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Datasheet for the decision of 8 December 2020

Case Number: T 1322/16 - 3.2.02

Application Number: 05003570.8

Publication Number: 1568313

IPC: A61B5/022

Language of the proceedings: EN

Title of invention:
Blood pressure measuring device

Applicant:
Omron Healthcare Co., Ltd.

Headword:

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - main request (yes)

Decisions cited:

Catchword:

Europäisches Patentamt
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Case Number: T 1322/16 - 3.2.02

D E C I S I O N
of Technical Board of Appeal 3.2.02
of 8 December 2020

Appellant: (Applicant)	Omron Healthcare Co., Ltd. 53, Kunotsubo Terado-cho Muko-shi Kyoto 617-0002 (JP)
Representative:	Kilian Kilian & Partner Aidenbachstraße 54 81379 München (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 11 November 2015 refusing European patent application No. 05003570.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	M. Alvazzi Delfrate
Members:	S. Böttcher
	N. Obrovski

Summary of Facts and Submissions

I. The applicant filed an appeal against the decision of the Examining Division to refuse European patent application No. 05003570.8. The Examining Division held that the subject-matter of claim 1 of the main request and of auxiliary requests 1 to 3 then on file lacked an inventive step in view of D7: JPS57180939 A.

II. In the statement of grounds of appeal the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the main request filed therewith.

III. With a communication under Rule 100(2) EPC dated 15 May 2020, the appellant was informed that, in the Board's view, claim 8 of the main request did not meet the requirements of Article 84 EPC. The Board also conveyed that they considered the subject-matter of claim 1 to involve an inventive step.

IV. By letter of 24 July 2020, the appellant requested that a patent be granted on the basis of an amended main request, wherein claim 8 was deleted.

V. Claim 1 of the main request reads as follows:

"A blood pressure measuring device, comprising:
a first enclosure (112) configured to rest on a horizontal table;
a second enclosure (142) located on said first enclosure (112) in a non-use state and having a cuff arranged on its inner peripheral surface, the cuff having a hollow opening (150) configured such that an

arm (320) of a subject can be inserted into the hollow opening along an axis of said hollow opening so as an upper arm of the subject is inserted into the hollow opening; and
a connection mechanism formed of a pivot connection mechanism including a pivot axle that is provided at a front end of said first enclosure (112) on the subject side and supports said second enclosure (142) with respect to said first enclosure (112) in a pivotable manner such that, upon application of said cuff to the subject in a state where said first enclosure is placed on the table and the front end on the subject side faces the subject, said second enclosure (142) can be moved from the non-use state so as to come closer to the subject than said first enclosure (112) by pivotally moving said second enclosure about said front end of said first enclosure."

Reasons for the Decision

1. Subject-matter of the application

The application relates to a blood pressure measuring device provided with an automatic cuff winding mechanism.

The device as defined in claim 1 of the main request comprises a first enclosure 112 (casing for the main unit 110) and a second enclosure 142 (casing for the living body insert portion 140). The enclosures are connected by means of a pivot connection mechanism

including a pivot axle that is provided at the front end of the first enclosure (Figure 1). The living body insert portion includes a cuff having a hollow opening 150. As shown in Figure 4, when the blood pressure measuring device is not in use, the second enclosure is rested on the first enclosure (non-use state). Upon measurement of a blood pressure value, the second enclosure is moved in the direction shown by arrow A1 in Figure 10. The subject then inserts the right hand into the hollow opening, until their upper arm faces the cuff. During insertion, the second enclosure moves in the direction of arrow A2 shown in Figure 11. Thus, the second enclosure pivotally moves about the front end of the first enclosure.

2. Main request - support in the original application documents

Claim 1 of the main request is based on claim 1 of the main request filed on 15 September 2015 (on which the impugned decision was based), which was based in essence on claims 1, 8 and 9 as originally filed. The claim has been amended in an attempt to overcome the objection of lack of inventive step raised by the examining division.

The newly introduced features ("horizontal", "along an axis of said hollow opening so as an upper arm of the subject is inserted into the hollow opening", "axle" instead of "axis", "and the front end on the subject side faces the subject" and "about said front end of said first enclosure" instead of "around said pivot axis") can be directly and unambiguously derived from Figure 10 and the description on page 15, lines 17 to 27.

Consequently, the amendments made to claim 1 fulfil the requirements of Article 123(2) EPC.

3. Main request - inventive step

The Board does not agree with the Examining Division's view that the subject-matter of claim 1 lacked an inventive step in view of D7 alone.

D7, which can be considered the closest prior art, discloses in Figures 5 to 8 a blood pressure measuring apparatus which also has a first enclosure (support base 24), and a second enclosure (cuff attachment frame 23) having a cuff and being supported by the first enclosure by means of a pivot mechanism. The pivot mechanism has a pivot axle (rotary shaft 32). During insertion of the arm into the cuff, the cuff attachment frame is tilted by about 20 degrees. However, as correctly stated by the Examining Division, D7 does not disclose that the pivot axle is provided at a front end of the first enclosure and that the second enclosure can be pivotally moved about the said front end of the first enclosure.

These distinguishing features provide for the effect that, upon application of the cuff, the second enclosure comes significantly closer to the patient. Moreover, the position of the pivot axle at the front end of the base portion allows for a larger pivot angle, as shown in Figure 5.

The objective technical problem to be solved by these features can be regarded as to provide a blood pressure measuring device that allows the patient to keep an unconstrained posture during the measurement (page 4, second paragraph).

Neither the problem of keeping an unconstrained posture during the measurement nor its solution as defined in claim 1 has been addressed in the available prior art. Hence, it would not be obvious for the skilled person to provide the pivot axle at the front end of the first enclosure.

The Examining Division considered that it was a slight constructional modification which was straightforward for the person skilled in the art to provide the axle at the front end.

The Board does not share this view. In the device of D7 the cuff attachment frame pivots around the rotary shaft 32, and the front end is needed as a stopper for the cuff attachment frame (Figure 8). The person skilled in the art, faced with the above-mentioned technical problem would not modify the measuring device of D7 so that the front end does not form the stopper anymore. Hence, D7 rather teaches away from the claimed position of the pivot axle.

It follows that the subject-matter of claim 1 of the main request involves an inventive step (Article 56 EPC).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The case is remitted to the examining division with the order to grant a patent on the basis of the following documents:

   - claims 1 to 9 according to the main request filed on 24 July 2020;

   - amended description pages 4 to 6 and 22 to 25 filed with the submission dated 16 March 2016;

   - description pages 1 to 3 and 7 to 21 as originally filed; and

   - figures 1 to 27 as originally filed.

The Registrar: The Chairman:

D. Hampe M. Alvazzi Delfrate

Decision electronically authenticated