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Datasheet for the decision of 17 March 2025

Case Number: T 0917/23 - 3.2.07

Application Number: 15169196.1

Publication Number: 2955150

IPC: B67D7/02, B67D7/34, D06L1/00

Language of the proceedings: EN

Title of invention:
METHOD AND SYSTEM FOR DISPLACING A FLUID FROM A SUPPLY CONTAINER TO A DELIVERY COMPONENT

Patent Proprietor:
Christeyns B.V.

Opponent:
ECOLAB USA INC.

Headword:

Relevant legal provisions:
EPC Art. 54, 56, 100(a), 100(c)

Keyword:
Grounds for opposition - added subject-matter (no)
Novelty - (yes)
Inventive step - (yes)

Decisions cited:
T 1931/14

Catchword:

Europäisches Patentamt
European Patent Office
Office européen des brevets

Beschwerdekammern

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Case Number: T 0917/23 - 3.2.07

D E C I S I O N
of Technical Board of Appeal 3.2.07
of 17 March 2025

Appellant: (Opponent)	ECOLAB USA INC. 1 Ecolab Place St. Paul, MN 55102 (US)
Representative:	Godemeyer Blum Lenze Patentanwälte Partnerschaft mbB - werkpatent An den Gärten 7 51491 Overath (DE)
Respondent: (Patent Proprietor)	Christeyns B.V. Lireweg 12 2153 PH Nieuw-Vennep (NL)
Representative:	Patentwerk B.V. P.O. Box 1514 5200 BN 's-Hertogenbosch (NL)
Decision under appeal:	**Decision of the Opposition Division of the European Patent Office posted on 15 March 2023 rejecting the opposition filed against European patent No. 2955150 pursuant to Article 101(2) EPC.**

Composition of the Board:

Chairman	G. Patton
Members:	S. Watson
	E. Mille

Summary of Facts and Submissions

I. An appeal was filed by the opponent against the decision of the opposition division to reject the opposition against European patent 2 955 150.

II. In preparation for oral proceedings, the board gave its preliminary opinion in a communication pursuant to Article 15(1) RPBA, dated 19 December 2024, according to which the appeal was likely to be dismissed. This communication was based on the appellant's statement of grounds of appeal and its submissions of 27 March 2024 as well as the patent proprietor's reply to the appeal.

III. The patent proprietor filed new claim requests with submissions of 6 March 2025.

IV. Oral proceedings before the board took place on 17 March 2025.

At the conclusion of the proceedings the decision was announced. Further details of the oral proceedings can be found in the minutes.

V. The final requests of the parties are as follows.

The opponent ("appellant") requested
- that the decision under appeal be set aside and
- that the patent be revoked.

The patent proprietor ("respondent") requested
- that the appeal be dismissed,

or if the decision under appeal is set aside,

- that the patent be maintained in amended form on the basis of one of the sets of claims of auxiliary requests 1 to 5 filed on 6 March 2025.

VI. The following documents are referred to in this decision:

D1: EP 2 939 975 A1
D2: WO 2012/031323 A1
D3: US 2006/0006228 A1
D5: US 2013/0314206 A1.

VII. Claim 1 of the patent as granted (main request) reads as follows (amendments made with respect to claim 1 of the application as published have been emphasised by the board):

"Method for displacing a fluid (1) in a system according to claim 8, from a supply container (2) to a ~~delivery component~~ buffer tank (3), ~~particularly~~ for use in industrial laundry, comprising the steps of:

A) providing a supply container (2) provided with a fluid (1) and a buffer tank (3), configured to receive fluid (1) supplied by a supply container, wherein said buffer tank (3) is connected to an industrial textile washing device or forms part of the industrial textile washing device; and identifying ~~a~~ the supply container (2) ~~provided with a fluid (1)~~ and/or ~~a delivery component (3), in particular a~~ the buffer tank (3), wherein the identification of the supply container (2) and the buffer tank (3) according to step A) takes place by scanning a tag (5, 6) connected to respectively the supply container (2) and the buffer tank (3), which tag (5, 6) comprises information related to the fluid (1) ~~configured~~

~~to receive fluid (1)supplied by a supply container~~;

B) selecting at least one coupling component (4) for coupling the supply container (2) to the ~~delivery component~~ buffer tank (3), which coupling component (4) is configured to be successively coupled, directly or indirectly, to a plurality of buffer tanks and a plurality of supply containers (4), which coupling component (4) is provided with at least one identification means (7), wherein the at least one identification means (7) comprises a programmable identification element, in which information identified during step A) is stored;

C) coupling the supply container (2) to the ~~delivery component~~ buffer tank (3) via the at least one coupling component (4),

D) verifying, on the basis of the programmed identification element of the identification means (7) of the at least one coupling element (4), the coupling of the at least one coupling component (4) and at least one adjacent identified component realized during step C), which at least one adjacent component is formed by at least one component chosen from a group consisting of: the supply container (2), the ~~delivery component~~ buffer tank (3) and at least one other identified coupling component, wherein this verification makes use of a control unit (8) and at least one database coupled to the control unit (8), wherein said at least one database is provided with a plurality of programmed cross-references, wherein each programmed cross-reference is formed by an identification of a coupling component (4) and at least one value which is dependent on the identification of the

supply container (2) and/or the buffer tank (3), and wherein the at least one control unit (8) is connected to the database for the purpose of verifying, on the basis of the identified coupling component (4) and the cross-reference from the database related thereto, whether the fluid coming from the supply container (2) may flow through the identified coupling component (4), ~~;~~ and

E) displacing fluid (1) from the supply container (2) via the at least one coupling component (4) to the ~~delivery component~~ buffer tank (3) if the verification during step D) is successful~~,~~ ~~wherein the at least one identification means (7) comprises a programmable identification element, which programmable identification element is configured to store information identified during step A).~~"

VIII. Claim 8 of the patent as granted (main request) reads as follows (amendments made with respect to claim 12 of the application as published have been emphasised by the board):

"System for displacing a fluid (1) from a supply container (2) to a buffer tank ~~delivery component~~ (3), ~~particularly~~ by applying the method as claimed in any of the foregoing claims, ~~more particularly~~ for use in industrial laundry, comprising:

- at least one identifiable supply container (2) provided with a fluid (1),
- a plurality of ~~delivery components~~ buffer tanks (3~~.1, 3.2, 3.3~~), wherein at least one first identifiable ~~delivery component~~ buffer tank (3.1) is configured to hold a first fluid (1.1) and at least one second identifiable ~~delivery component~~ buffer tank (3.2) is configured to hold

a second fluid (1.2) differing from the first fluid (1.1), wherein said buffer tanks (3) are connectable to an industrial textile washing device,

- at least one coupling component (4) for mutually coupling the supply container (2) and a ~~delivery component~~ buffer tank (3) for the purpose of displacing fluid (1) via the at least one coupling component (4) from the supply container (2) to the coupled ~~delivery component~~ buffer tank (3), which at least one coupling component (4) is provided with at least one identification means (7), and which coupling component (4) is configured to be successively coupled, directly or indirectly, to a plurality of buffer tanks (3) and a plurality of supply containers (2),

- at least one database provided with a plurality of programmable cross-references, wherein each programmable cross-reference is formed by an identification of a coupling component (4) and at least one value which is dependent on the identification of the supply container (2) and/or the ~~delivery component~~ buffer tank (3), and

- at least one control unit (8) connected to the database for the purpose of verifying, on the basis of the identified coupling component (4) and the cross-reference from the database related thereto, whether the fluid (1) coming from the supply container (2) may flow through the identified coupling component (4),

wherein the at least one identification means (7) comprises a programmable identification element, characterised in that ~~which~~ said programmable identification element is configured to store identifying information of at least one adjacent

component coupled to the coupling component (4), which at least one adjacent component is formed by at least one component chosen from a group consisting of: the supply container (2), the ~~delivery component~~ buffer tank (3) and at least one other identified coupling component."

IX. In view of the decision taken, it is not necessary to reproduce the wording of the auxiliary requests here.

X. The arguments of the parties relevant for the decision are dealt with in detail in the reasons for the decision.

Reasons for the Decision

1. *Added subject-matter - main request - claims 1 and 8 - Article 100(c) EPC*

1.1 Objection 1: buffer tank connected to industrial textile washing device (claims 1 and 8)

The appellant contested the opposition division's finding that there was a direct and unambiguous disclosure of the buffer tank being connected to or forming part of an industrial textile washing device as introduced into claim 1 as granted, or connectable to an industrial textile washing device as found in claim 8 as granted.

1.1.1 The opposition division reasoned that as the first paragraph and claim 1 of the published application disclosed that a buffer tank was the preferred delivery component, references to a delivery component in the published application in general would be understood by

the skilled person to be also a reference, in particular, to a buffer tank. Therefore paragraph [0036] of the published application provided sufficient basis for the contested feature, as this paragraph disclosed "at least one delivery component to be connected to an industrial textile washing device...or for at least one delivery component to form part of the industrial textile washing device".

1.1.2 The appellant argued that the general disclosure of delivery components being connected to or forming part of the industrial textile washing device was not a direct, unambiguous disclosure of the specific delivery component, i.e. a buffer tank, being connected to or forming part of the washing device.

In the appellant's view, paragraph [0036] did not disclose this feature as found in claim 1 as it referred to the system not the method, and in any case paragraph [0036] gave three delivery components as examples, but did not include the buffer tank, so that the buffer tank, although a general example of a delivery component, was excluded from the specific disclosure of paragraph [0036].

1.1.3 The board however agrees with the opposition division that the skilled person would understand the general term "delivery component" in paragraph [0036] as encompassing the specific "buffer tank", because claim 1 and paragraph [0001] of the published application referred to a buffer tank as the preferred delivery component. The fact that paragraph [0036] does not explicitly mention "buffer tank" among the given examples does not lead to the conclusion that "buffer tank" would be excluded as a delivery component as alleged by the appellant.

1.1.4 The board also follows the arguments of the respondent that the system and method were disclosed as interrelated in the application documents as originally filed. In particular, system claim 12 as originally filed included a reference to any of the preceding method claims, so that the skilled person understood that the system features and method features were interlinked and did not refer to separate non-combinable embodiments.

1.2 Objection 2: coupling component is provided with at least one identification means (claim 1)

1.2.1 The appellant argued that paragraph [0020], regarded by the opposition division as providing the basis for this amendment, only disclosed that each connecting location was preferably provided with at least one programmable identification element.

Claim 1 as granted had, according to the appellant, therefore been broadened as it only required that the coupling component (which could be connected to a plurality of supply containers) had at least one identification element, rather than each location being provided with at least one programmable identification element.

1.2.2 The board however agrees with the opposition division that paragraph [0020] of the application as published discloses that the at least one coupling component has at least one programmable identification element and that an identification element at each coupling location is merely an optional feature.

The appellant argued that as paragraph [0020] was the only disclosure for this feature that no generalisation was allowed.

However, claim 1 of the application as published already included the feature of at least one coupling component with at least one identification means which comprises a programmable identification element, so that no subject-matter has been added.

1.3 Objection 3: step D) (claims 1 and 8)

1.3.1 The appellant contested the opposition division's findings that there was no unallowable intermediate generalisation found in the feature introduced into step D) of claim 1 as granted, which found its basis in paragraphs [0028] and [0031].

The appellant argued that paragraph [0028] was the only disclosure for the features introduced into the claim, but there was no direct and unambiguous disclosure for the general form as found in claim 1 as granted. The disclosure of paragraph [0031] and claim 12 of the application as published could not provide support for a method claim as they related to the system.

1.3.2 In the board's view, the skilled person understands from the application as published that the system is intended to carry out the method (paragraph [0001], first feature of claim 12), so that it is directly and unambiguously derivable for the skilled person that the features of claim 12 and paragraph [0031] refer to a system which is used to carry out the method.

Therefore, the skilled person can directly and unambiguously derive the features of the method of claim 1 as granted.

1.3.3 The appellant also raised the same objection to claim 8 as granted, due to its reference to claim 1. As these features were already present in claim 12 of the published application (which is directed to an independent claim to the system), it is not apparent why claim 8 should be regarded as extending beyond the content of the application documents as originally filed.

1.3.4 The appellant also raised the further issues that claims 1 and 12 as filed related the verifying step to a delivery component in general, not to a buffer tank, and that the identification means in step D) of claim 1 as filed were not "programmed" identification means but only identification means in general.

The board notes firstly that in step A) of claim 1 of the application as published, reference is made to a delivery component "in particular a buffer tank", so that further references to a delivery component are also understood as being in particular for a buffer tank. The application documents disclose that a buffer tank is the most preferable example of a delivery component (see paragraphs [0001], [0006], [0007], [0009], [0016], [0019], claim 1 of the published application). The specification in step D) of a "buffer tank" rather than a general "delivery component" is therefore directly and unambiguously derivable from the application documents as originally filed.

Secondly, claim 1 as originally filed required that "the at least one identification means (7) comprises a

programmable identification element..." in its final feature. The moving of this feature from the end of the claim to within feature D) is not regarded as causing any change to the subject-matter of the claim.

1.4 As a result of the above, the ground for opposition according to Article 100(c) EPC does not prejudice the maintenance of the patent as granted.

2. *Novelty - claims 1 and 8 - Article 100(a) with Article 54 EPC - document D1*

2.1 The appellant contested the finding of the opposition division that the subject-matter of claims 1 and 8 is novel with respect to the disclosure of document D1 and argues that all features are found in D1.

The appellant argued that the mention of claim 8 in claim 1 did not limit claim 1 in any way, so that claim 1 related only to a method for displacing fluid from a supply container to a buffer tank with certain method steps.

2.1.1 It is established case law that the interpretation of a method claim depends on the type of method claimed. The features following "method for" may be considered as functional technical features of the claim if they define the specific application or use of the method, however if the features refer only to an intended technical effect, they will not be regarded as functional features of the claim (see Case Law of the Boards of Appeal, 10th edition 2022 ("CLB"), I.C.8.1.3 c) and T 1931/14, Reasons 2.2.4).

2.1.2 In the present case, as found by the opposition division, the features "for displacing a fluid (1) in a

system according to claim 8, from a supply container to a buffer tank for use in industrial laundry" together define the specific application and use of the method and are all regarded as functional features which limit the claim. The features of claim 8 are therefore included in claim 1.

2.2 The board notes that the opposition division further found that all features of claim 1 were also present in claim 8.

The opposition division understood the term in claim 8 "by applying a method as claimed..." to require that the system must carry out the steps set out in the method claims.

However, claim 8 is directed to a physical entity as such ("system"), so the features stated after this ("for displacing a fluid from a supply container to a buffer tank, by applying the method as claimed..., for use in industrial laundry") limit the claim only to the extent that the system must be suitable for carrying out the method described (see CLB, II.A.3.7, seventh paragraph).

Therefore the reference to claim 1 in claim 8 only limits the subject-matter of claim 8 to the extent that the system must be suitable for "displacing fluid...by applying the method as claimed in any of the foregoing claims...".

2.3 As claim 1, in the board's view, comprises all the features of claim 8 it can first be assessed whether D1 discloses the features of claim 8.

2.3.1 The respondent argued that document D1 did not disclose the feature that the at least one identification means (provided with the coupling component) "comprises a programmable identification element", which is "configured to store identifying information of at least one adjacent component coupled to the coupling element".

2.3.2 The board agrees with the respondent that claim 8 requires that the coupling component is provided with programmable identification means configured to store identifying information of at least one adjacent component (supply container, buffer tank, or other coupling component).

Document D1 does not disclose this feature. Paragraphs [0018] to [0019] of document D1 disclose that a tag may be attached to the coupling component which contains data which directly or indirectly identifies the coupling component. The tag may be an RFID tag as set out in paragraph [0017]. Paragraph [0026] refers to a control unit carrying out a verification and claim 9 to the verification of whether the fluid in the supply container corresponds to the one intended for the buffer tank.

There is no mention of the coupling component tag being configured to store identifying information of at least one adjacent component.

The subject-matter of claim 8 is therefore new with respect to the disclosure of document D1 for at least this feature.

2.3.3 As claim 1 comprises all features of claim 8, the subject-matter of claim 1 is also novel with respect to D1.

2.4 Document D1 is prior art according to Article 54(3) EPC so it is not necessary to determine whether any further features distinguish claims 1 and 8 over the disclosure of D1.

3. *Inventive step - claims 1 and 8 - Article 100(a) with Article 56 EPC - starting from D2*

3.1 The appellant contested the findings of the opposition division that the subject-matter of claims 1 and 8 was inventive.

3.2 The appellant argued that the subject-matter of claims 1 and 8 is obvious in view of document D2 alone or in combination with document D3 or D5.

3.3 Regarding claim 8, in the appellant's view the only feature of claim 8 not present in document D2 is that the system is for use in an industrial laundry.

According to the appellant, the objective technical problem was the provision of an alternative system and the provision of an alternative system would be obvious as it is known that fluids are used in industrial laundries which are incompatible and may react if mixed together.

3.4 It was common ground that D2 was a suitable starting point for considering inventive step. The respondent however argued that there were further features of claim 8 not disclosed in document D2, namely that the system applied the method claimed in any of the

foregoing claims; the buffer tanks were connectable to an industrial textile washing device; and at least one coupling element was provided with at least one identification means which comprises a programmable identification element configured to store identifying information of at least one adjacent component coupled to the coupling component.

3.5 As set out above, the reference to method claim 1 in claim 8 does not limit claim 8 to a system that carries out the method, but only to a system suitable for carrying out the method (see Reasons 2.2 of this decision).

The board also agrees with the appellant that the feature that the buffer tanks are "connectable to" the washing device does not limit the claimed subject-matter.

However, the board does not see a disclosure in document D2 of the feature that the programmable identification element is configured to store identifying information of at least one adjacent component, for the following reasons.

3.5.1 The appellant argued in its written submissions that the passages of D2 on page 34, from line 30 or starting at page 18, line 17, disclosed this feature as they described that the operator could reconfigure the fluid transfer network and that the RFID data could indicate the type of fluid transferable through the port associated with the RFID tag.

3.5.2 In the board's view neither passage shows that the programmable identification element of the coupling

element is configured to store identifying information of at least one adjacent component.

The passage starting at line 30 of page 34 refers to the possibility of reconfiguring the fluid transfer network and then sending new RFID data. This is not a disclosure that the programmable identification element of the coupling component is configured to store identifying information of an adjacent component, that is either the supply container, buffer tank or a further coupling component.

Further, as claim 8 sets out that the adjacent component is formed by at least one out of the supply container, the buffer tank and at least one other identified coupling component, the passage on page 18 also does not disclose the contested feature.

Document D2 (page 18, line 27 to page 19, line 7) describes that the RFID data may include identification of the type of fluid which may flow through a particular port. This cannot be considered to be "identifying information of at least one adjacent component", but rather identifying information relating to the component to which the RFID unit is connected.

The appellant argued that the passage disclosed that the fluid code is updated to indicate the fluid contained in the respective reservoir. This however occurs after transfer of the fluid and the identifying information is found in the RFID unit 70 of the reservoir (buffer tank) itself (see D2, page 19, lines 4 to 7), not the RFID unit of the conduit/fluid line which is understood as the "coupling component" in the wording of claim 8.

3.5.3 The appellant argued further at the oral proceedings before the board that document D2 disclosed this feature on page 18 where the data which may be found on the RFID tags was described. This data was said to "*vary depending upon the port which the RFID unit is associated therewith and the equipment associated with the port*" (D2, page 18, lines 18 to 19). This meant that the RFID unit in D2 stored identifying information of at least one adjacent component, as the adjacent component was equipment associated with the port.

The appellant argued that figure 12A of D2 disclosed identifiers with RFID data (70B, 70C) attached to the ends of the coupling component (conduit 15). The description on pages 17 to 19 regarding the data in RFID units 70 must also refer to these identifiers 70B, 70C as they have the same reference sign (70). In addition, document D2 described on page 17 that RFID units 70 were provided in identifier blocks 500 in order to attach the RFID unit in particular to conduits 15 (see D2, page 17, lines 22 to 25). Therefore, the identifiers on conduit 70B and 70C were RFID units and could contain data which varied depending on the equipment associated with the port, as set out in D2 on page 18, lines 18 to 19.

The board however agrees with the respondent that the skilled person understands that the "equipment associated with the port" refers to the equipment which the port is the inlet or outlet of, not any adjacent equipment which may be connected to the port. This is confirmed on page 19 of document D2 where it is described that the RFID data can be "*indicative of a unique asset identity associated with an asset which the respective RFID unit is associated therewith, such as a supply point of a reservoir, a delivery point of a*

reservoir, or the trailer" (D2, page 19, lines 9 to 11).

This also applies to the conduit. There is no suggestion that the RFID identifiers 70B and 70C contain identification relating to either reservoir 50 or 60 in figure 12A.

This is also confirmed by the disclosure on page 40, lines 8 to 21 which describes the identifier 70A as having a port type indicative of a port 60A of trailer 7, i.e. each identifier identifies a port and its associated asset. There is no disclosure that identifier 70B stores information related to trailer 7.

3.5.4 The board therefore concludes that the distinguishing features of claim 8 are at least those features present in the characterising portion of the claim.

3.6 The respondent argued that the characterising features have the effect that it is not necessary to use two readers concomitantly as in document D2. The objective technical problem to be solved by these features was then regarded as being to provide a structurally simpler system for collecting and verifying information on an established coupling.

3.7 The appellant argued that the objective technical problem posed by the respondent was incorrect. Claim 8 did not mention how many readers were used and the system of claim 8 was not simpler than the system in document D2 nor did it provide any advantage. The only difference was that the information regarding an adjacent component was stored together with the information of the coupling component, rather than on an identifier on the adjacent component itself.

However, this information still had to be scanned and entered into the identification element on the coupling component. Therefore, according to the appellant, the objective technical problem to be solved could only be seen as the provision of an alternative system.

3.8 The appellant further argued that the solution was obvious as it was a simple modification of the distribution of the data found on the RFID tags.

Document D2 itself described that the data stored in the RFID tags could vary and could include data of equipment associated with the port with which the RFID unit is associated (D2, page 18, third paragraph). The subject-matter of claim 8 would therefore be obvious for the skilled person based on document D2 alone.

3.9 The board finds that the distinguishing features of claim 8 have the effect that fewer system components are necessary than in document D2 as only one element needs to be scanned at a time.

There is no disclosure in D2 or any of the available prior art that a coupling component is provided with a programmable identification element which is configured to store identifying information of at least one adjacent component coupled to the coupling component.

3.10 Document D2 discloses only that data may vary depending on the port. From document D2 as a whole it is clear that the identifiers of both the coupling component ports and the adjacent component ports are read by the at least two scanners after each coupling (D2, figures 9, 12A and 12B).

There is no suggestion in D2 alone for the skilled person to modify the system of D2 so that the identifying information of the adjacent component is found on the coupling component's identification element.

The subject-matter of claim 1 is therefore not obvious in view of document D2 alone.

3.11 Neither document D3 nor D5 discloses this feature so that a combination of document D2 with D3 or D5 also cannot lead to the subject-matter of claim 8 in an obvious manner.

3.12 As claim 1 comprises all the features of claim 8, the subject-matter of claim 1 is also considered to be inventive.

4. *Conclusion*

As the appellant has not convincingly demonstrated that the opposition division was incorrect in finding that no ground for opposition prejudiced the maintenance of the patent as granted, the appeal should be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

G. Nachtigall G. Patton

Decision electronically authenticated