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Anmeldenummer / Filing No / N° de la demande : 80 301 128.7

Veröffentlichungs-Nr. / Publication No / N° de la publication : 0 018 160

Bezeichnung der Erfindung: Electrical Connector for terminating flat,
Title of invention: multi-conductor electrical cable.
Titre de l'invention :

Klassifikation / Classification / Classement : HO1R 23/66

ENTSCHEIDUNG / DECISION
vom / of / du 9 December 1987

Anmelder / Applicant / Demandeur : AMP INCORPORATED

Patentinhaber / Proprietor of the patent /
Titulaire du brevet :

Einsprechender / Opponent / Opposant :

Stichwort / Headword / Référence : Connector/AMP

EPU / EPC / CBE Article 123(2)

Kennwort / Keyword / Mot clé : Broadening of claim (allowed)

Leitsatz / Headnote / Sommaire

I If a technical feature is deleted from a claim in the course of prosecution of a European patent application in order not to exclude from protection certain embodiments of the invention, the broadening of the claim does not contravene Article 123(2) EPC as long as there is a basis for a claim lacking this feature in the application as originally filed. It is immaterial whether or not the feature in question is relevant to the inventive concept of the claimed subject-matter.

II When certain embodiments of an invention, which would be included in the scope of a claim by broadening its terms (e.g. by deleting a technical feature from the claim), are disclosed solely in the drawings as originally filed such broadening does not contravene Article 123(2) EPC if the person skilled in the art can clearly and unambiguously recognise these embodiments from the drawings.

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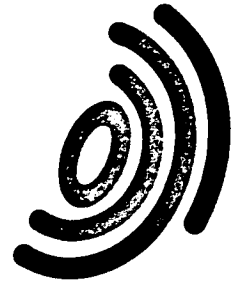
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Case Number : T 66/85

D E C I S I O N
of the Technical Board of Appeal 3.5.1
of 9 December 1987

Appellant : AMP Incorporated
Eisenhower Boulevard
Harrisburg
Pennsylvania
USA

Representative : Gray, Robin Oliver
Baron & Warren
18 South End
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London W8 5BU
GB

Decision under appeal : Decision of Examining Division 053
of the European Patent Office
dated 18 October 1984 refusing
European patent application
No. 80 301 128.7 pursuant to
Article 97(1) EPC.

Composition of the Board :

Chairman : P.K.J. van den Berg
Members : J.A.H. van Voorthuizen
P. Ford

Summary of facts and submissions

- I. European patent application No. 80 301 128.7 filed on 9 April 1980 (publication No. 0 018 160) claiming a priority of 11 April 1979 and 23 November 1979 (both US) was refused by a decision of the Examining Division 053 dated 18 October 1984. This decision was based on Claims 1-7 filed on 25 January 1984.
- II. The reason given for the refusal was that Claim 1 extended beyond the contents of the originally filed documents in a manner not permitted by the terms of Article 123(2) EPC. The Examining Division was of the opinion that the original disclosure was limited to a connector of the kind specified having a bus member which extends across both surfaces of the body member, which feature although figuring in the original Claim 1 was not in the Claim 1 filed on 25 January 1984.
- III. The appellant lodged an appeal against this decision on 10 December 1984. The appeal fee was paid on 6 December 1984 and a Statement of Grounds was filed on 8 February 1985. The Notice of Appeal was accompanied by three differently worded claims (A, B and C) which were presented as alternatives to Claim 1 filed on 25 January 1984.
- IV. In the Statement of Grounds, the appellant essentially argued that the interpretation given by the Examining Division of the term in question was excessively restrictive and that the structure and arrangement of the bus member was not relevant to the inventive concept consisting in the provision of a specially shaped body member. Furthermore, he pointed out that Figures 15 and 16 showed a construction of a bus member differing from that shown in Figures 7-10. Eight further patent documents were cited to illustrate the state of the art with respect to

the construction of bus members. Finally attention was drawn to several decisions by the Boards of Appeal of the EPO and by Courts in member states relevant to the issue to be decided in the present appeal case.

- V. The appellant's main request was for the grant of a European patent on the basis of Claims 1-7 filed on 25 January 1984. Auxiliarily, he requested the grant of a European patent based on versions A, B or C of Claim 1, taken in that order.

Claim 1 as filed on 25 January 1984 reads as follows:

1. An electrical connector for terminating a flat multi-conductor electrical cable, comprising a body member (1) of electrically insulating material carrying on each of two opposite surfaces a row of electrical terminals (2) each having a mating portion (3) adjacent one edge of the body member surface and a conductor-connection portion (4) adapted to establish an electrical connection to a conductor (101) of a flat multi-conductor electrical cable (100), surfaces of the body member (1) being formed with grooves (9) to receive the conductors (101) of the cable (100) and direct the conductors (101) of the conductor-connection portions (4) of the terminals (2), the grooves (9) being open to an edge of the body member (1) a cover being positioned over the surfaces characterised in that the conductor connection portions (4) are in the form of slotted plates, and a bus member (5) is provided having a plurality of slotted plate portions (6) arranged in rows one on each surface of the body member (1) parallel to the rows of slotted plates of the conductor connection portions (4) of the terminals, and the cover comprising two cover members (7, 8) respectively positioned over the body member surfaces and the terminals (4) and bus member (5), the

grooves (9) open to the edge of the body member (1) by way of entry mouths (11) formed to guide conductors (101) advanced into the mouths (11) as a planar array to overlie the two surfaces of the body member (1), the electrical connections then being established by movement of the conductors (101) transversely of the their axes into slots in the conductor-connection portions (4) of the terminals (2) at the slotted plate portion (6) of the bus member.

Reasons for the Decision

1. The appeal complies with Articles 106-108 and Rule 64 EPC and is therefore admissible.
2. As the Examining Division correctly pointed out in its decision, in particular in paragraphs 13 and 16, Article 123(2) EPC has to be interpreted as meaning that where a feature is entirely omitted from a claim, thus broadening its scope, such excision is not permissible, whether this feature appears relevant or not to the features which represent the inventive concept of the subject-matter claimed, unless there is a basis for the broadened claim in the original application. Such a basis need not be presented in express terms but it must be sufficiently clear to a person skilled in the art to be unambiguously recognisable as such. Consequently, there is no need to decide whether in a particular case an omitted feature is relevant to the inventive concept or not.
3. The Examining Division, according to paragraph 14 of its decision, interpreted the expression "a bus member which extends across both surfaces of the body member" as only embracing a configuration in which (as illustrated in Figures 7-10 of the present application and in Figure 4A of US-A-4 094 566 which was cited as prior art in the original application) the bus member passes across first

one major surface of the body member, then around one end and then back across the other major surface. The Examining Division apparently was of the opinion that there was no indication in the original application as to the possibility of another configuration of the bus member, and took the view that it was required by Article 123(2) EPC that the expression in question be maintained in Claim 1 as otherwise an unallowable broadening of this claim would result.

4. The appellant contested this interpretation of the expression in question as being too restrictive but refused to reinstate it in Claim 1.
5. The Board of Appeal agrees with the Examining Division that generally terms used in claims should be interpreted strictly in accordance with what actually has been disclosed by the application as a whole, including, where appropriate, any references to prior art given therein.
6. In the light of the argumentation provided by the Examining Division and the appellant's rebuttal the Board cannot find that the manner in which the Examining Division interpreted the expression "a bus member which extends across both surfaces of the body member" was unduly restrictive.
7. As the appellant has pointed out, however, Figures 15 and 16 show a configuration of the bus member which is different from that shown in Figures 7-10 in that the broken lines at (5) in Figures 15 and 16 indicate that the bus member extends along one side of the body in a lateral groove, the bus member having oppositely projecting slotted plate portions projecting on one side from the groove and on the other side through apertures into the wire receiving grooves on the opposite side of the body. The Board accepts that this would be clearly recognised by the person skilled

in the art on the basis of the general technical knowledge in this field to be expected from him and which is exemplified by a number of prior art documents cited by the Appellant in his Statement of Grounds.

8. The Board is therefore satisfied that Claim 1 as filed on 25.01.84 which was at the basis of the impugned decision, is supported by the drawings which are a part of the application as originally filed. The Board noted in this respect that it was already stated in the original description that the invention would be described by way of example with reference to the drawings and that Figure 13 (to which Figures 15 and 16 refer) showed another connector according to the invention. If the drawings in themselves leave no doubt as to a certain feature being shown therein an expression in words in the description is not required. The claim consequently does not contravene Article 123(2) EPC.
9. It has to be noted that the arguments leading to the conclusion above were put forward by the appellant for the first time in his Statement of Grounds. In view of these arguments, the Board had to come to a conclusion which differs from that of the Examining Division.
10. As Claim 1 filed on 25 January 1984 is held not to contravene Article 123(2) EPC, which was the sole question at issue in the present appeal, there is no need to consider the three alternative forms of claims accompanying the Notice of Appeal.
11. In its decision, the Examining Division did not state whether it held the Claim 1 under consideration allowable as far as other requirements of the EPC are concerned. Therefore, in order to prevent a loss of instance, the case

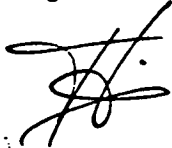
has to be remitted to the Examining Division to continue the examination.

Order

For these reasons, it is decided that

1. The decision of the Examining Division dated 18 October 1984 is set aside.
2. The case is remitted to the Examining Division with the order to continue the examination on the basis that Claim 1 filed on 25 January 1984 does not contravene Article 123(2) EPC.

The Registrar



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The Chairman

