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Chambres de
recours techniques



File Number W 01/82
International Application No
PCT/GB81/00173

DECISION

of the Technical Board of Appeal 3.2.2
of 9 March 1982

Applicants:

- 1) LOVE, James Prince
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United Kingdom
- 2) RAFIQUE, Syed Omar Zikria Mubarak
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Representative:

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Subject of this
decision:

Protest according to Rule 40.2(c) of the
Patent Cooperation Treaty made by the
applicants against the invitation
(payment of additional fees) of the
European Patent Office (Branch at The
Hague) dated 23 November 1981

Composition of the Board:

G. Andersson,	Chairman
J. Van Voorthuizen,	Member
P. Ford,	Member

SUMMARY OF FACTS AND SUBMISSIONS

1. On 28 August 1981 the applicants filed an international application with the UK Patent Office.
2. The European Patent Office is the International Searching Authority competent for the searching of international applications filed with the UK Patent Office.
3. On 23 November 1981 the Branch at The Hague of the EPO addressed to the applicants an invitation to pay additional fees, as it considered that the requirement of unity of invention was not satisfied. Three groups of claims were distinguished: Claims 1-14, claims 15, 16, 22-24 and claims 17-21. The Branch invited the applicants to pay two additional fees.
4. On 8 December 1981 the applicants paid these fees under protest asking for at least a partial reimbursement of these fees.
5. In their protest, the applicants asserted that the claims are all directed to apparatus for gasifying a quantity of liquid and therefore have a common ground and that the various measures detailed in the different groups of claims are applicable to a common apparatus.

REASONS FOR THE DECISION

1. The protest complies with Rule 40.2(c) PCT and is therefore admissible.
2. According to Rule 13.1 PCT, an international application shall relate to one invention only or to "a group of inventions so linked as to form a single general inventive concept".

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3. The applicants' assertions do not answer the objections raised by the International Searching Authority (the European Patent Office). In fact, the application concerns three widely different measures (means for obtaining a flow of gas without solidification; means for limiting the maximum power; and means for accommodating containers of different sizes). There is no single general inventive concept, because these measures may be applied independently to "apparatus for gasifying a quantity of liquid" (which is in this broad sense known, as admitted in the introductory part of the description) and each produces a different and unrelated result.
4. It follows that the invitation to pay additional fees dated 23 November 1981 was properly issued.
5. Although this matter does not form part of the grounds for the present decision, it is to be observed that features which, although applicable to the same type of apparatus, are in themselves unrelated, are classified according to their nature in separate units of the search file. Therefore, when a search for patentability is carried out in respect of a number of independent claims each relating to a single feature, a separate such unit must be consulted for each feature.

For these reasons,

it is decided that

The applicants' protest dated 8 December 1981 is unjustified and no reimbursement to the applicant of additional fees is ordered.

The Registrar:

J. Kte

The Chairman:

