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**Datasheet for the decision
of 28 July 2021**

Case Number: T 2025/18 - 3.2.03

Application Number: 10158155.1

Publication Number: 2275609

IPC: E03C1/04, F16L19/025,
F16L23/032

Language of the proceedings: EN

Title of invention:

Pipe coupler

Applicant:

ORAS OY

Headword:

Relevant legal provisions:

RPBA 2020 Art. 11, 12(2)

EPC Art. 54, 111(1)

Keyword:

Remittal - (yes) - special reasons for remittal
primary object of appeal proceedings to review decision
Novelty - (yes) - main request (yes)
Appeal decision - remittal to the department of first instance
(yes)

Decisions cited:

T 0294/16, T 1966/16, T 0547/14, T 0275/15

Catchword:



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Case Number: T 2025/18 - 3.2.03

D E C I S I O N
of Technical Board of Appeal 3.2.03
of 28 July 2021

Appellant: ORAS OY
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 7 March 2018
refusing European patent application No.
10158155.1 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman C. Herberhold
Members: R. Baltanás y Jorge
E. Kossonakou

Summary of Facts and Submissions

I. The applicant (hereinafter: "appellant") appealed against the examining division's decision to refuse European patent application No. 10 158 155.1. The examining division held that claim 1 according to the main request and first auxiliary request was not novel over D1, that claim 1 of the second auxiliary request did not comply with Article 123(2) EPC, and that claim 1 of all three requests did not comply with Rule 43(1) EPC.

II. The appellant requested that the decision under appeal be set aside and the case be remitted to the examining division for further prosecution (Article 111(1) EPC).

III. Claim 1 according to the main request reads:

"A joint apparatus for connecting a faucet and a water pipe, said apparatus comprising

- a coupler (110) having threads (112) at its first end (111) configured to be attached by the threads (112) to a faucet body (101) and comprising at its second end (113) an outward directed flange (115) having a first surface (116) facing an end of the water pipe and a second surface (117), and

- an attachment nut (108) having at its end threads configured to attach the attachment nut (108) to the water pipe or to an eccentric fitting (105) and comprising an inward directed bracket (120) configured to fasten the flange (115), said inward directed bracket (120) having a joint surface (125) configured

to face the second surface (117) of the outward directed flange (115) of the coupler (110)

characterized *in that the joint apparatus further comprising [sic] a ring (124) arranged between the second surface (117) of the coupler's (110) flange (115) and the joint surface (125) of the attachment nut's (108) bracket (120), which joint surface (125) is an inclined surface with respect to a plane perpendicular to the attachment nut's (108) center axis (126), and wherein the first surface (116) of the outward directed flange (115) and the second surface (117) of the outward directed flange (115) are inclined with respect to a plane perpendicular to the coupler's center axis, and wherein a shape of the at least one of the following: the first surface (116) of the outward directed flange (115) facing the end of the water pipe, the second surface (117) of the outward directed flange (115) facing the ring (124) is arcuate."*

IV. The following documents were cited by the examining division in the contested decision:

- D1: US 6 945 569 B1
- D2: DE 10 2007 046203 A1
- D3: DE 2 031 353 A1
- D4: US 4 025 092 A
- D5: DE 10 2006 015652 B3
- D6: DE 19 526 316 A1
- D7: FR 2 196 053 A5
- D8: DE 10 2008 053380 A1 (published after the priority date but prior to the filing date)
- D9: AU 63,952/65 A

- V. The Board sent a communication pursuant to Rule 100(2) EPC on 2 November 2020 and informed the appellant *inter alia* that it was contemplating remitting the case to the examining division for further prosecution. In light of this conclusion the appellant was requested to clarify whether it maintained its request for oral proceedings.
- VI. By letter dated 8 December 2020 the appellant requested anew that the case be remitted to the department of first instance and withdrew the request for oral proceedings.

Reasons for the Decision

1. Novelty, D1
- 1.1 The examining division decided that the subject-matter of claim 1 is not novel over D1 (see points II.1 to II.4 of the contested decision) since the device disclosed therein is "*suited to be attached to a corresponding thread of a faucet*" (see in particular points II.1.3 and II.1.4).
- 1.2 Claim 1 defines "A joint apparatus for connecting a faucet and a water pipe". The claimed joint apparatus is thus limited by the necessary features which make it suitable for connecting a faucet and a water pipe. For instance, the dimensions of a faucet and of specific water pipe connections must be taken into account when assessing whether or not a joint apparatus in the prior art is actually suitable for the claimed purpose. In the same way, the tightening method for the joint apparatus of the prior art must be considered, since it

has to be compatible with the structural limitations of a faucet and a water pipe.

- 1.3 D1 discloses a joint apparatus belonging to the category of *"pressure transmitting hammer unions, which enable two coaxial sections of conduit to be connected without rotating the conduit sections"* (see column 1, lines 5 to 9).

As explained in column 1, lines 32 to 36: *"Hammer unions allow pipeline couplings to be quickly and easily effected or released, and are effective under high-pressure conditions. As such, hammer unions are often used in flowline rigging when working pressure conditions can approach 15,000 psi."*

D1 mentions *"mud logging, cementing, fracking, acidizing, nitrogen pumping, and other upstream well servicing applications"* as typical examples of situations in which hammer unions are used (see column 1, lines 14 to 16).

The particular embodiment disclosed in D1 (see e.g. Figure 3) comprises lugs 25, which *"should have an especially high toughness sufficient to withstand the force and impact of a hammer strike used to tighten the wing nut 15 around the individual sections of conduit 19 and 21"* (see column 3, lines 9 to 12).

No other particular embodiment is disclosed in D1, and no other use is mentioned for the disclosed device.

- 1.4 The device of D1 is thus suited for use in connecting pipes of large dimensions containing fluids at very high pressures, as is typically the case in the applications mentioned in the document, and tightening

is carried out by striking the lugs of a nut with a great force using a hammer.

- 1.5 The examining division cites Figure 3 of D1 as disclosing pipes of similar diameter to those used in sanitary installations.

The Board does not agree. Firstly, the generally schematic nature of patent drawings does not allow the size of the joint apparatus or pipes to be derived from Figure 3. Secondly, the description of D1 explains that Figure 3 relates to a joint apparatus of such dimensions that the lugs 25 must be hit with a hammer in order to tighten the joint (see column 3, lines 9 to 12), i.e. it is not comparable to a sanitary installation.

Given the small diameter of the connections involved in faucets and their water supply pipes, it would be impossible to use the device of D1 for connecting a faucet to a water pipe as in claim 1.

- 1.6 Furthermore, the structure and the material of a faucet and its water supply pipe impose limitations on the amount of stress which can be applied to a connection between the two elements (see originally-filed application, page 1, line 31 to page 2, line 3).

The tightening means disclosed in D1 (striking the lugs of a nut with a hammer) would imply the application of considerable stress to the faucet and to the water pipe, which is incompatible with the features of these two elements, since it would put the integrity of the installation at risk.

Consequently, the skilled person would not consider a joint apparatus as in D1 for connecting a faucet and a water pipe.

- 1.7 The examining division has considered the "conduit section 19" of D1 as the claimed "coupler" (see contested decision, points II.1.3 and II.1.5).

Given the intended uses of the union disclosed in D1 and the dimensions implied by them, it must be concluded that the conduit section 19 has a length of the order of magnitude of **metres**.

Claim 1 defines a "***coupler having threads at its first end configured to be attached by the threads to a faucet body and comprising at its second end an outward directed flange having a first surface facing an end of the water pipe...***" (emphasis added).

The coupler defined in claim 1 is thus an intermediate element suitable for being arranged between a faucet and a water pipe and belonging to the claimed "*joint apparatus for connecting a faucet and a water pipe*".

The reasoning of the examining division amounts to the statement that a conduit section with a length of the order of magnitude of **metres** would be threadable onto a faucet at a first end whereas it would face the water pipe at a second end, all this forming part of a "*joint apparatus for connecting a faucet and a water pipe*".

This is not convincing, since the conduit section 19 is not suitable for the intended purpose, given the dimensional limitations linked to the arrangement of a faucet.

The conduit section 19 of D1 thus cannot be considered as a "coupler" to be attached as defined in claim 1.

1.8 In view of the above, at least the features "*A joint apparatus for connecting a faucet and a water pipe*" and "*a coupler having threads at its first end configured to be attached by the threads to a faucet body and comprising at its second end an outward directed flange having a first surface facing an end of the water pipe*" are not disclosed, and hence the subject-matter of claim 1 is novel over D1.

2. Novelty, D2 - D9

2.1 All the other documents cited in the search report at least do not disclose a ring arranged between the second surface of the coupler's flange and the joint surface of the attachment nut's bracket as claimed.

This observation is consistent with the search report, which cites no further document (apart from D1) as an "X document" against the originally-filed dependent claim 6 (defining the ring member and incorporated into the present claim 1), and with the actions of the examining division, which did not raise any further novelty objection once the subject-matter of the originally-filed dependent claim 6 had been incorporated into the independent claim.

2.2 D3 discloses a joint apparatus (Figures 1 and 2) for (i.e. suitable for) connecting a faucet and a water pipe, said apparatus comprising a coupler (30) and an attachment nut (20). There is however no ring arranged between the second surface of the coupler's (30) flange and the joint surface of the attachment nut's (2) bracket.

- 2.3 D7 concerns a joint apparatus for connecting pipes containing fluid at low or medium pressure. The joint apparatus is of a similar construction to the one disclosed in D3, comprising a nut (2) with an inward directed bracket (7) and a coupler (3) with a flange (10) (see Figure 1). Again, there is no ring arranged between the second surface of the coupler's (3) flange and the joint surface of the attachment nut's (2) bracket.
- 2.4 D9 concerns a joint apparatus for connecting a faucet and a water pipe (see first four lines of page 2). The joint apparatus of D9 comprises (see Figure 1) a body 1 with two threaded spigots 4 and 5, the shorter (4) being connected to the faucet, and the longer (5) being connected to a water pipe in such a way that its position can be selected to fit the distance between the cold and hot water pipes (see page 4, last paragraph to page 5, third paragraph). However, D9 discloses neither a coupler comprising an outward directed flange for connection purposes nor any attachment nut, and consequently no ring between the two.
- 2.5 D2 concerns (see the figures) a joint apparatus for connecting a pipe (3) to a hollow body (4), in particular for fuel connections in an engine (see paragraphs [0001] and [0012]). D2 does not disclose any ring (see figure) between what could be termed a "coupler" (14) and an "attachment nut" (12).
- 2.6 D4 concerns a coupling for high-pressure fluid pipes in an airplane (see column 1, lines 10 to 45, and claim 1). D4 does not disclose any ring (see Figures 1, 2 and

3a) between what could be termed a "coupler" (seat 2) and an "attachment nut" (sleeve element 3).

- 2.7 D5 concerns a joint apparatus for the fuel connections of an engine (see paragraphs [0004], [0006] and [0022]). D5 does not disclose any ring (see Figures 1 to 5) between what could be termed a "coupler" (pipe section 2) and an "attachment nut" (6).
- 2.8 D6 (Figures 1 and 2) concerns a coupling between two pipes of undefined dimensions, indicating when the tightening of the joint is sufficient to achieve the required water-tightness (see column 1, line 68 to column 2, line 11). D6 does not disclose any ring (see Figures 1 and 2) between what could be termed a "coupler" (pipe 11) and an "attachment nut" (7), since the only disclosed ring (seal 23) is not arranged at the claimed location.
- 2.9 D8 concerns a joint apparatus for connecting a pipe to a connection of a clutching or braking system in a vehicle (see paragraph [0001]). As well as being published after the priority date, D8 does not disclose any ring (see Figures 1 and 2) between what could be termed a "coupler" (connecting nozzle 1) and an "attachment nut" (3).
- 2.10 Consequently, the subject-matter of claim 1 is novel over all the documents cited in the decision.
3. Rule 43(1) EPC

The examining division has considered that the two-part form of the main request *"does not correctly reflect the disclosure of document D1, contrary to Rule 43(1) EPC"* (see point II.9 of the contested decision).

Since the Board has concluded that claim 1 is novel over D1, the objection in point 9 of the decision as to the alleged lack of an appropriate two-part form is void. Document D1 does not appear to represent suitable prior art in the sense of Rule 43(1) EPC in view of the substantial differences concerning the construction and the aim of the invention.

Therefore it will only be possible to assess compliance with Rule 43(1) EPC once the pertinent prior art for this purpose has been established (see point below).

4. Remittal, Article 111(1) EPC, Article 11 RPBA 2020
 - 4.1 The conclusion of the Board is that the main request complies with the requirement of novelty. The contested decision is therefore to be set aside.
 - 4.2 No evidence can be found in the decision that substantive examination took place with regard to other requirements of the EPC, such as inventive step or added subject-matter, since the contested decision merely relates to novelty. The Board thus concludes that the main request has not yet been fully examined with regard to other requirements of the EPC.
 - 4.3 The provisions of Article 111(1) EPC allow the Board either to proceed with the examination of the application or to remit the case to the examining division for further prosecution.
 - 4.4 Article 11 RPBA 2020 provides that "*the Board shall not remit a case to the department whose decision was appealed for further prosecution, unless special reasons present themselves for doing so*".

The Board holds that such special reasons exist in the present case for the following reasons:

According to Article 12(2) RPBA 2020, the primary object of the appeal proceedings is "*to review the decision under appeal in a judicial manner*". This principle would not be respected if the Board were to conduct a complete examination of the application which goes substantially beyond the extent of the examination carried out by the examining division so far, as would be the case if the Board had to assess compliance of the present application with the other requirements of the EPC (see also T 0294/16, point 2 of the reasons; T 1966/16, point 2.2; T 0547/14, points 7.1 and 7.2; and T 0275/15, point 4).

The Board thus considers it appropriate to accede to the appellant's explicit request and to exercise its discretion under Article 111(1) EPC to remit the case to the department of first instance for further prosecution.

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 for further prosecution.

The Registrar:

The Chairman:



C. Spira

C. Herberhold

Decision electronically authenticated