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**D E C I S I O N**  
**of 22 May 2001**

**Case Number:** T 1100/99 - 3.2.1

**Application Number:** 93102393.1

**Publication Number:** 0558992

**IPC:** B60R 9/12

**Language of the proceedings:** EN

**Title of invention:**

Magnetically-coupling ski rack with anti-theft means, for motor vehicles in general

**Applicant:**

FABBRI S.r.l.

**Opponent:**

-

**Headword:**

-

**Relevant legal provisions:**

EPC Art. 56

**Keyword:**

"Inventive step (yes)"

**Decisions cited:**

-

**Catchword:**

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Chambres de recours

Case Number: T 1100/99 - 3.2.1

**D E C I S I O N**  
**of the Technical Board of Appeal 3.2.1**  
**of 22 May 2001**

**Appellant:** FABBRI S.r.l.  
(Proprietor of the patent) Via Ospitaletto, 29/31  
I-25040 Bornato Cazzago S. Martino (Brescia)  
(IT)

**Representative:** Modiano, Guido, Dr.-Ing.  
Modiano & Associati SpA  
Via Meravigli, 16  
I-20123 Milano (IT)

**Decision under appeal:** Decision of the Opposition Division of the  
European Patent Office posted 14 October 1999  
revoking European patent No. 0 558 992 pursuant  
to Article 102(1) EPC.

**Composition of the Board:**

**Chairman:** F. Gumbel  
**Members:** S. Crane  
J. Van Moer

## Summary of Facts and Submissions

- I. European patent No. 0 558 992 was granted on 17 July 1996 on the basis of European patent application No. 93 102 393.1.
- II. The granted patent was opposed on the ground that its subject-matter lacked inventive step with respect to
  - (D1) DE-A-2 423 565
  - (D2) KR-U-91 8481 (with translation into English).
- III. With its decision posted on 14 October 1999 the Opposition Division revoked the patent.
- IV. A notice of appeal against that decision was filed on 13 December 1999 and the fee for appeal paid at the same time.

The statement of grounds of appeal was received on 23 February 2000.
- V. With a letter received on 8 November 2000 the opponents stated that the opposition was withdrawn.
- VI. In response to a communication of the Board posted on 13 December 2000 the appellants (patentees) filed on 22 March 2001 new claims 1 and 2 and revised columns 1 to 4 of the description. They requested maintenance of the patent in amended form on the basis of these documents in combination with claims 3 to 9 as granted, columns 5 of the granted description and the drawings as granted.

New claim 1 reads as follows:

"Magnetically-coupling ski rack (1) with anti-theft means, for motor vehicles in general, comprising at least one panel (2) made of magnetic material which can be associated with the body of the motor vehicle and supports at least one ski supporting bracket (3), said panel (2) being made of magnetic material sufficient to retain the ski rack (1) with skis supported in said bracket (3) on the body of the motor vehicle, and said at least one supporting bracket (3) being fixed to said panel and being surmounted by an element (4) provided with lock-operated securing means (7,8), and an element (6) for covering said panel (2) of magnetic material, wherein said magnetic panel (2) constitutes the only means for connecting said ski rack (1) to the body of the motor vehicle, and said element (6) for covering said panel (2) of magnetic material is controlled by said lock-operated securing means (7,8) provided on the element (4) surmounting the ski supporting bracket (3) such that said element (6) for covering said panel (2) of magnetic material is secured in its working position when said lock-operated securing means (7,8) are in closed position, so as not to allow access to the panel (2) arranged under said element (6) to separate said panel (2) from the vehicle, and further such that said element (6) for covering said panel (2) of magnetic material is removable when said lock-operated securing means (7,8) are in open position so as to allow access to the panel (2) arranged under said element (6) for separating said panel (2) from the vehicle."

Dependent claims 2 to 9 relate to preferred embodiments of the ski-rack according to claim 1.

VII. The appellants argued that, having regard to the magnetic panel of the claimed ski-rack being the only means for connecting the latter to the vehicle, the Opposition Division had erred in taking document D2 as the closest state of the art since the main connecting means of the ski-rack disclosed there was a suction cup, with a magnetic plate being provided solely as a back-up. Furthermore, the means provided for preventing removal of this known ski-rack were specifically associated with the operating means for the suction cup and in no way concerned with the magnetic plate.

### **Reasons for the Decision**

1. The appeal complies with the formal requirements of Articles 106 to 108 and Rules 1(1) and 64 EPC. It is therefore admissible.
  
2. A ski-rack with a ski supporting bracket attachable to the vehicle body solely by means of a panel of magnetic material is disclosed in document D1. Although such a ski-rack is very practical in the sense that it can be readily connected to the vehicle body without the need for any further attachment elements and is thus substantially universally applicable, there arises the problem of the lack of security of the skis against theft. The reason for this lies in the fact that locking the skis to the bracket is ineffective since the bracket itself may be too easily removed from the vehicle body by a miscreant, in particular by lifting the magnetic panel at one edge and gradually separating it.

The ski-rack according to present claim 1 solves this problem by providing a removable cover element for the magnetic panel, which cover element is normally held in place by virtue of the lock-operated securing means used to secure the skis in the supporting bracket. Thus in normal use, with skis secured in the bracket, the magnetic panel is completely inaccessible. If the user wishes to remove the supporting bracket he can however remove the cover element at will to facilitate separation of the magnetic panel.

Document D2 relates to a ski-rack having a ski supporting bracket which comprises at least one suction cup disposed in a main housing. The suction cup is actuated by an operating handle pivoted to the main housing. Also pivoted to the main housing adjacent the operating handle is the lower U-shaped part of a ski clamp. In its normal use position this clamp part overlies the operating handle of the suction cup. The top part of the ski clamp is a pivoted bar with a U-shaped section for enclosing the skis placed in the lower clamp part and equipped with a lock at its free end. In use, with skis locked in place, movement of the operating handle to release the suction cup is therefore blocked. To remove the supporting bracket (with no skis present) the lower clamp part can be pivoted into a vertical position to reveal the operating handle. A flexible magnetic plate is attached to the bottom edge of the wall of main housing to increase the adhesive force between the supporting bracket and the vehicle body and thus make it more difficult to remove that supporting bracket without prior release of the suction cup.

In the opinion of the Opposition Division it would be obvious for the person skilled in the art, having regard to document D1, to dispense with the suction cup of document D2 and replace it with a magnetic panel. The Board cannot agree. Document D2 is specifically and exclusively concerned with a ski-rack which is provided with a suction cup as its main connecting means. To argue that it would be obvious to replace this suction cup with different connecting means runs directly counter to the central teaching of the document. Furthermore, it is not possible to argue that the transfer of the theft prevention arrangement taught by document D2 to the ski-rack known from document D1, which does indeed rely solely on a magnetic panel as connection means, would be obvious. The reason for this lies in the fact that with a suction cup what is required is to prevent movement of, rather than access to, the operating handle. Thus the basic considerations involved are widely different.

Accordingly, the Board comes to the conclusion that the subject-matter of claim 1 involves an inventive step (Article 56 EPC).

## Order

### For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the first instance with the order to maintain the patent on the basis of the following documents:

**Claims:** 1 and 2 filed on 22 March 2001;  
3 to 9 as granted;

**Description:** columns 1 to 4 filed on 22 March 2001,  
column 5 as granted.

**Drawings:** Figures 1 to 15 as granted.

The Registrar:

The Chairman:

S. Fabiani

F. Gumbel