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**Datasheet for the decision  
of 14 September 2018**

**Case Number:** T 0556/16 - 3.2.01

**Application Number:** 06716749.4

**Publication Number:** 1855937

**IPC:** B63B1/06

**Language of the proceedings:** EN

**Title of invention:**

A FORESHIP ARRANGEMENT FOR A VESSEL OF THE DEPLACEMENT TYPE

**Patent Proprietor:**

Ulstein Design & Solutions AS

**Opponent:**

VERKFRAEDISTOFAN SKIPATAEKNI EHF

**Headword:**

**Relevant legal provisions:**

EPC Art. 100(c), 123(3)

**Keyword:**

Amendments - extension beyond the content of the application  
as filed (yes) - main request - broadening of claim (yes) -  
auxiliary requests

**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 0556/16 - 3.2.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.01**  
**of 14 September 2018**

**Appellant:** Ulstein Design & Solutions AS  
(Patent Proprietor) Osnesvegen  
6067 Ulsteinvik (NO)

**Representative:** Weber-Bruls, Dorothee  
Jones Day  
Nextower  
Thurn-und-Taxis-Platz 6  
60313 Frankfurt am Main (DE)

**Respondent:** VERKFRAEDISTOFAN SKIPATAEKNI EHF  
(Opponent) Reykjavik (IS)

**Representative:** Arnason Faktor  
Intellectual Property Consulting  
Gudridarstig 2-4  
113 Reykjavik (IS)

**Decision under appeal:** **Decision of the Opposition Division of the  
European Patent Office posted on 12 January 2016  
revoking European patent No. 1855937 pursuant to  
Article 101(3) (b) EPC.**

**Composition of the Board:**

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

## **Summary of Facts and Submissions**

- I. European patent No. 1 855 937 was revoked by the decision of the Opposition Division posted on 12 January 2016. An appeal was lodged against the decision by the Patentee on 7 March 2016 and the appeal fee was paid. The statement of grounds of appeal was filed by the Patentee on 12 May 2016.
- II. Oral proceedings were held on 14 September 2018. The Appellant (Patentee) requested that the appealed decision be set aside and that the patent be maintained as granted (main request) or, in the alternative, that the patent be maintained in amended form on the basis of auxiliary requests 5 or 6 as filed with letter dated 12 May 2016. Auxiliary requests 1 to 4 were withdrawn. The Respondent (Opponent) requested that the appeal be dismissed. The Respondent withdrew its request to reject the appeal as inadmissible and its request for apportionment of cost.
- III. Claim 1 as granted (main request) reads as follows:
- “A vessel of the displacement type with a foreship which consists of the part of the vessel in front of the vessel's midship mark (2) and which vessel has a transversely symmetrical hull shape about its centre line (CL) and a conventional bow form below its design water line (T<sub>dwl</sub>), wherein the bottom of the hull is flat or has a dead rise along a base line (BL) of the hull, wherein frame lines (10, 20, 30, 40, 50) of the foreship are designed transversely symmetrical about the centre line (CL), wherein the foreship arrangement provides reduced acceleration and retardation of ship

movement upwards and downwards due to wave motion, characterised in that the frame lines (10, 20, 30, 40, 50) starting respectively from first lower points (D1, D2, D3, D4, D5) located on the baseline (BL) are running flat out from the base line (BL), or the dead rise, outwardly increasing in width from the base line (BL), the frame lines (10, 20, 30, 4, 50) respectively merge into a bilge (G1, G2, G3, G4, G5) at a given bilge radius, from which bilge and up to second points (E1, E2, E3, E4, E5) the frame lines are outwardly sloping, and at which second points (E1, E2, E3, E4, E5) the outwardly frame line form is terminated, and is run on upwards as a curved frame line form, either back to the centre line (CL) at points F1, F2, F3 or further upwards in a very gentle curve towards the centre line (CL) to points (F4, F5), a stem line (1) starting from a lower point (A) located on the base line (BL) rises with an increasing curvature in forward direction of the vessel to a transition point (B) located respectively on or just above the design water line (Tdwl), wherein the stem line (1) continues to rise past the transition point (B) with a diminishing curvature in an aftward direction of the vessel up to an upper point (C) of the hull."

Claim 1 of auxiliary request 5 differs from claim 1 as granted in that the wording "frame lines (10, 20, 30, 40, 50)" is everywhere in the claim replaced by "frame lines (50)", in that the wording "starting respectively from first lower points (D1, D2, D3, D4, D5) located on the base line (BL) are running flat out from the base line (BL), or the dead rise" is replaced by "starting respectively from first lower points (D1) located on the base line (BL) are running almost perpendicularly from the center line (CL) to run flat out starting from

the base line (BL)", in that the wording "bilge (G1, G2, G3, G4, G5)" is replaced by "bilge (G1)", in that wording "second points (E1, E2, E3, E4, E5)" is replaced everywhere in the claim by "second points (E5)", and in that the wording "either back to the center line (CL) at points (F1, F2, F3) or further upwards in a very gentle curve towards the center line (CL) to points (F4, F5)" is replaced by the wording "further upwards in a very gentle curve towards the center line (CL) to points (F5)".

Claim 1 of auxiliary request 6 differs from claim 1 as granted in that the wording "frame lines (10, 20, 30, 40, 50)" is replaced everywhere in the claim by "frame lines (10, 20, 30, 40)", in that the wording "starting respectively from first lower points (D1, D2, D3, D4, D5) located on the base line (BL) are running flat out from the base line (BL), or the dead rise, outwardly increasing" is replaced by "starting respectively from first lower points (D2, D3, D4, D5) located on a stem line (1), which starts rising from a lower point (A) located on the base line (BL) at the dead rise, are running outwardly increasing", in that the wording "bilge (G1, G2, G3, G4, G5)" is replaced by "bilge (G2, G3, G4, G5)", in that the wording "second points (E1, E2, E3, E4, E5)" is replaced by "second points (E1, E2, E3, E4)" everywhere in the claim, and in that the wording "a stem line (1) starting from a lower point (A) located on the base line (BL) rises" is replaced by "the stem line (1) rises".

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

The subject-matter of claim 1 as granted (main request) does not extend beyond the content of the application as filed. The feature reading "the frame lines (10, 20,

30, 40, 50) starting respectively from first lower points (D1, D2, D3, D4, D5) located on the baseline (BL) are running flat out from the base line (BL), or the dead rise, outwardly increasing in width from the base line (BL), the frame lines (10, 20, 30, 4, 50) respectively merge into a bilge (G1, G2, G3, G4, G5) at a given bilge radius, from which bilge and up to second points (E1, E2, E3, E4, E5) the frame lines are outwardly sloping, and at which second points (E1, E2, E3, E4, E5) the outwardly frame line form is terminated, and is run on upwards as a curved frame line form, either back to the centre line (CL) at points F1, F2, F3 or further upwards in a very gentle curve towards the centre line (CL) to points (F4, F5)" (hereinafter designated as feature (i)) was disclosed in the patent application as filed (see published patent application, hereinafter designated as WO-A). In particular, this feature defines four different kinds of frame lines, those starting from the base line BL and running on upwards as a curved frame line form and either back to the centre line CL or further upwards in a very gentle curve towards the centre line CL, and those starting from the dead rise (i.e. from the stem line 1) and running on upwards as a curved frame line form and either back to the centre line CL or further upwards in a very gentle curve towards the centre CL. Contrary to the view taken in the appealed decision, the specific kind of frame line (designated in the Appellant's written submissions as "first first frame lines") defined as starting from the base line BL and running on upwards as a curved frame line form and back to the centre line CL was originally disclosed in WO-A, although admittedly it is not explicitly depicted in the figures. Nevertheless, such frame lines are disclosed in the description of WO-A, namely on page 2 (lines 1 to 6; lines 27-32) and on

page 4, line 32-page 5, line 19. In effect, this necessarily results from the requirement that the foreship have a slender water line (see figure 3) and corresponding entry angle to produce a higher maximum speed and to eliminate negative effects (i.e. reflecting negative waves to too high a degree) that commonly known bow shapes have. Hence Article 123(2) EPC is not contravened. Additionally, these frame lines are also described on page 5 of WO-A (lines 7-19) as running almost perpendicularly from the centre line CL.

The subject-matter of claim 1 of auxiliary request 5 does not extend the scope of protection of the patent as granted. As it results from WO-A (see page 2, lines 27-32; page 4, line 36 to page 5, line 19; see also identically corresponding passages in the patent specification) and discussed above, different kinds of frame lines as defined by aforementioned feature (i) are disclosed therein, these various kinds of frame lines being presented as corresponding to differing alternatives, anyone (or more) of these alternatives being susceptible of being implemented on a vessel according to the foreship arrangement of the invention. This is confirmed by figure 2, illustrating a particular embodiment of the invention. Therefore, a vessel with a foreship arrangement having solely the kind of frame lines as defined in claim 1 of auxiliary request 5 (i.e. having only frame lines 50 (see figure 2) starting from the base line, running upwards as curved frame line form and further upwards in a very gentle curve towards the centre line) does not extend the scope of protection as defined by the disclosure of the overall patent specification (Article 123(3) EPC) and particularly by granted claim 1, which evidently encompasses such an embodiment.



The same arguments as outlined in relation to claim 1 of auxiliary request 5 likewise apply to claim 1 of auxiliary request 6, seeking protection for a vessel having the kind of frame lines as defined by reference signs 10, 20, 30, 40 in figure 2 of WO-A.

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

The subject-matter of claim 1 extends beyond the content of the patent application as filed (WO-A), said feature (i) (encompassing frame lines starting from the base line BL and running on upwards as a curved frame line form and back to the centre line CL) not being originally disclosed in WO-A.

The protection conferred by the subject-matter of claim 1 according to auxiliary request 5 and 6 is broader than the protection conferred by granted claim 1 (main request) in conjunction with the patent specification, for a vessel with a foreship having merely frame lines of the kind as illustrated by reference sign 50 in figure 2, or respectively by reference signs 10, 20, 30, 40 in figure 2, was not encompassed by the patent as granted.

## Reasons for the Decision

1. The appeal is admissible.
  
2. The subject-matter of granted claim 1 (main request) extends beyond the content of the application as filed (Article 100(c) EPC), as mentioned feature (i) (see above) was not disclosed in the application as filed (WO-A). Specifically, it was not disputed by the Appellant, that a frame line of the kind as implied by the wording "the frame lines ... starting respectively from first lower points ... located on the baseline (BL) are running ... out from the base line (BL) ... outwardly increasing in width from the base line (BL), the frame lines respectively merge into a bilge ... at a given bilge radius, from which bilge and up to second points ... the frame lines are outwardly sloping, and at which second points ... the outwardly frame line form is terminated, and is run on upwards as a curved frame line form, ... back to the centre line (CL)" (see feature (i)) is not explicitly illustrated in the figures of WO-A. Further, none of the passages cited by the Appellant in WO-A (e.g. on pages 2, 4 and 5) explicitly discloses this feature. In particular, the disclosure on page 2 (lines 1-6, lines 27-32) is far too general and e.g. merely states that "at the level of the forecastle deck, the outwardly sloping line is terminated and is run upwards as a curved line form back towards the centre line". Further, on page 5 (lines 1-19) of WO-A reference is made to the specific embodiment of figures 1, 2, 3 on which this passage is based. However, according to this specific embodiment only one kind of frame lines is shown starting from the base line BL (and described on page 5), these frame lines being represented by the single frame line referenced as 50 in figures 1,2 and which frame line

does not run back to the centre line CL, contrary to the claimed feature. No other frame lines are shown in figures 1,2 or described on page 5 starting from the base line BL. Obviously, the mentioned passages in WO-A cited by the Appellant also do not constitute an implicit disclosure of the feature under discussion, there being no suggestion or hint about said specific kind of frame lines starting from the base line and running upwards as a curved line form back towards the centre line.

3. The subject-matter of claim 1 of auxiliary request 5 infringes Article 123(3) EPC, since it broadens the scope of protection of the granted patent. Claim 1 of this request includes only one kind of frame lines, as defined by the feature reading "starting from the base line (BL), outwardly increasing in width from the base line (BL), the frame lines (50) respectively merge into the bilge (G1) at a given bilge radius, from which bilge and up to second points (E5) the frame lines (50) are outwardly sloping, and at which second points (E5) the outwardly frame line form is terminated, and is run on upwards as a curved frame line form, further upwards in a very gentle curve towards the center line (CL) to points (F5)". Thus, three out of four kinds of frame lines as implied by aforesaid feature (i) in granted claim 1 have been omitted. This inevitably leads to an extension of the protection conferred by the granted claim, since granted claim 1, contrary to the Appellant's view, is directed to a vessel comprising four different types of frame lines (as defined in feature (i); one of these not being originally disclosed, see above). Moreover, granted claim 1 is supported in the description by a single embodiment, i.e. that of figures 1,2,3 as already discussed (see also patent specification, [0019], [0022]; [0022]

corresponding to page 5, lines 7-19 of WO-A) and reference signs relating to this sole embodiment are included in granted claim 1, which embodiment comprises three different kinds of frame lines, one including frame lines starting from the base line (see reference sign 50 in figures 1, 2) and two including frame lines starting from the stem line (or from the "dead rise", according to the terminology of granted claim 1; see reference signs 10, 20, 30, 40 in figures 1,2). No further embodiments of the invention are disclosed or let alone suggested in the patent specification. Therefore, no support can be found in the patent specification for the Appellant's construction of claim 1.

In conclusion, the scope of protection being determined by the overall disclosure of the patent specification, as entailed by the wording of Article 123(3) EPC, the omission of the features discussed above broadens the scope of protection and contravenes Article 123(3) EPC.

4. The subject-matter of claim 1 of auxiliary request 6 contravenes Article 123(3) EPC for the same reasons as stated in respect of claim 1 of auxiliary request 5. In effect, the feature reading "the frame lines (10, 20, 30, 40) starting respectively from first lower points (D2, D3, D4, D5) located on a stem line (1), which starts rising from a lower point (A) located on the base line (BL) at the dead rise, are running outwardly increasing in width from the base line (BL), the frame lines (10, 20, 30, 40) respectively merge into a bilge (G2, G3, G4, G5) at a given bilge radius, from which bilge and up to second points (E1, E2, E3, E4) the frame lines (10, 20, 30, 40) are outwardly sloping, and at which second points (E1, E2, E3, E4) the outwardly frame line form is terminated, and is run on upwards as a curved frame line form, either back to the centre

line (CL) at points F1, F2, F3 or further upwards in a very gentle curve towards the centre line (CL) to points (F4)“ encompasses only two different kinds of frame lines, thus omitting two further kinds of frame lines included in granted claim 1.

## Order

### For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



A. Vottner

G. Pricolo

Decision electronically authenticated