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**Datasheet for the decision  
of 21 January 2020**

**Case Number:** T 2140/17 - 3.2.08

**Application Number:** 06721687.9

**Publication Number:** 1861626

**IPC:** F16B13/08

**Language of the proceedings:** EN

**Title of invention:**  
ANCHOR ASSEMBLY FOR FASTENER

**Patent Proprietor:**  
Cobra Fixations Cie. Ltée-  
Cobra Anchors Co. Ltd.

**Opponent:**  
fischerwerke GmbH & Co. KG

**Headword:**

**Relevant legal provisions:**  
EPC Art. 54

**Keyword:**  
Novelty - (no)

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
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Case Number: T 2140/17 - 3.2.08

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.08**  
**of 21 January 2020**

**Appellant:** Cobra Fixations Cie. Ltée-  
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**Respondent:** fischerwerke GmbH & Co. KG  
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**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
13 July 2017 concerning maintenance of the  
European Patent No. 1861626 in amended form.**

**Composition of the Board:**

**Chairman** C. Herberhold  
**Members:** M. Foulger  
C. Schmidt

## Summary of Facts and Submissions

- I. With the decision posted on 13 July 2017, the opposition division decided that the patent, according to the then valid second auxiliary request, and the invention to which it related met the requirements of the EPC.
- II. The patent proprietor filed an appeal against this decision.
- III. Oral proceedings took place before the Board on 21 January 2020.
- IV. At the end of the oral proceedings, the requests of the parties were as follows:

The appellant (patent proprietor) requested that the decision under appeal be set aside and that the patent be maintained as granted, or that the patent be maintained on the basis of auxiliary request 7, i.e. as confirmed by the contested decision.

The respondent (opponent) requested that the appeal be dismissed.

- V. Claim 1 of the patent as granted (main request) reads:

"(1.0) An anchor assembly (A, A') for walls (W), comprising  
(1.1) a strap member (12, 112),  
(1.2) a spring member (28, 128),  
(1.3) a toggle member (10, 110) pivotally mounted to said strap member (12, 112), and  
(1.4) a locking member (16, 116) slidable along said strap member (12, 112),

(1.5) said toggle member (10, 110) being displaceable between first and second positions thereof,  
(1.6) wherein in said first position said toggle member (10, 110) is substantially aligned with said strap member (12, 112) for insertion through a hole (H) in the wall (W)  
(1.7) while biasedly engaging said spring member (28, 128),  
(1.8) wherein said toggle member (10, 110) once behind the wall (W) is displaced towards said second position by said spring member (28, 128), and  
(1.9) wherein in said second position said toggle member (10, 110) extends behind the wall (W) at an angle relative to said strap member (12, 112)  
(1.10) with said strap member extending from said toggle member (10, 110) through the hole (H) in the wall (W),  
(1.11) said locking member (16, 116) being adapted to be displaced along said strap member (12, 112) and towards the wall (W) and said toggle member (10, 110),  
(1.12) locking means (20/21, 120/121) being provided for preventing said locking member (16, 116) from being displaced away from said toggle member (10, 110),  
(1.13) whereby once the anchor assembly (A, A') is installed, said locking member (16, 116) and said toggle member (10, 110) are connected by a distal section of said strap member (12, 112) and  
(1.14) imprison the wall (W) by abutting opposed sides thereof,  
(1.15) a proximal section of said strap member (12, 112) located forwardly of said locking member (16, 116) being adapted to be removed,  
(1.16) said toggle member (10, 110) being adapted to be engaged by a fastener (S) introduced through said locking member (16, 116) and through the hole (H) in the wall (W)."

Feature references as used by the parties added in bold by the Board.

VI. The following document is relevant for this decision:

D1: EP 0 713 981 A1

VII. The appellant argued essentially the following:

**(feature 1.3)** D1 did not disclose that there was a pivot point nor that one element was pivoted to the other. A pivotal mounting implied a fixed axis or fulcrum around which the toggle member could pivot. D1 merely disclosed in col. 7, lines 9 that an "area" acted as a pivoting point and one element was pivoting relative to the other, not that it was pivotally mounted to the other.

**(features 1.2 and 1.7)** Also D1 did not show a spring element which biasedly engaged the toggle plate. In fact, there was nothing that could be regarded as a spring member. Moreover, the resilient part of the strap member was integral with the strap itself and, therefore, could not resiliently engage anything.

**(feature 1.6)** Furthermore, D1 did not disclose that the toggle member was substantially aligned with the strap member for insertion through a hole in the wall.

Hence, features 1.2, 1.3, 1.6, 1.7 were not known from this document and consequently the subject-matter of claim 1 was new.

VIII. The respondent argued essentially the following:

**(feature 1.3)** D1 disclosed an anchor assembly comprising a strap member ("guide means" - 21) and a toggle member ("toggle plate" - 22). The toggle plate was pivotally mounted to the guide means. The connecting area acted as a pivoting point (col. 7, l. 19). The term "pivotally mounted" did not require a fixed axis with trunnions but was more general and encompassed flexible connections around a pivoting point as disclosed in D1.

**(feature 1.2)** Moreover, the connection portion 24 provided resilient biasing means (col. 5, l. 26), allowing the toggle plate to spring back into an open configuration such that it was substantially at right angles again to the main extent of the guide means (column 7, lines 24-27). Thus, it acted as, and had the function of, a spring. This could therefore be regarded as a spring member.

The toggle plate was movable between first and second positions. The first where the toggle plate was brought "substantially into parallel alignment with the guide means 21". **Feature 1.6** was therefore known from D1. Moreover, **feature 1.6** merely required that the items were aligned "for insertion through a hole". This was described in D1, col. 7, l. 14 - 27.

The toggle plate was separate to the strap member and the connection was such that the toggle plate springs back when the assembly had been passed through the wall. **Feature 1.7** was thus known from D1.

Col. 7, l. 27 - 44 disclosed features 1.10 through 1.16.

The subject-matter of claim 1 was therefore not new with respect to D1.

## **Reasons for the Decision**

### 1. Main request - Novelty

D1 discloses an anchor assembly (see claim 1) for walls, comprising a strap member (21 - "guide means"), a toggle member (22 - "toggle plate") and a locking member (23 - "clip") slidable along said strap member. The toggle member is mounted to the strap member (column 6, lines 39-49) and rotates relative to the strap member such that "the area joining stepped portion 29 and legs 25 effectively acts as a pivoting point". Therefore, the toggle member is pivotally mounted to the strap member. Consequently, **features 1.0, 1.1, 1.3 and 1.4** are known from D1.

The appellant's argument that a spring member is not disclosed is not persuasive because D1 explicitly mentions that the guide means include a connection portion which provides resilient biasing means (col. 5, l. 25 - 27). Such resilient behaviour is both in form and function that of a spring member. In this context, it is noted that the invention itself features a spring member integral with the strap member (see the statement setting out the grounds of appeal, page 5, point 3, third paragraph). Thus **feature 1.2** "a spring member" is also known from D1.

Moreover, the toggle member is displaceable between first and second positions thereof; D1, col. 7, l. 14 - 20 describes a first position where the toggle member 22 is brought substantially into parallel alignment is



substantially aligned with said strap member. The second position is at right angles to the strap member, col. 7, l. 23 - 27. Thus, **features 1.5, 1.6 and 1.9** are known from D1.

The toggle plate is an individual element separate from the strap member (column 6, lines 39-49). Furthermore, the connection portion is resilient and provides a bias onto the toggle plate so that when once the whole of toggle plate is inside the wall, the toggle plate will spring back into an open configuration such that it is at a right angle to the axis of the guide means, see col. 7, l. 23 - 27. Hence, **feature 1.7** wherein the toggle member is "biasedly engaging said spring member" is also known from D1 because the resilient connecting piece biases the toggle plate; as is **feature 1.8**, wherein said toggle member once behind the wall is displaced towards said second position by said spring member.

Subsequently, col. 7, l. 27 - 39 describe how the clip 23, which corresponds to the locking member of the claim, may be pushed down the guide means. Due to its one way action, the clip can no longer be moved away from the wall. The guide means can then be cut or broken off. Thus, **features 1.10 - 1.15** are known from D1.

A fastener, such as a threaded bolt, may then be inserted into the threaded hole 42 in the toggle plate, see col. 7, l. 40 - 44. Thus, **feature 1.16** is also known from D1.

Hence, the subject-matter of claim 1 is not new with respect to D1.

2. Auxiliary requests

Auxiliary requests 1 - 6 were withdrawn during the oral proceedings. Auxiliary request 7 is the version found allowable by the opposition division in the impugned division and therefore equates to the dismissal of the appeal.

**Order**

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

The appeal is dismissed.

The Registrar:

The Chairman:



C. Moser

C. Herberhold

Decision electronically authenticated