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File Number: T 631/90 - 3.2.1

Application No.: 83 303 110.7

Publication No.: 0 098 050

Title of invention: Visor assembly

Classification: B60J 3/02

D E C I S I O N
of 9 April 1992

Applicant: Prince Corporation

Opponent: Gebr. Happich GmbH

Headword:

EPC Article 56

Keyword: "Inventive step (denied)"

Headnote



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Boards of Appeal

Chambres de recours

Case Number : T 631/90 - 3.2.1

D E C I S I O N
of the Technical Board of Appeal 3.2.1
of 9 April 1992

Appellant :
(Opponent)

Gebr. Happich GmbH
Postfach 10 02 49
W-5600 Wuppertal (DE)

Respondent :
(Proprietor of the patent)

Prince Corporation
Windcrest Drive
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Michigan 49423 (US)

Representative :

Robinson, Anthony John Metcalf et al
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Decision under appeal :

Interlocutory decision of the Opposition Division
of the European Patent Office posted on
19 June 1990 concerning maintenance of European
patent No. 0 098 050 in amended form.

Composition of the Board :

Chairman : F. Gumbel
Members : M. Ceyte
W.M. Schar

Summary of Facts and Submissions

- I. European patent No. 0 098 050 was granted on 22 April 1987 on the basis of the patent application No. 83 303 110.7.
- II. The patent was opposed by the Appellant on the grounds that its subject-matter did not involve an inventive step. In support of his request, he submitted inter-alia the following prior art documents:
- D1: DE-U-8 104 417
D2: DE-A-1 140 475
- III. By its interlocutory decision posted on 19 June 1990, the Opposition Division maintained the patent in amended form on the basis of the documents specified therein.
- IV. The Appellant (Opponent) lodged an appeal against this decision on 1 August 1990 together with the Statement of Grounds of Appeal. The appeal fee was paid on 3 August 1990. He requested that the decision under appeal be set aside and the patent be revoked.
- V. In the oral proceedings held before the Board on 9 April 1992, the Respondent requested that the patent be maintained on the basis of Claim 1 according to the subsidiary request filed together with his reply to the Statement of Grounds of Appeal.
- VI. The Respondent's arguments set forth in his written and oral statements can be summarised as follows:

Document D1 discloses a visor assembly of the type stated in the prior art part of Claim 1.

The problems with the known visor shown in Document D1 are firstly that it is aesthetically unpleasing, the visor being visible at all times to a user of the vehicle.

Additionally, the arms are, in the use position, visible to the vehicle occupant and are, moreover, visible at all times when the visor is made transparent or translucent, since no cover is suggested.

Furthermore, the visor according to document D1 tends to be floppy unless the arm material and the visor panel are relatively thick and rigid, a construction which is nowadays undesirable. Moreover it may be desirable to use bent decorative front panels to match the upholstery of the vehicle, the arms and the visor panel being in that case thin and flexible so as to be easily moveable between the stored and the use position. Additionally it would be desirable to achieve a friction fit between the moveable and the fixed parts of the assembly in order to hold the visor in any selected position.

Thus the object of the invention is to provide a visor assembly which is aesthetically pleasing in the use and the store positions notwithstanding that the visor panel is transparent, translucent or opaque and which overcomes the problem of floppiness.

This object is achieved by the combined effect of the characterising features stated in Claim 1, in particular by the features (a) the attachment of the arms to the upper part of the visor panel and (b) the provision of cover means.

The combination of the features (a) and (b) provides the advantage that the arms are not visible in the stored position, even when the visor panel is transparent or

translucent, because they are disposed behind the cover means. If the visor panel is opaque the arms are also invisible in the use position. Thus the first part of the problem is solved by the features (a) and (b). The feature (b) provides the additional advantage that the cover can support and guide the panel as it is moved between the stored and use positions and offers the possibility of achieving the desired friction fit. Hence, relatively thin and flexible parts can be used for both, the arms and the panel.

Neither document D2 nor the other prior art documents suggest the combination of the features (a) and (b) defined in Claim 1 in order to achieve these effects.

VII. The Appellant in his written and oral submissions contested in detail the arguments brought forward by the Respondent.

He particularly pointed out that the first feature specified in the characterising part of Claim 1 is already known from D1 and that the second feature (feature (a) mentioned above) is totally irrelevant to the functioning of the visor assembly. In this respect reference was made to the sketches and to the model submitted during the opposition and appeal proceedings, respectively. The remaining feature of Claim 1 relating to the provision of a cover means has already been suggested to the skilled person in document D2, which shows a cover panel intended to conceal the visor panel in the stored position. No inventive skill was necessary to combine the features of documents D1 and D2 and to select the attachment points of the arms to the panel above the centre line thereof. Additional advantages now referred to by the Respondent find no counterpart in Claim 1.

VIII. Claim 1 reads as follows:

"1. A visor assembly (21) for a vehicle (10) comprising: a visor panel (24) having, pivotally secured thereto at spaced locations, respective first ends (31, 33) of a pair of spaced substantially parallel arms (26, 28), the respective second ends (27, 29) of the arms having means for pivotal securement to a vehicle whereby the panel is movable in a plane (P) generally orthogonal to the pivot axes (A) of the arms and parallel with the arms from a lowered use position to a raised stored position; characterised in that each arm has a length less than the height of the visor panel (24), that the respective first ends (31, 33) are secured to the panel above a vertical centreline thereof, and that cover means (30) are provided which conceal the visor panel and the arms when in the stored position, and which conceal at least an upper edge of the visor panel in the use position".

IX. At the conclusion of the oral proceedings the Board's decision to revoke the patent in the form requested by the Respondent was announced.

Reasons for the Decision

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is admissible.
2. The aforementioned feature (a) and the feature in the characterising part of the claim, that each arm has a length less than the height of the visor panel, are not mentioned in the description or existing claims of the patent application as filed, but are shown in the figures of the drawings.

According to the decision T 169/83 OJ 1985, 193 a feature in the drawings can be inserted in the description and claims, if such is clearly shown in the drawings and is "clearly, unmistakably and fully derivable from the drawings as regards structure and function by a skilled person and must in no way contradict the other parts of the disclosure or be the subject of any waiver"

The Board has accepted that the question whether the above criterion concerning the function or the technical significance of these two features solely disclosed in the drawings, may be answered in the affirmative in the present case and thus the requirement of Article 123(2) appears to be met.

3. None of the available prior art documents discloses a visor assembly having all the features specified in Claim 1 as can clearly be seen by comparison of its subject-matter with any single visor assembly known from the available prior art documents.

Therefore the subject-matter of Claim 1 is novel within the meaning of Article 54 EPC.

Since novelty has never been disputed, there is no need for further detailed substantiation of this matter.

4. The Board agrees with the parties that the nearest prior art is the Figure 1 embodiment of document D1 referred to in the preamble of Claim 1.

In Figure 1, there is shown a fragmentary perspective partial view of the interior of a vehicle which includes a ceiling or headliner area extending above a wind shield and a front side window. Extending along the lower edge of

the headliner just above the front side window is a recess formed in the upholstery to receive a visor panel in its raised stored position. The recess has essentially the same shape as the visor panel. The visor panel is pivotally coupled to the recess wall by means of a pair of spaced parallel arms.

The lowered use position of the visor panel is shown in dotted lines: the arms which are vertical in this position are lying inside the outline of the visor panel. Thus the skilled person will immediately realise that these vertical arms, which are completely surrounded by the outline of the visor panel, have necessarily a length which is less than the height of the visor panel. At the oral proceedings, the Respondent has admitted that such a feature figuring in the characterising portion of Claim 1 is shown in Figure 1 of document D1 and thus is to be regarded as disclosed by this nearest prior art document.

In the lowered use position, the visor panel conceals the lower part of the recess formed in the upholstery.

- 4.1 As the Respondent submitted, the underlying problem of the invention resides in the provision of a visor assembly which is aesthetically pleasing in the use and stored positions while overcoming the drawback of floppiness, notwithstanding that the visor panel may be transparent, translucent or opaque and the arm and panel material should be relatively thin and flexible.
- 4.2 This problem is contended to be solved by the following features stated in the characterising portion of Claim 1, if taken in combination with the features set out in the preamble:

- (a) the arms are secured to the upper part of the visor panel;
- (b) cover means are provided which conceal the visor panel and the arms when in the stored position and at least an upper edge of the visor panel when in the use position.

4.3 The provision of a cover for a visor assembly has been already suggested to the skilled reader prior to the patentee's effective application date in document D2. The cover disclosed therein is in the form of a curved panel which is preferably upholstered and thus forms a decorative interior panel extending along the upper part of the windshield.

The visor panel known from D2 is provided with substantially flat legs made of a thin resilient material which are pivotally coupled to the decorative cover panel. As seen in Figure 2, there is a frictional contact surface between the upper part of the legs and the internal wall of the decorative cover panel. Thus it would be immediately apparent for the skilled reader that the decorative cover panel acts as a guide for the legs simultaneously reducing the tendency for the visor to be somewhat floppy.

Consequently, a skilled person could find the idea of applying to the visor assembly of document D1 a decorative cover panel which additionally contributes to overcoming the problem of floppiness. The decorative cover panel would be provided as taught by document D2 so as to conform to the upholstery of the vehicle and thus would cover the recess shown in D1 which receives the known visor assembly in the stored position. With such a location, the decorative cover panel would conceal the visor panel and the arms when in the stored position as

well as the upper edge of the visor panel when in the lowered use position.

- 4.4 The Respondent contended that even if a skilled person had thought in view of the teaching of document D2 to adopt a decorative interior panel acting as a cover for the known visor assembly of document D1, he would not have arrived at the teaching of Claim 1 since in documents D1 and D2 there is no suggestion of pivotally securing the arms to the upper part of the visor panel.

It is true that in document D1 the arms are pivotally secured to the lower part of the visor panel, so that they are visible in the event that the visor panel is transparent or translucent. The Board nevertheless considers that any skilled person would be able to realise, without requiring an inventive step on his part, that the arms could be secured not to the lower part but to the upper part of the visor panel, when it is desired to reduce the visible part of the arms in the lowered use position of the visor panel. Such a slight modification, which does not substantially affect the function of the assembly, clearly lies within the capabilities to be attributed to the ordinary skilled person.

- 4.5 Therefore in the Board's judgement the subject-matter of Claim 1 does not involve an inventive step as required by Article 56 EPC. Therefore the claim cannot be allowed to stand having regard to Article 52(1) EPC.

5. Claims 2 to 6 depend on Claim 1 and having as subject-matter special embodiments of the invention according to Claim 1, are not allowable either, since their validity is contingent on that of Claim 1, which has been denied.

6. In conclusion the Board is of the opinion that the ground for opposition mentioned in Article 100(a) EPC prejudices the maintenance of the European patent.

Order

For these reasons, it is decided that:

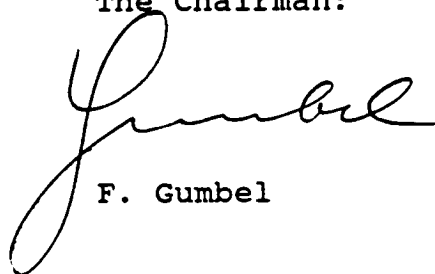
1. The decision under appeal is set aside;
2. The patent is revoked.

The Registrar:

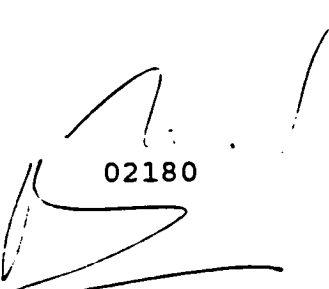


S. Fabiani

The Chairman:



F. Gumbel



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