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Datasheet for the decision of 22 October 2018

Case Number: T 0918/17 - 3.2.01

Application Number: 13190479.9

Publication Number: 2730445

IPC: B60K15/03

Language of the proceedings: EN

Title of invention:
Self-adjusting connector

Applicant:
TI Automotive Technology Center GmbH

Headword:

Relevant legal provisions:
EPC Art. 108
EPC R. 99(2)

Keyword:
Admissibility of appeal - appeal sufficiently substantiated (no)

Decisions cited:
T 0213/85, T 1045/02, T 0570/07, J 0010/11

Catchword:

Europäisches Patentamt
European Patent Office
Office européen des brevets

Beschwerdekammern

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Case Number: T 0918/17 - 3.2.01

D E C I S I O N
of Technical Board of Appeal 3.2.01
of 22 October 2018

Appellant: (Applicant)	TI Automotive Technology Center GmbH Lochfeldstrasse 31 76437 Rastatt (DE)
Representative:	Wolf, Eckhard Pfiz/Gauss Patentanwälte PartmbB Tübinger Strasse 26 70178 Stuttgart (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 24 October 2016 refusing European patent application No. 13190479.9 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	G. Pricolo
Members:	S. Mangin
	S. Fernández de Córdoba

Summary of Facts and Submissions

I. The appeal is against the decision of the examining division to refuse European patent application No. 13190479.9.

II. The decision under appeal was taken "according to the state of the file". The reasons for the decision were based on Article 123(2) EPC and Article 56 EPC and had been given in a communication dated 25 April 2016 accompanying a summons to oral proceedings, in which the claims according to a main request and to an auxiliary request, all filed on 31 August 2015, were considered.

III. The applicant filed an appeal against this decision. With the statement of grounds of appeal the appellant requested that the decision of the examining division be set aside and a patent be granted on the basis of the main request or the auxiliary request underlying the decision under appeal.

IV. The board issued a communication dated 4 July 2018 pursuant to Article 15(1) of the Rules of Procedure of the Boards of Appeal (RPBA) annexed to a summons to oral proceedings. In this communication the board noted that the appeal was likely to be rejected as inadmissible. The reasons given were the following:

"In the present case, the decision was taken following the applicant's request of 11 October 2016 for a decision according to the state of the file. The reasons of the decision are set out in the communication dated 24 April 2016 (note: the reference to the date of 20 April 2016 in the decision is clearly a typographic error). These are: non-compliance

with Article 123(2) EPC (main and auxiliary request) and lack of inventive step starting from document D1 (implicitly claim 1 of both requests).

According to established case law (see e.g. T 213/85 and T 1045/02), the grounds of appeal must deal with all those reasons on which the decision under appeal is based in order for the appeal to meet the requirements of Article 108 EPC and Rule 99(2) EPC.

As regards inventive step, the examining division identified one difference over D1, namely the feature "while exerting a force on the wall of less than 40 N" (see page 4 of the communication dated 25 April 2016, first paragraph). The examining division then stated the problem solved and explained why the claimed solution to this problem was obvious (see page 4 of the communication dated 25 April 2016, second and fourth paragraphs).

Although the statement of grounds of appeal generally deals with the issue of inventive step, it does not deal with the specific reasons given in the impugned decision in respect of inventive step. In fact, in respect of "prior art", the statement of grounds of appeal (see point 3) is identical to the arguments submitted in support of the amended claims filed on 14 November 2014 in response to the extended search report (actually point 3 of the decision under appeal seems to be a "copy and paste" of these arguments). It is noted that the extended search report only dealt with D1 in respect of novelty (although in a general, unsubstantiated manner).

Accordingly, the statement setting out the grounds of appeal does not enable the board to understand

immediately why the decision (that the claimed subject-matter is not inventive when starting from D1) is alleged to be incorrect and on what facts the appellant bases its arguments, without first having to make investigations of its own (see e.g. J 10/11, T 570/07). From the above it follows that the appeal is likely to be rejected as inadmissible."

V. The appellant has not replied to the above communication.

VI. Oral proceedings were held on 22 October 2018 in the absence of the appellant. At the end of the oral proceedings the chairman announced the board's decision.

Reasons for the Decision

1. The appellant has not replied to the communication of the board, indicating the reasons for the non admissibility of the appeal. The appellant has thereby not taken position on the admissibility of the appeal. Even after a careful review of the factual and legal circumstances, the board sees no reason to deviate from the preliminary opinion expressed in the communication.

2. The board comes therefore to the conclusion that the appeal must be rejected as inadmissible, for the reasons given in the communication annexed to the summons to oral proceedings (see point IV above).

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar: The Chairman:

A. Vottner G. Pricolo

Decision electronically authenticated