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D E C I S I O N
of 24 January 2002

Case Number: T 0951/98 - 3.2.1

Application Number: 93104678.3

Publication Number: 0562519

IPC: B60J 7/057

Language of the proceedings: EN

Title of invention:
Operating device for a sunroof

Patentee:
ZANI S.R.L.

Opponent:
FARMONT Produktion GmbH & Co. KG
WESTMONT Technik GmbH & Co. KG

Headword:
-

Relevant legal provisions:
EPC R. 89

Keyword:
"Request for correction of a Board's decision"
"Request not allowable under Rule 89 EPC"

Decisions cited:
-

Catchword:
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Case Number: T 0951/98 - 3.2.1

D E C I S I O N
of the Technical Board of Appeal 3.2.1
of 24 January 2002 on the request for correction
of the decision of 22 March 2001

Appellant: (Proprietor of the patent)
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Representative:
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Respondent II: (Opponent 02)
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Composition of the Board:

Chairman: F. Gumbel
Members: M. Ceyte
P. Mühlens

Summary of Facts and Submissions

I. By its decision T 951/98 of 22 March 2001 the Board of Appeal 3.2.1 remitted the case to the first instance with the order to maintain the patent as granted, subject to the amendments in claim 1 according to the appellant's request, as stated in point IV of that decision.

II. By letter of 5 April 2001 the respondent II (opponent 02) submitted that the second amendment specified under point IV of the above decision that is

"at one end with said rotating means engaged with said racks (27)"

did not correspond to the amendment requested by the appellant (patentee) in its letter dated 17 October 2000, reading:

"at one end with said drawing means engaged with said racks"

The respondent II requested that the above decision be corrected accordingly.

Reasons for the Decision

1. According to Rule 89 EPC which is the sole provision in the EPC concerning the correction of errors in a decision, only linguistic errors, errors of transcription and (similar) obvious mistakes may be corrected in decisions of the European Patent Office.

In the present case, the second amendment in question is obviously the text corresponding to the actual intention of the Board, so that there is by no means an obvious mistake within the meaning of Rule 89 EPC and the requested correction is excluded under this provision.

2. Solely for reasons for completeness it is observed that this amendment also in fact corresponds to the appellant's request.

Reference is made in this respect to the appellant's letter dated 17 July 2000 which states the following:

"In response to your communication regarding case T 0951/98 - 3.2.1 our client agrees ... with the wording: "rotatory means (14) engaged with racks"". (emphasis added).

Consequently, in the Board's communication dated 25 September 2000, it was suggested that claim 1 be amended at lines 4 to 6, column 5, to read "at one end, with said rotating means (14) engaged with said racks (27).", corresponding to the second amendment in question.

In response to the Board's communication, the appellant in its letter dated 17 October 2000 stated:

"I am filing copies of columns 3/4 and 5/6 of the European patent EP-B-562 519 on which the amendments as proposed in your communication have been entered by hand, dated and signed" (emphasis added).

This clearly shows that the second amendment was in fact what was requested by the appellant and was the text on which the Board actually had to base its decision.

Order

For these reasons it is decided that:

The request for correction of the decision is rejected.

The Registrar: The Chairman:

S. Fabiani F. Gumbel