

**Internal distribution code:**

- (A)  Publication in OJ  
(B)  To Chairmen and Members  
(C)  To Chairmen  
(D)  No distribution

**Datasheet for the decision  
of 16 November 2006**

**Case Number:** T 0103/05 - 3.2.05

**Application Number:** 98926219.1

**Publication Number:** WO 98/55717

**IPC:** E05B 49/00

**Language of the proceedings:** EN

**Title of invention:**  
Improved secure self learning system

**Applicant:**  
MICROCHIP TECHNOLOGY INC.

**Opponent:**  
-

**Headword:**  
-

**Relevant legal provisions:**  
EPC Art. 54, 111(1)

**Keyword:**  
"Novelty (main request (no), auxiliary request (yes))  
"Remittal to the first instance for further prosecution"

**Decisions cited:**  
-

**Catchword:**  
-



Case Number: T 0103/05 - 3.2.05

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.05  
of 16 November 2006

**Appellant:** MICROCHIP TECHNOLOGY INC.  
2355 West Chandler Boulevard  
Chandler, AZ 85224-6199 (US)

**Representative:** Patry, Didier Marcel Pierre  
Baker Botts  
41 Lothbury  
London EC2R 7HF (GB)

**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 9 August 2004  
refusing European application No. 98926219.1  
pursuant to Article 97(1) EPC.

**Composition of the Board:**

**Chairman:** W. Zellhuber  
**Members:** P. Michel  
E. Dufrasne

## Summary of Facts and Submissions

I. The appellant (applicant) lodged an appeal against the decision of the Examining Division refusing European patent application No. 98 926 219.1.

The Examining Division held that the subject-matter of claim 1 was either not new or lacked an inventive step.

II. Oral proceedings before the Board of Appeal took place on 16 November 2006.

III. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the main request (claims 1 to 10) filed with letter dated 7 December 2004 or, in the alternative, on the basis of the auxiliary request 1 (claims 1 and 2) filed during the oral proceedings.

IV. The following documents are referred to in the present decision:

D1: EP-A-0 688 929

D2: US-A-4,855,713

V. Claim 1 of the main request reads as follows:

"1. An access system comprising:  
- an encoder and a decoder, and  
- a decoder learning mode activation means whereby upon activation of said means the decoder is set in learning mode,  
characterized in that said means being physically remote or detached from the encoder and the decoder."

VI. Claim 1 of the auxiliary request reads as follows:

"1. A garage door opening system comprising an access control system comprising:  
- an encoder and a decoder, and  
- a decoder learning mode activation means whereby upon activation of said means the decoder is set in learning mode,  
characterized in that said means being physically remote or detached from the encoder and the decoder,  
that said remote or detached means include a wall console switch for opening and closing the garage door,  
that said wall console switch being located on a wall of the garage and being in electrical communication with said decoder, and  
that depressing a button in said wall console switch for a short period of time initiates a garage door open/close function and depressing said button for an extended period of time initiates said learning mode."

VII. In the written and oral procedure, the appellant has argued substantially as follows:

Document D2 does not disclose an access system having a decoder learning mode activation means as required by claim 1 of the main request. In learning mode, the decoder is able to recognize data transmitted from other apparatus. This does not occur in the system disclosed in document D2, data being supplied to the decoder from the hand held programmer 6.

The subject-matter of claim 1 of the main request is thus new.

## Reasons for the Decision

### 1. *Main Request*

#### Novelty

Document D2 discloses a system belonging to the prior art, which is described at column 3, lines 31 to 60 and illustrated in Figure 1a. This system includes a decoder learning mode activation means in the form of a hand held programmer 6, which is physically remote or detached from both the encoders and the decoder 10.

The term "access system" as used in claim 1 is considered to include not only a system which permits physical access to a location, but also access to an alarm system as disclosed in document D2.

In addition, the term "decoder learning mode activation means" cannot be regarded as being restricted to a means for activating a learning mode in which the decoder is enabled to recognize data from an encoder. Rather, the term is construed, in accordance with the paragraph at page 3, lines 20 to 22 of the present application, as referring to means which enables a user to add a new encoder to the system or exclude an existing encoder from the system. This can be achieved with the programmer 6 of document D2 by appropriate programming of the system controller 10, as disclosed at column 3, lines 44 to 46. After programming to introduce a fresh code, the decoder has acquired, or learned, a code enabling access by a new encoder.

Similarly, the programmer can delete a code so as to prevent access by an existing encoder.

The subject-matter of claim 1 is thus not new in view of the disclosure of document D2.

2. *Auxiliary Request 1*

Amendments

The features introduced into claim 1 are disclosed in the application as filed at page 27, line 20 to page 28, line 16.

Novelty

Neither document D1 nor document D2 discloses a garage door opening system including a wall console switch having the features defined in claim 1.

In addition, it is noted that the feature of claim 1 according to which the decoder learning mode activation means is "physically remote or detached from the encoder and the decoder" is construed as requiring that the decoder learning mode activation means is located at a distance from both the encoder and the decoder.

In the paragraph at column 15, line 57 to column 16, line 7, of document D1, it is merely disclosed that "external circuitry, such as a push button 110 or other switching means, can be used". There is thus no disclosure in document D1 of the decoder learning mode activation means being "physically remote or detached from the encoder and the decoder".

The subject-matter of claim 1 is thus new.

3. *Remittal to the first instance*

The examining division has not yet had the opportunity of considering the question of whether or not the subject-matter of claim 1 according to auxiliary request 1 involves an inventive step. It is accordingly considered appropriate in accordance with Article 111(1) EPC to remit the case to the first instance for further prosecution, in order to enable this issue to be considered.

**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 on the basis of claims 1 and 2 of the auxiliary request 1 filed during the oral proceedings.

The Registrar:

The Chairman:

D. Meyfarth

W. Zellhuber