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**Datasheet for the decision  
of 24 September 2020**

**Case Number:** T 2457/17 - 3.2.08

**Application Number:** 07822988.7

**Publication Number:** 2189604

**IPC:** E05F11/38, B60J1/17

**Language of the proceedings:** EN

**Title of invention:**

IMPROVED CLAMP AND BASE FOR SECURING GLASS TO A DEVICE  
INTENDED FOR MOTOR VEHICLE WINDOWS

**Applicant:**

Daumal Castellon, Melchor

**Headword:**

**Relevant legal provisions:**

**Keyword:**

**Decisions cited:**

**Catchword:**



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Case Number: T 2457/17 - 3.2.08

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.08**  
**of 24 September 2020**

**Appellant:** Daumal Castellon, Melchor  
(Applicant) Calle Diputacion, 455-457  
08013 Barcelona (ES)

**Representative:** Ponti & Partners, S.L.P  
C. de Consell de Cent 322  
08007 Barcelona (ES)

**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 9 May 2017  
refusing European patent application No.  
07822988.7 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairwoman** P. Acton  
**Members:** M. Foulger  
C. Schmidt

## **Summary of Facts and Submissions**

- I. With the decision dated 9 May 2017, the examining division refused the European patent application No. 07 822 988.7. They found that the then valid main and auxiliary requests did not comply with the requirements of Articles 84 and 123(2) EPC.
- II. The appellant requests that the decision be set aside and a patent be granted based on the claims of the main request as filed with the grounds of appeal.
- III. With communication pursuant to Rule 100(2) EPC dated 13 September 2019, the Board set out its provisional opinion that the application did not meet the requirements of Articles 84 EPC.
- IV. With letter dated 10 January 2020 the appellant requested that the decision be set aside and a patent be granted based on the claims filed with that letter.
- V. With the communication in accordance with Article 15(1) RPBA dated 15 May 2020, the Board set out its provisional opinion that the application did not meet the requirements of Articles 83 and 84 EPC.
- VI. Oral proceedings were held before the Board on 24 September 2020. The appellant did not attend the oral proceedings.
- VII. Claim 1 reads:  
  
"CLAMP AND SUPPORT FOR SECURING GLASS TO A DEVICE INTENDED FOR MOTOR VEHICLE WINDOWS in which clamps (10) are used for mounting the panes of glass to a sliding

support (21), by means of a boss (14) with tabs (35) separated by grooves (36), and the rear alignment of the glass to the car window held by the clamps (10) coupled to a sliding support (21) by its ends (22), the glass being fitted to the outer part of the arm (13) of the clamp (10) with the aid of the boss (14) extending from outwardly expandable tabs (35), characterised in that the clamps (10) have an "U"-shaped configuration, with two arms (12, 13) that delimit a cavity (30) in which the support (21) is press-fitted, wherein the clamps (10) are fitted in the above-mentioned end portions of the sliding support (21), said sliding support (21) has an elongated body, in the shape of spread wings (22), as end portions of the sliding support (21), with grooves (23, 24) provided along the upper edge of the end of the wings (22) and projecting tabs (27, 28) provided along the lower edge of the end of the wings (22) to adjust the glass (34) vertically and horizontally, so the combination of grooves (23, 24) and projecting tabs (27, 28) comprises a system of initial attachment of the clamps (10) to the sliding support (21) and then a system to adjust the glass to the sliding support (21) and align it to the window frame."

VIII. The appellant argued essentially as follows:

The invention offered the possibility of modifying the support configuration displacing the grooves in order to amend the longitudinal adjustment. This was not a feature of a specific support already manufactured but a possibility or ability of the support design process in order to adapt the specific configuration of the grooves into the support, adapting the assembly to a specific glass and/or window.

The claim was therefore allowable.

### **Reasons for the Decision**

1. Right to be heard - Article 115(1) EPC

The duly summoned appellant did not attend the oral proceedings. In accordance with Rule 115(2) EPC and Article 15(3) RPBA 2020, the oral proceedings were held without the appellant and the appellant was treated as relying only on its written case.

2. Sufficiency of disclosure - Article 83 EPC

According to Article 83 EPC, the application shall disclose the invention in a manner sufficiently clear and complete for the person skilled in the art to carry it out.

Independent claim 1 defines the invention as being a clamp and support for securing glass. The claim includes the feature "to adjust the glass (34) vertically and horizontally". Neither the claim nor the description (including the drawings) explain how this is achieved. Thus, the requirement of Rule 42(1)(e) EPC, that at least one way of carrying out the invention be described, is not fulfilled.

In the letter dated 10 January 2020, p. 2, the appellant explains that the possibility of vertical and horizontal adjustment of the glass is not a feature of a specific support already manufactured but rather a possibility of the support design process.

It is therefore undisputed that once the support is manufactured an adjustment is no longer possible. It is therefore impossible to realise the feature "to adjust the glass (34) vertically and horizontally" in a given clamp and support. Thus the skilled person would not be able to realise a clamp and support according to claim 1.

Hence, the requirements of Article 83 EPC are not met.

**Order**

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

The appeal is dismissed.

The Registrar:

The Chairwoman:



D. Magliano

P. Acton

Decision electronically authenticated