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D E C I S I O N
of 19 October 2004

Case Number: T 0151/03 - 3.2.4

Application Number: 95919167.7

Publication Number: 0723391

IPC: A01C 17/00

Language of the proceedings: EN

Title of invention:
Mobile control system responsive to land area maps

Patentee:
AG-CHEM EQUIPMENT CO., Inc.

Opponent:
Maasland N.V.

Headword:
-

Relevant legal provisions:
EPC Art. 123(2)

Keyword:
"Added subject-matter (yes)"

Decisions cited:
-

Catchword:
-

Case Number: T 0151/03 - 3.2.4

D E C I S I O N
of the Technical Board of Appeal 3.2.4
of 19 October 2004

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Decision under appeal:
Interlocutory decision of the Opposition Division of the European Patent Office posted 2 December 2002 concerning maintenance of European patent No. 0723391 in amended form.

Composition of the Board:

Chairman: M. Ceyte
Members: C. Scheibling
M. Aúz Castro

Summary of Facts and Submissions

I. In its interlocutory decision posted 2 December 2002, the Opposition Division found that, taking into consideration the amendments according to the first auxiliary request made by the Patent Proprietor during opposition proceedings, the European patent and the invention to which it relates meet the requirements of the EPC. On 30 January 2003 the Appellant (Opponent) filed an appeal and paid the appeal fee simultaneously. The statement setting out the grounds of appeal was received on 11 April 2003.

II. The patent was opposed on the grounds based on Articles 100(a) EPC (54 and 56 EPC). Further objections based on Article 100(c) EPC were raised against the amended claims.

III. The independent claims as maintained read as follows:

"1. A mobile control system comprising:
a) a plurality of control modules (304), wherein each control module is configured to control an associated actuator device (306, 308), wherein each control module within said plurality of control modules is responsive to a land area map which is unique to only that control module (304), for controlling at least one actuator device, and wherein said plurality of control modules are coupled to a self-propelled vehicle external to a vehicle operated cab;
b) networking means (300) for distributing said plurality of control modules together on a distributed network;

c) computing means (14) coupled to said distributed network for configuring a function for at least one control module (304) within said plurality of control modules;
d) monitoring means (10) coupled to said computing means (14) for visually providing an operator status data for said distributed network (300);
e) data entering means (12) coupled to said computing means (14) for providing network configuration data for said computing means; and
f) network interfacing means (204) coupled to said computing means (14) for communicating said configuration data to said distributed network (300)."

"10. A method of operating a distributed network mobile control system, said system of the type comprising a plurality of control modules (304) for controlling an associated actuator device (306, 308), each control module within said plurality of control modules being responsive to a land area map which is unique to only that control module (304), for controlling at least one actuator device, and wherein said plurality of control modules are coupled to a self-propelled vehicle external to an operator cab; networking means (300) for distributing said modules together on a distributed network; computing means (14) coupled to said distributed network for configuring a function for at least one control module within said plurality of control modules; monitoring means (10) coupled to said computing means (14) for visually providing an operator status data for said distributed network; data entering means (12) coupled to said computing means (14) for providing network configuration data for said computing means; and network interfacing means (204) coupled to

said computing means (14) for communicating said configuration data to said distributed network, said method comprising the steps of:

a) entering preliminary operating mode and land area map configuration data into said computing means (14);

b) communicating said preliminary operating mode and area map configuration data to said plurality of control modules (304), such that said each control module within said plurality of control modules is initialized with a predetermined mode of operation, wherein said mode of operation is responsive to said land area map configuration data;

c) controlling said at least one actuator device (306, 308) with said plurality of initialized control modules (304) over a first selected land area determined by said land area map configuration data;

d) entering new land area map configuration data into said computing means;

e) communicating said new land area map configuration data to a predetermined number of control modules (304) within said plurality of initialized control modules such that said predetermined number of control modules within said plurality of initialized control modules are reinitialized to be responsive to said new land area map configuration data; and

f) controlling said at least one actuator device (306, 308) with said plurality of initialized control modules (304) having said predetermined mode of operation responsive to said land area maps configuration data over said first selected land area determined by said land area map configuration data and said predetermined number of reinitialized control modules having said predetermined mode of operation responsive to said new land area map configuration data, over a second

selected land area determined by said new land area map configuration."

IV. The Appellant mainly argued that the amended claims 1 and 10 as maintained did not fulfil the requirements of Article 123(2) EPC, since there was no basis in the application as filed for the feature "wherein each control module … is responsive to a land area map which is unique to only that control module".

The Appellant requested that the decision under appeal be set aside and that the patent be revoked; oral proceedings were requested should the Board not intend to revoke the patent.

In his response to the statement setting out the grounds of appeal, the Respondent (patentee) requested that the appeal be dismissed and indicated that he did not intend to file further submissions. He did not respond within the set time limit to the Board's communication indicating that the amendments to claims 1 and 10 were apparently not allowable having regard to Article 123(2) EPC.

Reasons for the Decision

1. The appeal is admissible.

2. *Amendments - claim 1 as maintained*

2.1 Claim 1 as maintained comprises the following feature: "each control module … is responsive to a land area map which is unique to only that control module."

This means that each control module is only responsive to a unique land area map.

2.2 Claim 1 as originally filed comprises the following feature: "wherein each control module within said plurality of control modules is responsive to at least one land area map for controlling at least one actuator device."

This means that each control module is responsive to at least one land area map.

2.3 Claim 10 as originally filed comprises the following feature: "said at least one land area map is associated solely with a single predetermined control module (304) within said plurality of control modules."

This means that the same at least one land area map is not associated with more than one control module.

2.4 Thus, claims 1 and 10 as originally filed do not form a basis for the amendment to claim 1 that a single control module is responsive to only one unique area map (see section 2.1 above).

2.5 Page 9, lines 1 to 6 of the description as originally filed reads: "Furthermore, the independence of each control module 304 and use of the afore mentioned combination of modern technologies allows each actuator 20 to apply product to an area in response to a product application map which is unique to only that particular nodal control module 304. In previous systems, all of the actuators 20 in the product application control

system necessarily responded to a single application area map creating undesirable restrictions on product applications."

This means that only one particular control module is responsive to a unique product application map.

2.6 This passage could only form a basis for the contested amendment, if the expressions "land area map" and "product area map" had the same meaning and scope. Firstly, it has to be noted that there is no need to use two different expressions for designating a same item.

Secondly, according to the passage page 9, lines 1 to 6 of the description as originally filed, the product application map is used to apply a product to an area. Thus, the product application map is linked to a product application sequence actuated by a product application control system.

However, both claim 1 as originally filed, as well as amended claim 1 as maintained, refer to a mobile control system … for controlling at least one actuator device and thus, are not limited to a product application control system.

Moreover, the expression "land area map" is not used throughout the description as originally filed. Thus, even if it appears to be clear for a person skilled in the art that a "product area map" must be some kind of "land area map", there appears to be no unequivocal basis for the assertion that, in the meaning of the patent in suit, "land area map" can

designate nothing else than a "product area map" and is limited to that.

2.7 Therefore, the passage of the description referred to above, cannot form a basis for the contested amendment either.

2.8 Consequently, amended claim 1 as maintained does not fulfil the requirements of Article 123(2) EPC.

3. *Amendments - claim 10 as maintained*

Since amended claim 10 comprises the same amendment as claim 1, i.e. "each control module … being responsive to a land area map which is unique to only that control module", amended claim 10 does not fulfil the requirements of Article 123(2) EPC either.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The patent is revoked.

The Registrar: The Chairman:

G. Magouliotis M. Ceyte