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# D E C I S I O N
# of 10 April 2002

**Case Number:** T 0642/00 - 3.5.1

**Application Number:** 91307765.7

**Publication Number:** 0483956

**IPC:** H04B 1/38, H04B 1/08, H04B 1/40

**Language of the proceedings:** EN

**Title of invention:**
Combined broadcast radio receiver and radio telephone

**Patentee:**
NOKIA MOBILE PHONES (U.K.) LIMITED

**Opponent:**
Robert Bosch GmbH

**Headword:**
Combined radio receiver and telephone/NOKIA

**Relevant legal provisions:**
EPC Art. 56

**Keyword:**
"Inventive step (no)"

**Decisions cited:**
-

**Catchword:**
-

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Beschwerdekammern | Boards of Appeal | Chambres de recours

**Case Number:** T 0642/00 - 3.5.1

**D E C I S I O N**
**of the Technical Board of Appeal 3.5.1**
**of 10 April 2002**

**Appellant:** (Proprietor of the patent)
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**Respondent:** (Opponent)
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**Representative:**
-

**Decision under appeal:**
**Decision of the Opposition Division of the European Patent Office posted 17 April 2000 revoking European patent No. 0 483 956 pursuant to Article 102(1) EPC.**

**Composition of the Board:**

**Chairman:** S. V. Steinbrener
**Members:** R. S. Wibergh
E. Lachacinski

## Summary of Facts and Submissions

I. This is an appeal by the proprietor of European Patent No. 0 483 956 against the decision of the Opposition Division to revoke the patent.

II. Claim 1 of the patent as granted reads as follows:

"A radio apparatus comprising a broadcast radio receiver and a cellular radio telephone arranged integrally with the broadcast radio in a common housing (3) for mounting in a recess (18) provided in a vehicle, said recess being intended for accommodating a standard in-car audio entertainment unit, and means responsive to the cellular radio telephone being in the off-hook condition for muting the broadcast radio receiver, the broadcast radio receiver and the cellular radio telephone transceiver sharing common circuitry".

III. The respondent opposed the patent on the grounds that the invention did not involve an inventive step having regard to - among others - the documents

D1: US-A-4 090 134

D3: US-A-4 045 739

D5: US-A-4 873 712.

IV. The Opposition Division held that the subject-matter of claim 1 was not inventive over either D1 or D3 in combination with D5.

V. The patent proprietor lodged an appeal against this decision. In the statement setting out the grounds of

appeal it was argued that D1 and D3 concerned older techniques belonging to a different field than the invention. Furthermore, the following Internet page was referred to:

E1: "RadioPhone. An international innovation" (at www.blaupunkt.de).

E1 was published - after the priority date of the opposed patent - by Blaupunkt, a member of the respondent's (opponent's) group of companies. According to the appellant, it proved that the respondent itself recognised the advantages of the invention since the features of the "RadioPhone" corresponded to those of claim 1.

VI. In a communication from the Board pursuant to Article 11(2) of the Rules of Procedure of the Boards of Appeal, the preliminary opinion was given that the reasons for the decision under appeal were convincing and the invention indeed lacked an inventive step.

VII. Oral proceedings before the Board were held on 10 April 2002. In accordance with its previous announcement the appellant was not represented at the hearing.

VIII. The appellant has requested in writing that the decision under appeal be set aside and the patent be maintained as granted.

The respondent requested at the oral proceedings that the appeal be dismissed.

IX. At the end of the oral proceedings the Chairman announced the Board's decision.

## Reasons for the Decision

1. *The invention*

As described in the patent, the invention is a car radio combined with a mobile telephone transceiver (not including the cradle and the handset; see fig. 1) intended to be inserted in the standard recess provided in the dashboard of many cars. In this way the transceiver occupies otherwise unused space and may share circuitry - eg loudspeaker and amplifier - with the radio. When the phone goes off-hook the radio is automatically "muted or silenced" (col. 4, l. 47).

2. *The prior art*

D3 discloses a radio apparatus consisting of a transceiver and a radio combined in a common housing. It is intended to be placed in a "radio frame of a motor vehicle" (col. 3, l. 43-47), something which is also suggested by its shape (fig. 2). Since D3 dates from 1976 it is not concerned with cellular radio. The appellant has suggested that it is intended for CB (Citizen Band) communication, operating at 27 MHz.

D5 describes a vehicular apparatus comprising a cellular telephone and an audio system. The telephone and the audio system are separate except for a monitor circuit (24, fig. 1) which signals to the audio system if the telephone goes off-hook. When it does, the audio system is disabled.

3. Inventive step

3.1 Novelty not being at issue, the main question is whether a combination of documents, in particular D3 and D5, renders the invention obvious.

3.2 Starting out in 1990 (the year the first application for the present invention was filed) from document D3, the skilled person would recognise that CB units in vehicles were being replaced by, in particular, cellular telephones. The combined transceiver and radio in a common housing is described in D3 as "convenient" for vehicle use (col. 1, l. 14-18). The skilled person was therefore led to consider such an arrangement also for a cellular telephone. In the Board's view, this amounted merely to updating a partly obsolete but still fundamentally interesting technique, a task the skilled person must be expected to perform as a matter of routine. The described arrangement did not otherwise have to be changed and would, more or less by necessity, involve circuitry common to the telephone and radio units since these are integrated. In D3, for example the volume control appears to be common to both units.

The remaining technical problem was to design the system in such a way that it was possible to put a call without being disturbed by the radio. This problem, which is not explicitly stated in the patent-in-suit, is well-known in the field of vehicular telephones, as testified by D5: "It will be obvious that it is difficult to engage in a telephone conversation in the presence of an operating audio system at normal volume levels" (col. 1, l. 17-19). As a solution, D5 suggests to silence the audio system during telephone operation (col. 5, l. 26). The invention proposes the same thing. Since both the problem and the solution were known, the

addition of the muting feature was obvious. In fact, the appellant has not argued in the grounds of appeal that this feature involves an inventive step.

The integration and muting problems are regarded as independent, which was also the Opposition Division's view. These features thus constitute an aggregation without any inventive technical interaction.

3.3 The appellant has pointed out that a CB radio is different from a cellular telephone in many ways, such as the frequency used. The Board agrees but nevertheless finds the similarities so striking that the skilled man could not possibly have overseen them. Above all, both kinds of transceivers perform the same communication function, and it does not matter to the driver of the car at what frequency his telephone is operating. Clearly the skilled person would have to make all modifications which are necessary in view of the technical differences between CB radio and cellular radio. However, since claim 1 (or, indeed, the whole patent-in-suit), does not discuss how the integration of the radio and transceiver units is performed, such considerations are beyond the scope of the present patent.

3.4 The appellant has cited E1, non pre-published promotional material by Blaupunkt, which is a company belonging to the respondent's group. E1 presents an apparatus called "RadioPhone" which apparently comprises the features of claim 1 of the opposed patent and which is hailed as "new" and "innovative". E1 shows, in the appellant's opinion, that the respondent itself regards the subject-matter of claim 1 as inventive. This the respondent denies.

In the Board's judgment, little weight can be attributed to this piece of evidence. First, advertisements notoriously exaggerate. Second, to involve an inventive step means, in the words of the EPC, not to be obvious to a person skilled in the art having regard to the state of the art. It is not certain that the author of E1 was such a skilled person or that he was aware of D3 and D5. Third, it can at least not be excluded that Blaupunkt regards the "RadioPhone" as new and innovative because of features not contained in claim 1 of the opposed patent, such as the way the integration of radio and telephone has been achieved.

3.5 It follows that the subject-matter of claim 1 does not involve an inventive step (Article 56 EPC).

## Order

## For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

M. Kiehl S. Steinbrener