining division refused the European patent application No. 11718527.2, since the claims submitted on 7 November 2014 were not considered to fulfil the requirements of Articles 123(2) and 84 EPC.
- II. This decision was appealed by the applicant (appellant). The appellant requests that the contested decision be set aside and a patent be granted on the basis of claims 1 to 6 as filed with the statement setting out the grounds of appeal (dated 16 April 2015).
- III. Independent claim 1 of this request reads as follows:
- "A cooking device (1) suitable for cooking and/or heating of the food products and is characterized in that; the cooking device(1) comprises;
- a body (3) as an electrode in which the product is positioned and which is rotated around its own axis,
  - at least one pin (2) which passes through the centre of the body (3) and which is aligned with an insulating disc housing (8.1) and a stainless connector housing (5.1); wherein electric conduction is ensured by supplying electricity to the pin (2)
  - at least one electrical transmission element (11) which is configured to supply electricity to the pin (2),
  - at least one conducting circle (9) which is configured to supply the body (3) with electricity,
  - at least one electrical connection apparatus (6) which is in contact with the conducting circle (9) and which ensures electricity to be supplied to the body(3),

- at least one insulating disc (8) which is positioned between the conducting circle (9) and a connector (5),
- at least one flange (7) which is connected with the lateral surface of the body (3),
- at least one lid (10) which is connected onto the said lid seating slot (4); ensures the product to be retained in the body (3),
- at least one lid seating slot (4) which is connected to the said body (3); ensures loading and unloading of the product to the body (3)."

Dependent claims 2 to 5 concern preferred embodiments of the device of claim 1.

Claim 6 reads as follows:

"A cooking method of device mentioned in Claim 1 which is suitable for cooking and/or heating of the food products and is characterized in that; the cooking method comprises the operation steps of

- filling the product into the body (3) by means of opening the lid (10)
- closing the lid (10) which is connected onto the said lid seating slot (4)
- supplying the body (3) with electricity by means of engagement of the electrical connection apparatus (6) to supply electricity to the conducting circle (9) which provides electricity to the body(3) and which is positioned between the flange (7) and the insulating disc (8) on which an insulating disc housing (8.1) is formed,
- supplying electricity to the pin (2) by means of electrical transmission apparatus (11), which is connected to the body (3) by means of connector(5) on which a stainless connector housing (5.1),

- rotating the body (3),
- cooking and/or heating the product."

IV. With the summons to oral proceedings, the board sent a communication pursuant to Articles 15(1) and 17(2) of the Rules of Procedure of the Boards of Appeal (RPBA) indicating to the appellant its preliminary, non-binding opinion of the case. In particular, the board stated that the appellant had not indicated where the basis for the amendments made to claims 1 and 6 could be found in the original application.

V. Oral proceedings took place on 13 June 2018 during which the appellant presented a video showing a method of cooking meat by using the cooking device underlying the European patent application No. 11718527.2. The appellant also referred to annotated photographs submitted during examination proceedings (see minutes).

VI. The appellant's arguments may be summarised as follows.

None of the objections raised in the reasons of the contested decision was relevant in view of the amended claims submitted together with the statement setting out the grounds of appeal.

The wording of the claims was clear and based on the overall teaching of the application as originally filed, in particular the embodiment described on pages 5 to 7.

Reading the application as filed it was evident for the skilled person that the rotation of the cooking device could be achieved by any means.

The video presented during the oral proceedings clearly demonstrated how the cooking device defined in claim 1 worked.

### **Reasons for the Decision**

Article 123(2) EPC

1. The wording of independent claims 1 and 14 as originally filed was extensively amended.
2. The applicant argues that the wording of claims 1 and 6 is based on the embodiment described in the application as filed (reference is made to the WO-A-publication) from page 5, line 10 onwards.
3. The board observes that the cooking device described on pages 5 to 7 as filed is defined by various further features, which have been omitted from claim 1, in particular the specification that an

electrical transmission element (11) which is used to make the body (3) rotate by means of supplying electricity to the pin (2)

is not included in the amended claim 1.

The same applies in principle with respect to the method defined in claim 6, since the feature of claim 14 as filed, that the rotation of the body (3) is the result of supplying electricity to the pin (2) by means of electrical transmission apparatus (11), has been omitted from the wording of present claim 6.

4. The applicant argues that it is not important for the cooking device and the corresponding cooking method how the body is rotated. In its opinion it would be inherently evident to the skilled reader of the application as filed that the rotation can be achieved by any means, for example by pushing the body by hand or by using an external motor as demonstrated in the video during the oral proceedings.

5. However, this argument is not convincing for the following reasons.

5.1 The rotation of the body is linked to the underlying problem proposed in the application as originally filed at page 3, lines 29 to 30:

"Another purpose of the invention on the other hand is to cause the body to make a rotational movement around its own axis"

and at page 4, lines 2 and 3:

"and also to make the product move with rotational movement of the body".

Since the application as filed explicitly stresses that the rotation of the body is a part of the problem to be solved, it cannot be concluded that the manner how the rotation is achieved is an unimportant, non essential feature.

5.2 Moreover, the application as originally filed provides a consistent teaching how the required rotation of the body has to be achieved.



Claim 14 as filed explicitly states that cooking method comprises the step of:

"Rotating the body (3) as the result of supplying electricity to the pin (2) by means of electrical transmission apparatus (11)".

With respect to the cooking device the same technical teaching is explicitly presented at page 6, lines 31 to 32 of the application as filed:

"electrical transmission element (11) which is used to make the body (2) rotate by means of supplying electricity to the pin (2)".

No other means for rotating the body are described in the application as originally filed, in particular no teaching can be found in the application as originally filed that the body of the cooking device can be rotated simply by hand or by further additional means such as an external motor shown in the video during the oral proceedings.

6. In summary, the application as filed therefore not only stresses that one problem to be solved is to cause the body to make a rotational movement, but also consistently teaches that this problem is solved by supplying electricity to the pin.

By omitting this feature, claims 1 and 6 create a technical teaching which goes beyond that of the application as originally filed, since other means of making the body rotate which were not originally disclosed together with the other features are now comprised in claims 1 and 6.

7. The subject-matter of claims 1 and 6 therefore does not fulfil the requirements of Article 123(2) EPC.

**Order**

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

The appeal is dismissed.

The Registrar:

The Chairman:



C. Spira

C. Donnelly

Decision electronically authenticated