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**Datasheet for the decision
of 27 March 2007**

Case Number: T 0655/04 - 3.4.01

Application Number: 99113329.9

Publication Number: 1067627

IPC: H01Q 9/04

Language of the proceedings: EN

Title of invention:
Dual band radio apparatus

Applicant:
ROBERT BOSCH GMBH

Opponent:
-

Headword:
-

Relevant legal provisions:
EPC Art. 123(2), 111(1)
EPC R. 86(4)

Keyword:
-

Decisions cited:
-

Catchword:
-



Case Number: T 0655/04 - 3.4.01

D E C I S I O N
of the Technical Board of Appeal 3.4.01
of 27 March 2007

Appellant: ROBERT BOSCH GMBH
(Applicant) Postfach 30 02 20
D-70442 Stuttgart (DE)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 28 November 2003
refusing European application No. 99113329.9
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: B. Schachenmann
Members: G. Assi
R. Bekkering

Summary of Facts and Submissions

- I. The appellant (applicant) lodged an appeal, received on 2 February 2004, against the decision of the examining division, dispatched on 28 November 2003, refusing European patent application No. 99113329.9 (publication number 1 067 627). The fee for the appeal was paid on 2 February 2004. The statement setting out the grounds of appeal was filed on 5 April 2004.
- II. In the contested decision, the examining division held that the subject-matter of claim 1 then on file lacked novelty (Article 54 EPC). Moreover, the features of the dependent claims "*could not lend inventive step to the subject matter of claim 1*" (Article 56 EPC).
- III. Oral proceedings before the Board were held on 27 March 2007.
- IV. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of a claim 1 submitted at the oral proceedings.
- V. The wording of claim 1 reads as follows:
- "Radio apparatus (1), particularly for mobile use, comprising an antenna arrangement (5) with at least a first antenna element (20) and a second antenna element, wherein a capacitive coupling provides an electromagnetic interaction between the first and the second antenna element when radio frequency radiation is incident on or emitted from said antenna arrangement (5), said interaction providing that the antenna arrangement (5) is operational in at least two*

frequency bands, characterized in that said radio apparatus (1) comprises a conducting ground plate (10), that said first antenna element (20) is electrically connected to said ground plate (10) by first connecting means (50), that said second antenna element is electrically connected to said ground plate (10) by second connecting means (60), that said first connecting means (50) are provided substantially at a first end of said first antenna element (20) and that the second antenna element includes subelements (30, 31) in the same plane as the first antenna element (20) and arranged symmetrically on one and another side of the first antenna element (20) and a coupling element (40) in between providing said capacitive coupling between said first antenna element (20) and said second antenna element, said coupling element (40) being arranged in a different plane parallel to and in between a first and second plane (11, 21) defined by the ground plate (10) and the first antenna element (20) near a second end of said first antenna element (20) opposite to that first end so as to provide said electromagnetic interaction."

Reasons for the Decision

1. The appeal is admissible.
2. The amended claim 1 is supported by claims 1, 2, 3 and 7 as well as paragraphs [0029] and [0030] of the application as filed. Therefore, the provisions of Article 123(2) EPC are met.
3. The embodiments shown in Figures 1 to 6 of the application as filed fall under the wording of the

amended claim 1. These embodiments are all characterised by the fact that the second antenna element comprises a coupling element 40 located in a plane parallel to, thus different from, that of the subelements 30, 31. As claimed, the coupling element is arranged "*in a different plane parallel to and in between a first and second plane (11, 21) defined by the ground plate (10) and the first antenna element (20)*".

4. In the decision under appeal (No. IV), the examining division noted that "*The embodiment shown in Figure 2 of the application, especially the coupling element 40 being arranged underneath the open end of the first element 20, would not appear to be disclosed in the prior art on file. It is, however, noted that there is no dependent claim corresponding to this embodiment. Consequently, such an embodiment would have to be filed in a divisional application such that an appropriate Search Report could be established.*" The Board notes that this statement only mentions the embodiment shown in Figure 2. However, it would also apply to the embodiments of Figures 1 and 3 to 6 showing the same second antenna element as that of Figure 2.

Moreover, the Board agrees that the radio apparatus according to amended claim 1, in particular the shape of the second antenna element and its arrangement with respect to the first antenna element and the conducting ground plate, is neither disclosed (Article 54 EPC) nor rendered obvious (Article 56 EPC) by the prior art documents on file.

5. Although according to the Guidelines for Examination in the EPO (July 1999) "*In principle, and in so far as possible and reasonable, the search should cover the entire subject-matter to which the claims are directed or to which they might reasonably be expected to be directed after they have been amended*" (paragraph B-III, 3.6), the examining division's statement in the decision under appeal throws a doubt upon the subject of the search, in particular whether it indeed embraces the embodiments according to Figures 1 to 6.

In the circumstances, the Board deems it equitable to remit the case to the examining division for further prosecution (Article 111(1) EPC, second sentence, second alternative). In particular, the necessity of an additional search during examination is left to the judgement of the examining division.

6. Moreover, the Board disagrees with the examining division's view that a divisional application would have to be filed. Pursuant to Rule 86(4) EPC, amended claims may not relate to unsearched subject-matter which does not combine with the originally claimed invention or group of inventions to form a single general inventive concept. In the present case, an objection under this provision should not be raised because the new subject-matter does not lead to a lack of unity. As the appellant underlined in the oral proceedings, features disclosed in the description as filed were added to the originally filed claim 1 in order to meet the objections of lack of novelty and inventive step raised by the examining division.

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 for further prosecution.

The Registrar:

The Chairman:

R. Schumacher

B. Schachenmann