



Welcome to the

EUROPEAN SUPERIOR PATENT COURT

Pipe clamp mock trial

CEIPI

Strasbourg

22 April 2004



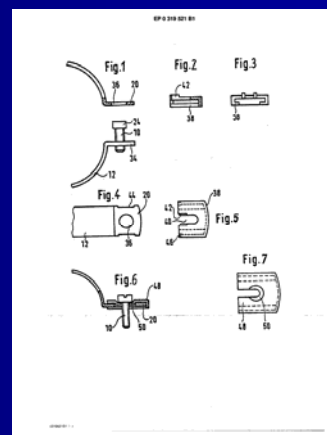
This Court

- Pierre Véron (FR)
- Fritz Blumer (CH)
- Giovanni Casucci (IT)
Judges
- Walter Holzer (AT)
Expert
- Laurence Petit-Bruning (FR/DE)
Chief clerk
- Kevin Mooney (UK)
Attorney for plaintiff
- Mr Finnila (FI)
Patent Attorney for plaintiff
- Christian Osterrieth (DE)
Attorney for respondent
- Mr Debled (BE)
Patent Attorney for respondent

Background

- The Muller patent in suit EP 0 319 521
- The Hilti accused device
- The prior art

Müller Patent EP 0 319 521



EP 0 319 521 - Claims

Patentansprüche

1. Rohrschelle, bestehend aus einem ringförmigen Bogen (12) mit wenigstens einer Öffnung, die durch eine Spannschraube (10) schließbar ist, deren Fuß auf der einen Seite der Öffnung mit Gewindegewinde gefasst und deren Kopf (24) auf der anderen Seite der Öffnung durch ein Loch (36) in einem am Bogen (12) angebrachten Flansch (20) hindurchführbar und festlegbar ist, dadurch gekennzeichnet, daß der Kopf (24) der Spannschraube (10) mit Bezug auf deren Mittellängsachse axial durch das Loch (36) im Flansch (20) hindurchführbar ist und durch eine vor dem Spannen zwischen Kopf (24) und Flansch (20) eingeführte, mit einem am einen Ende offenen Langloch (40) ausgebildete Unterlegscheibe (38) gehalten ist.

2. Rohrschelle nach Anspruch 1, dadurch gekennzeichnet, daß die Unterlegscheibe (38) im gespanntem Zustand der Schraube (10) formstarr durch diese und/oder den Flansch (20) gehalten ist.

3. Rohrschelle nach Anspruch 1, dadurch gekennzeichnet, daß die Unterlegscheibe (38) in Richtung des Langlochs (40) verschieblich, aber unverlierbar auf dem Flansch (20) sitzt.

4. Rohrschelle nach Anspruch 2, dadurch gekennzeichnet, daß die Unterlegscheibe (48) im mittleren Bereich mit einer Vertiefung (50) ausgebildet ist, welche im Umriss größer ist als der Kopf der Spannschraube (10), aber kleiner als das Loch (36) im Flansch (20).

Claims

10 1. A pipe clamp, comprising an annular strap (12) with at least one opening which can be closed by a clamping screw (10), the tip of which is mounted on one side of the opening by thread engagement and the head (24) of which on the other side of the opening can be passed through and located in a hole (36) in a flange (20) attached to the strap (12), characterised in that the head (24) of the clamping screw (10) can be passed axially, relative to its central longitudinal axis, through the hole (36) in the flange (20) and is retained by a washer (38) which is inserted between the head (24) and the flange (20) before tightening takes place and which is formed with a slot (40) open at one end.

15 2. A pipe clamp according to Claim 1, characterised in that in the tightened condition of the screw (10) the washer (38) is retained in form-locking manner by the screw and/or the flange (20).

20 3. A pipe clamp according to Claim 1, characterised in that the washer (38) is mounted displaceably in the direction of the slot (40) but captive on the flange (20).

25 4. A pipe clamp according to Claim 2, characterised in that in its central region the washer (48) is provided with a recess (50) which in outline is larger than the head of the clamping screw (10) but smaller than the hole (36) in the flange (20).

Revendications

40 1. Collier de serrage formé d'un étrier annulaire (12) avec au moins une ouverture, ce collier se fermant à l'aide d'une vis de serrage (10) dont l'extrémité est prévue du côté de l'ouverture muni du filetage et dont la tête (24) traverse de l'autre côté de l'ouverture, un trou (36) d'une patte (20) de l'étrier (12) pour se fixer, collier caractérisé en ce que la tête (24) de la vis de serrage (10) traverse le trou (36) de la bride (20) au moins par rapport à l'axe longitudinal médian et est maintenue par une rondelle (38) à trous oblongs (40) ouverte à une extrémité, cette rondelle étant mise en place entre la tête (24) et la patte (20) avant le serrage.

45 2. Collier de serrage selon la revendication 1, caractérisé en ce que la rondelle (38) est maintenue par une liaison par la forme, lorsque la vis (10) est à l'état serré, par la vis et/ou la patte (20).

50 3. Collier de serrage selon la revendication 1, caractérisé en ce que la rondelle (38) est montée coulissante dans la direction du trou oblong (40) mais est retenue de manière non détachable à la patte (20).

55 4. Collier de serrage selon la revendication 2, caractérisé en ce que la rondelle (48) comporte dans sa zone médiane, une cavité (50) dont le contour est supérieur à celui de la tête de la vis de serrage (10) mais inférieur à celui du trou (36) de la patte (20).

Claims

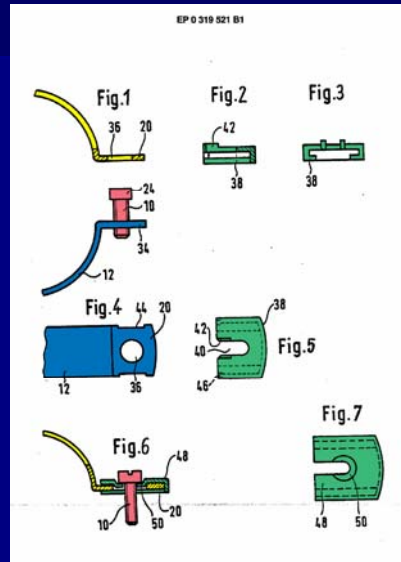
- 1. A pipe clamp, comprising an annular strap (12) with at least one opening which can be closed by a clamping screw (10), the tip of which is mounted on one side of the opening by thread engagement and the head (24) of which on the other side of the opening can be passed through and located in a hole (36) in a flange (20) attached to the strap (12), **characterised** in that the head (24) of the clamping screw (10) can be passed axially, relative to its central longitudinal axis, through the hole (36) in the flange (20) and is retained by a washer (38) which is inserted between the head (24) and the flange (20) before tightening takes place and which is formed with a slot (40) open at one end.
- 2. A pipe clamp according to Claim 1, **characterised** in that in the tightened condition of the screw (10) the washer (38) is retained in form-locking manner by the screw and/or the flange (20).
- 3. A pipe clamp according to Claim 1, **characterised** in that the washer (38) is mounted displaceably in the direction of the slot (40) but captive on the flange (20).
- 4. A pipe clamp according to Claim 2, **characterised** in that in its central region the washer (48) is provided with a recess (50) which in outline is larger than the head of the clamping screw (10) but smaller than the hole (36) in the flange (20).

Claim 1

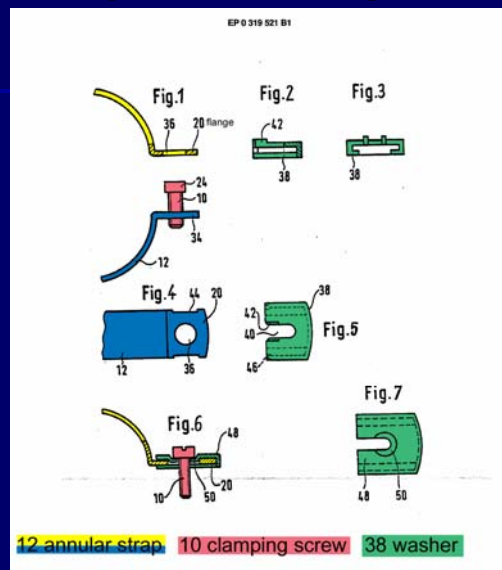
A pipe clamp, comprising an annular strap (12) with at least one opening which can be closed by a clamping screw (10), the tip of which is mounted on one side of the opening by thread engagement and the head (24) of which on the other side of the opening can be passed through and located in a hole (36) in a flange (20) attached to the strap (12),

characterised

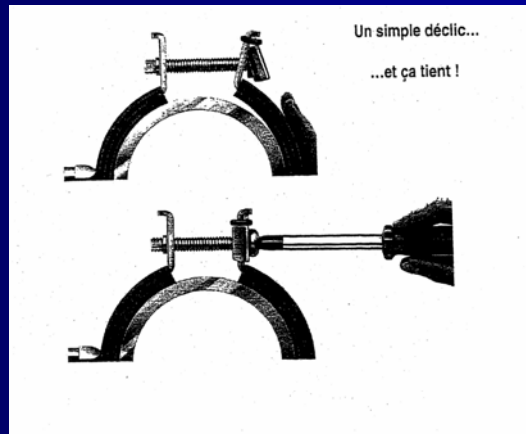
in that the head (24) of the clamping screw (10) can be passed axially, relative to its central longitudinal axis, through the hole (36) in the flange (20) and is retained by a washer (38) which is inserted between the head (24) and the flange (20) before tightening takes place and which is formed with a slot (40) open at one end.



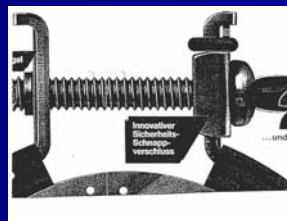
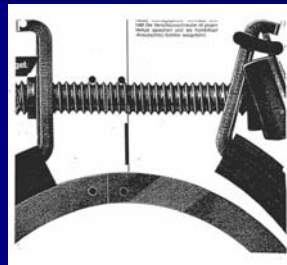
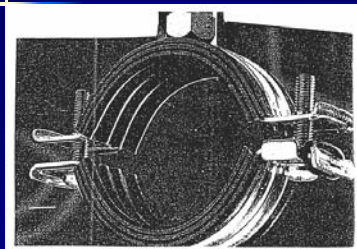
Drawings with legends



Hilti accused device 1/2

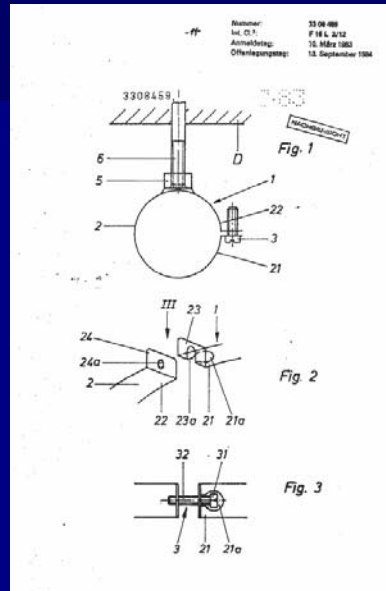


Hilti accused device 2/2



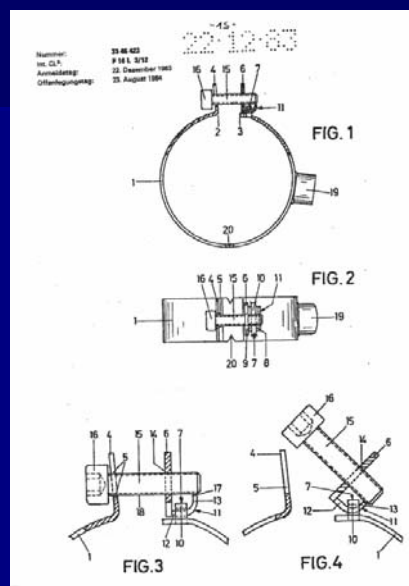
The prior art

DE-A-3 380 459



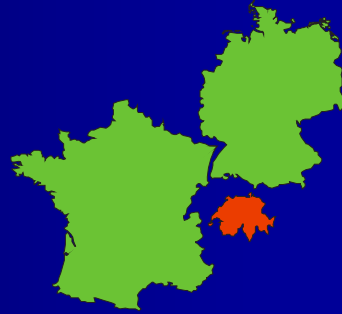
The prior art

DE-A-3 346 423



National cases so far: conflicting outcomes

- Germany: not infringed
- France: not infringed
- Switzerland: infringed



Germany

- Landgericht Düsseldorf 9.11.1993
infringed
- Oberlandesgericht Düsseldorf 27.6.1996
not infringed
- Bundesgerichtshof 7.3.1999
not infringed



Switzerland

- Handelsgericht Zurich 7.04.1997
infringed
- Bundesgericht 1998
- Handelsgericht Zurich 13.07.1999
infringed
- Bundesgericht 12.04.2001
infringed



France

- Tribunal de Grande Instance de Paris
14.01.1998
not infringed
- Cour d'appel de Paris 19.11.1999
infringed
- Cour de cassation 4.06.2002
not infringed
- Cour d'appel de Douai
(not yet decided)



Today's program

General introduction
to the litigation systems



Hearing
of the Müller vs Hilti case

General introduction to the litigation systems

- The teams
- Courts
- Preparation of the case
- Appeal
- Assessment of damages



The teams

- Clients
- Patent attorneys
- Attorneys at law
 - single profession (continental)
 - dual profession (sollicitor / barrister)
- Experts
- Other consultants

Courts

- Judicial system (the German exception)
- Legally qualified Judges
- Technically qualified Judges
- Experts members of the Court

Preparation of the case

- Gathering evidence
- Exchange of arguments and documents
- Case management by the Court
- Trial

Appeal

- Which Court?
- Leave for appeal?
- *de novo* review?
- second appeal (third level)?

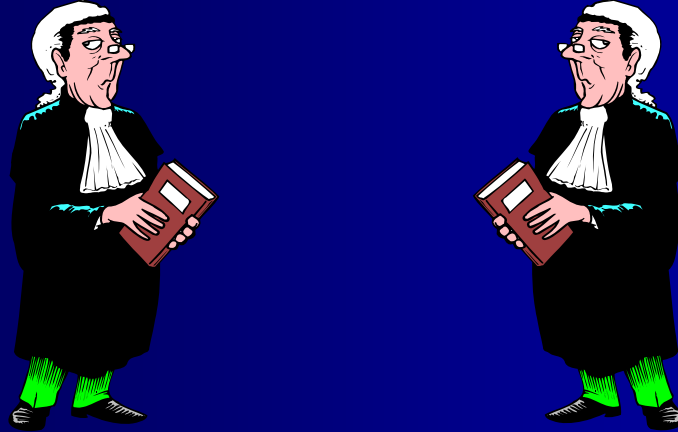
Assesment of damages

- Enquiry as to damages
- Expert opinion

Hearing of the Müller vs Hilti case

- Arguments
- Expert opinion
- Deliberation
- Verdict

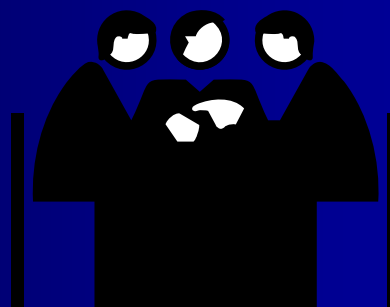
Arguments



Expert opinion



Deliberation



Verdict

After deliberation, the grand jury found by 22 (against 7) that the patent was infringed

The Court upheld this verdict (Pierre Véron and Fritz Blumer found for infringement, Giovanni Casucci against)

The European Superior Patent Court holds therefore that the patent is **infringed**



IT'S THE LAW!

