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Datasheet for the decision of 27 June 2006

Case Number: T 1108/05 - 3.2.06

Application Number: 96101395.0

Publication Number: 0725181

IPC: D06F 39/00

Language of the proceedings: EN

Title of invention:
Washing machine with an electronic control system, having a simplified programming and programming method thereof

Patentee:
WRAP S.p.A.

Opponent:
BSH Bosch und Siemens Hausgeräte GmbH

Headword:
-

Relevant legal provisions:
EPC Art. 83, 54(2), 56

Keyword:
"Sufficiency of disclosure (yes)"
"Novelty (yes)"
"Inventive step (no) - main and first auxiliary request"
"Inventive step (yes)" - second auxiliary request"

Decisions cited:
T 0005/99

Catchword:
-

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Case Number: T 1108/05 - 3.2.06

D E C I S I O N
of the Technical Board of Appeal 3.2.06
of 27 June 2006

Appellant: (Opponent)
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Representative:
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Decision under appeal:
Decision of the Opposition Division of the European Patent Office posted 27 June 2005 rejecting the opposition filed against European patent No. 0725181 pursuant to Article 102(2) EPC.

Composition of the Board:

Chairman: P. Alting van Geusau
Members: G. Pricolo
K. Garnett

Summary of Facts and Submissions

I. The appeal is from the decision of the Opposition Division posted on 27 June 2005 to reject the opposition filed against European patent No. 0 725 181, granted in respect of European patent application No. 96 101 395.0.

Claim 1 as granted reads as follows:

"Washing machine, that comprise at least an electronic control system and manual command means (3;3A), said washing machine (1;1A) being able to carry out, in function of the information obtained by way of said command means (3;3A), at least one predetermined treatment cycle selected from among a plurality of different possible treatment cycles, the carrying out of said treatment cycles depending upon numerous parameters relative to characteristics of the products to be washed, said control system comprises an electronic programmer to which memory means for storing data regarding treatment cycle and sensor means, arranged within the machine and operative for controlling the execution of said selected treatment cycle, are associated, wherein for the selection of a treatment cycle predetermined and stored in said memory means, said programmer has the necessity of a single information, inputted by the user by way of said manual command means (3;3A), relative to a characteristic parameter of the products to be washed, characterised in that at least one or more further parameters, which are difficult for the user to input and which are necessary for the optimal management of the washing machine, are obtained in an automatic way by the

programmer in function of information detected by said sensor means."

II. In coming to its decision the Opposition Division considered that the patent in suit disclosed the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art and that the claimed subject-matter was novel and involved an inventive step over the relevant prior art represented in particular by document:

D7: DE-A-42 02 656.

III. The appellant (opponent) lodged an appeal against this decision, received at the EPO on 25 August 2005, and simultaneously paid the appeal fee. The statement setting out the grounds of appeal was received at the EPO on 7 November 2005.

IV. In an annex to the summons for oral proceedings pursuant to Article 11(1) Rules of Procedure of the boards of appeal the Board expressed the preliminary opinion that it would need to be discussed whether D7 disclosed in a clear and unambiguous manner the feature recited in claim 1 of the patent in suit, according to which for the selection of a treating cycle which had been predetermined and stored in the memory means, the programmer "had the necessity of a single information", inputted by the user by way of the manual command means, "relative to" a characteristic parameter of the products to be washed. Also, if it came to assessment of inventive step, D7 could be regarded as an appropriate starting point.

V. Oral proceedings took place on 8 June 2006.

The appellant requested that the decision under appeal be set aside and that the patent be revoked.

The respondent (patentee) requested that the appeal be dismissed, or, alternatively, that the patent be maintained on the basis of first or second auxiliary requests filed during the oral proceedings.

VI. Claim 1 according to first auxiliary request adds to claim 1 as granted the additional features of claim 8 as granted, according to which:

"facultative use command means (6,7;6A,7A) are provided, for modifying the predetermined treating cycle and/or for creating particular cycles, said facultative command means comprising at least a key (6,7;6A,7A) for an eventual modification of a temperature value of the washing liquid chosen in an automatic manner by the programmer".

Claim 1 according to the second auxiliary request further adds the additional features of claim 9 as granted, namely:

"the programmer imposes a maximum limit and a minimum limit to the temperature value that can be modified by the user with the facultative key means (6,7;6A,7A), the maximum limit being provided so as to avoid damage to the dishes or laundry, the minimum value being provided for guaranteeing the performance of the wash".

VII. The arguments of the appellant can be summarized as follows:

Claim 1 of the patent in suit referred, on the one hand, to "a single information" inputted by the user, and on the other, to a further parameter which was difficult for the user to input. According to the description, the single item of information could be one of the following: woollens, delicate fabrics, synthetics, coloured fabrics, very strong fabrics, or very dirty. In the case of "very dirty", the further parameter which was difficult for the user to input could not be the type of laundry, such as woollens or synthetics, because such information was classified in the patent in suit as a possible "single information", i.e. an item of information which was easy for the user to input. Accordingly, the claim covered an embodiment in which the machine was not supplied with information regarding the type of laundry. Without such information it was not possible to select any appropriate washing program. The patent in suit referred to an Italian patent application describing a sensor of the type of laundry. However, this sensor could detect the type of laundry only after the washing program was initiated. Furthermore, the patent in suit was not clear in respect of when a parameter could be regarded as "difficult for the user to input".

D7 disclosed all the features of claim 1 as granted, including the feature that the programmer needed to be given a single item of information for the selection of a treatment cycle which had been predetermined and stored in the memory means. Indeed D7 disclosed that a single washing program, e.g. "delicate", could be

selected by means of a single program selector. According to this disclosure, the user inputted information relating to ("relative to") a characteristic parameter of the products to be washed, e.g. "delicate", and the programmer selected a specific program stored in memory on the basis of this single input. On the assumption that the programmer nonetheless required a plurality of inputs from the user, the subject-matter of claim 1 did not involve an inventive step, because the skilled person would consider the selection of a washing program such as "delicate", by means of a single input, as an obvious choice amongst possible alternatives.

Claim 1 according to the second auxiliary request additionally required means for modifying the temperature value of the washing liquid chosen in an automatic manner by the programmer. In order to adapt the washing machine to individual needs, it would be obvious for a skilled person to consider means for overriding the automatic washing program, and in particular for modifying the temperature set by the programmer such that it corresponded to a particular value desired by the user. In fact, it was well known in the art, as disclosed in particular by documents:

D9: DE-A-34 03 487, and

"SIWAMAT PLUS. Sparsam und schonend waschen mit Oberwasser. Das Plus von Siemens" (brochure filed by the appellant during the oral proceedings)

to provide washing machines with separate means for setting the temperature.

The provision of upper and lower limits for the temperature values that could be modified by the user, in accordance with claim 1 of the second auxiliary request, was obvious because the skilled person knew that too high a temperature might damage the laundry whilst too low a temperature might result in an insufficient washing performance.

VIII. In support of its requests the respondent relied essentially on the following submissions:

The patent in suit related to a washing machine in which a program was selected by the programmer on the basis of a single item of information inputted by the user and on the basis of at least one further parameter which was difficult for the user to input, and which was obtained automatically by the programmer on the basis of information detected by sensor means. This interpretation of claim 1 was supported by the description of the patent in suit. The latter included several examples of "single information" and "further parameters" and, therefore, the skilled person was in a position to reproduce the invention.

In contrast to the invention claimed in the patent in suit in which a predetermined washing program was selected *before* starting the treating cycle on the basis partly of information inputted by the user and partly of at least one parameter obtained automatically, D7 related to a washing machine in which, *after* the selection of a washing program, several parameters were automatically adjusted based on ("in function of") information detected by sensor

means. In D7 it was the user, rather than the programmer itself, that selected the washing program: when selecting a washing program such as "delicate", the user did not input information relating to a characteristic parameter of the products to be washed, but specified a complete treatment cycle. Furthermore, there was no reason to modify the washing machine of D7 such that it only required the input of a single item of information by the user for the selection of a treatment cycle. In fact, the skilled person seeking to facilitate the washing machine of D7 would instead consider a fully automatic control system, requiring no input at all from the user, in accordance with the approach followed by Japanese producers described in the introductory portion of the patent in suit. Therefore, the subject-matter of claim 1 as granted was novel and non-obvious over the prior art.

Since, according to D7, the temperature of the washing liquid was automatically checked and adjusted during the washing cycle in response to information derived from sensors, there was no reason to provide the washing machine of D7 with means for overriding a temperature value set by the programmer, in accordance with the additional feature of claim 1 of the first auxiliary request.

Finally, the prior art did not suggest imposing both a maximum and a minimum limit on the temperature value that could be modified by the user. This feature, recited in claim 1 of the second auxiliary request, allowed an improved dialogue between the user and the washing machine.

Reasons for the Decision

1. The appeal is admissible.

2. *Subject-matter of the claim*

2.1 The preamble of granted claim 1 recites that "for the selection of a treating cycle predetermined and stored in said memory means, said programmer has the necessity of a single information, inputted by the user by way of said manual command means, relative to a characteristic parameter of the products to be washed". This wording implies that the selection of a treatment cycle from amongst the plurality of treatment cycles stored in the memory means is done on the basis of "the single information". Accordingly, for each "single information" that can be inputted by the user there is a corresponding treatment cycle stored in memory.

Claim 1 specifies in the characterizing portion that "at least one or more further parameters, which are difficult for the user to input and which are necessary for the optimal management of the washing machine, are obtained in an automatic way by the programmer in function of information detected by said sensor means." According to this definition, the obtaining of the "further parameter" is not required for the selection of a treatment cycle stored in memory but "for the optimal management of the washing machine". The "management" of the washing machine is not concerned with the selection of a treatment cycle before the machine is started but rather with the supervision of the treatment cycle itself.

Therefore, in the Board's judgment, claim 1 in its literal reading relates to a washing machine in which the programmer selects, based on a user's single input, one treatment cycle from amongst those stored in memory and then, once the selected treatment cycle is started, the programmer obtains further parameters necessary for the optimal management of the treatment cycle in an automatic manner, i.e. it supervises or adapts the selected treatment cycle, based on information detected by sensor means.

2.2 The respondent submitted that the claim should be interpreted differently from its literal reading, having regard to the description of the patent in suit.

Apart from the fact that in the present case there is no necessity to refer to the description to interpret the claim, since a literal reading thereof conveys a clear technical teaching, there are no statements in the description of the patent in suit or in the application as filed that contradict the literal reading of claim 1 explained above. The respondent referred in particular to paragraphs [0017] and [0018] of the patent in suit. In paragraph [0017] it is stated that the user is asked for information of a type which is purely qualitative in nature, and that quantitative data, which is difficult for the user to obtain, is obtained automatically. In the subsequent paragraph [0018] it is stated that "*the information obtained in the way mentioned above is then elaborated by the electronic control system and translated into appropriate actions, having the aim of managing the household appliance in such a way so as to obtain the*

maximum global performance in relation to a determined functional condition". This passage does not indicate that the selection of a program stored in memory is carried out on the basis of both the qualitative information inputted by the user and the quantitative information obtained automatically. The fact that this information is "*then elaborated*" merely implies that it is elaborated after having being obtained. This does not exclude the possibility that the qualitative information is used for the selection of a program and that the quantitative information is used for the adjustment or supervision of parameters set by the washing program. In fact, paragraph [0051] of the description suggests rather that the management of the washing machine is an action performed whilst a treatment cycle is being carried out. The statement in this paragraph according to which "*the washing program is therefore managed*", implies that the information obtained by the sensors is used to supervise or adapt a washing program, not to select it from predetermined programs stored in memory.

3. *Sufficiency of disclosure*

3.1 The patent in suit includes different examples of the type of information which is to be inputted by the user (see par. [0017] and [0029]), of the parameters which are detected automatically (see par. [0017]) and of the sensors to be used for this purpose (see par. [0033] to [0036]). Since the skilled person in the present technical field can be expected to have sufficient knowledge of programmers for washing machines to enable him to put into practice a programmer capable of selecting a treatment cycle stored in memory means and

of managing the washing machine in an automatic way on the basis of information detected by the sensor means, the Board comes to the conclusion that the skilled person would have no difficulties in reproducing a washing machine according to claim 1.

3.2 In fact, the appellant did not dispute that the skilled person would be capable of reproducing a washing machine according to claim 1, but it was argued rather that he would not be capable of reproducing all the embodiments falling within the scope of claim 1, in particular an embodiment in which no information regarding the type of laundry was inputted or obtained automatically by the sensor means.

However, if the type of laundry is effectively an item of information that is needed for carrying out a treatment cycle, then the skilled person would consider it necessary to provide this information to the programmer: either it is inputted by the user, or it is determined automatically by sensor means such as those referred to in par. [0056] of the patent in suit. The fact that these specific sensor means can only determine the type of laundry once a treatment cycle is started is not at odds with an embodiment of the claimed washing machine in which the type of laundry is a "further parameter", since the treatment cycle can in any case be selected on the basis of a "single information" inputted by the user and the washing machine can then be started.

The appellant also submitted that the fact that the information concerning the type of laundry was an item of information which could be inputted by the user, in

accordance with the examples given in the description (see par. [0029]), excluded the possibility that the information concerning the type of laundry was a parameter difficult for the user to input. Furthermore, it was not clear when a parameter could be regarded as being "difficult for the user to input".

In the Board's view this latter objection is rather concerned with lack of clarity (Article 84 EPC), which is not a ground of opposition in accordance with Article 100 EPC, rather than with insufficient disclosure. However, in the Board's view, the definition "difficult for the user to input" does not give rise to a lack of clarity: it clearly has a subjective character and as such it does not impose any particular limitation on the nature of the "further parameter" to which it refers. Accordingly, the fact that the information concerning the type of laundry is a "single information" inputted by the user in one embodiment does not exclude the possibility that it could be information difficult for the user to input in another embodiment. It is noted in this respect that the present case is different from that underlying decision T 5/99 referred to by the appellant during the oral proceedings. In T 5/99 sufficiency of disclosure was denied because the patent in suit gave two inconsistent definitions of an essential parameter of the invention. In the present case no such inconsistency arises, because the patent in suit does not give two inconsistent definitions of "single information" and of "further parameter". As explained above, it is in fact clear for the skilled person what parameters might fall under these definitions.

3.3 For these reasons the European patent discloses the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art.

4. *Novelty (main request)*

4.1 Using the wording of claim 1 of the patent in suit, D7 indisputedly discloses a washing machine that comprises at least an electronic control system and manual command means, said washing machine being able to carry out, in function of the information obtained by way of said command means, at least one predetermined treatment cycle selected from among a plurality of different possible treatment cycles, the carrying out of said treatment cycles depending upon numerous parameters relative to characteristics of the products to be washed (see preamble of claim 1 of D7), wherein said control system comprises an electronic programmer to which memory means for storing data regarding treatment cycle (see column 1, line 30) and sensor means (see column 2, lines 1-10), arranged within the machine and operative for controlling the execution of said selected treatment cycle, are associated.

D7 further discloses that for the selection of a treatment cycle predetermined and stored in said memory means, said programmer has the necessity of information inputted by the user by way of said manual command means, relative to a characteristic parameter of the products to be washed (see column 1, lines 55 to 63 and column 2, lines 36 to 43).

The respondent submitted that in D7 it is the user that selects the program stored in the memory means and not the programmer as required by claim 1 of the patent in suit. However, claim 1 of the patent in suit requires that the programmer selects a treatment cycle stored in memory means on the basis of information inputted by the user, which is exactly what the programmer of D7 does. In a machine having an electronic programmer it is indeed the programmer that has access to the memory means, not the user. Thus in D7 it can only be the programmer which operates a selection from the data stored in the memory means. The fact that in D7 the user selects a particular washing program, i.e. a treatment cycle, such as "boiling", "coloured", or "delicate" (see D7, column 2, lines 37 and 42), does not imply that it is the user himself or herself who operates the selection in the memory means, nor, as submitted by the respondent, does it imply that the user is required to know all the parameters of a washing program in order to carry out the selection.

Finally, D7 discloses that at least one or more parameters, which are difficult for the user to input, such as the quantity and/or the type of laundry (see column 2, line 3; these same parameters are explicitly contemplated in the patent in suit, see column 5, line 47) and which are necessary for the optimal management of the washing machine, are obtained in an automatic way by the programmer based on ("in function of") information detected by said sensor means (column 2, lines 1 to 27). D7 indeed discloses that the information obtained by the sensors (see column 1, line 64 to column 2, line 5) is used for modifying or adapting the values of parameters assigned to a certain

washing program (see column 2, lines 5 to 10). This effectively corresponds, having regard to the literal meaning of this term (see above point 2.1), to a management of the washing machine.

4.2 D7, however, does not disclose that said programmer has "the necessity of a single information" inputted by the user for the selection of a treatment cycle predetermined and stored in said memory means. Although D7 refers to washing programs chosen by reference to one piece of information relating to the kind of laundry ("coloured", or "delicate"; see column 2, lines 37 and 42), it does not clearly and unambiguously disclose that this information is sufficient for the selection of a washing program (treatment cycle) predetermined and stored in the memory means. In fact, as acknowledged by the appellant, the program selector ("Programmwähler") of the washing machine in accordance with the teaching of D7 (see claim 1) might comprise, in addition to a manual selector for the kind of laundry, further manual selectors for other parameters, such as the washing temperature and the spinning speed. In such a case, the user might also be required to input these parameters before a selection of a washing program is made by the programmer.

4.3 Therefore, the subject-matter of claim 1 is novel over D7.

5. *Inventive step (main request)*

5.1 The technical effect of the sole feature distinguishing the subject-matter of claim 1 from the washing machine of D7 (see above point 4.2) is to present the user with a simple manner of selecting a washing program.

Therefore, starting from the closest prior art represented by D7, the objective technical problem can be regarded as to find a simple manner of selecting a washing program.

5.2 D7 refers to washing programs chosen by reference to a single item of information relating to the kind of laundry, such as "boiling", "coloured", or "delicate" (see column 2, lines 37 and 42). As already stated above, for the selection of a specific program stored in the memory means it might be necessary to input other information in addition to the information relating to the kind of laundry. However, D7 discloses that prior art washing machines may only have one single manual command means (see column 1, lines 14-17) for the selection of a washing program, a washing temperature value being assigned to each specific washing program. The skilled person would thus recognize that a simple manner of selecting a washing program for the washing machine in accordance with the teaching of D7 would consist of inputting only the information relating to the kind of laundry, whereby the other parameters of the washing program, such as the washing temperature, could be automatically assigned by the programmer because it would be included in the data stored in the memory means for each specific program. The skilled person would therefore

arrive in an obvious manner at a washing machine according to claim 1 of the patent as granted.

5.3 The subject-matter of claim 1 as granted thus lacking an inventive step (Article 56 EPC), the respondent's main request cannot be allowed.

6. *First auxiliary request*

6.1 *Amendments*

Claim 1 according to first auxiliary request includes the features of claim 1 as granted and additionally the features of dependent claim 8 as granted. This amendment does not give rise to objections under Article 123(2) or (3) EPC.

6.2 *Inventive step*

6.2.1 The features added to claim 1, according to which "facultative use command means are provided, for modifying the predetermined treatment cycle and/or for creating particular cycles, said facultative command means comprising at least a key for an eventual modification of a temperature value of the washing liquid chosen in an automatic manner by the programmer" are indisputedly not disclosed by D7 and therefore constitute further distinguishing features (in addition to the above-mentioned distinguishing feature, see point 4.2) over the washing machine known from D7.

The technical effect of these further distinguishing features is to allow the user to override at least the temperature value of the washing liquid chosen in an

automatic manner by the programmer. The user can thus adapt the treatment cycle to his individual needs.

Therefore, starting from the closest prior art represented by D7, the objective technical problem solved by the subject-matter of claim 1 can be regarded as
(i) to find a simple manner of selecting a washing program (see above point 5.1), and, additionally,
(ii) to allow the user to adapt the treatment cycle to his individual needs.

6.2.2 As stated above (see point 5), the skilled person seeking to solve problem (i) would arrive in an obvious manner at a washing machine having all the features of claim 1 as granted. Further, when seeking to solve problem (ii), he would arrive in an obvious manner at a washing machine according to claim 1 of the first auxiliary request, for the following reasons.

The skilled person would be aware that there are circumstances in which the user may wish to adapt the treatment cycle to his individual needs rather than relying on choices made by the programmer, in particular when delicate and/or valuable clothes are washed. In such circumstance the user could be expected to rely on the washing instructions indicated on the labels of the clothes. As generally known, the washing instructions usually specify the maximum washing temperature, i.e. the temperature that the washing liquid should not exceed if damage to the clothes is to be avoided. The skilled person would therefore recognize that the user would desire to check and possibly modify the temperature value set by the

programmer. He would then provide means to that effect, obviously in the form of a key which can be operated by the user for modifying a temperature value of the washing liquid chosen in an automatic manner by the programmer, thereby arriving at a washing machine according to claim 1 of the first auxiliary request without the exercise of an inventive activity.

6.3 Therefore, the subject-matter of claim 1 according to the first auxiliary request lacks an inventive step (Article 56 EPC). It follows that the respondent's first auxiliary request cannot be allowed.

7. *Second auxiliary request*

7.1 *Amendments*

Claim 1 according to the second auxiliary request further adds to claim 1 of the first auxiliary request the additional features of claim 9 as granted.

Dependent claims 2 to 11 correspond to claims 2 to 7 and 10 to 13 of the patent as granted.

The description is amended to be in conformity with the amended claims and to acknowledge the prior art according to D7.

These amendments do not give rise to objections under Article 123(2) and (3) EPC.

7.2 *Inventive step*

7.2.1 The features added to claim 1, according to which "the programmer imposes a maximum limit and a minimum limit to the temperature value that can be modified by the user with the facultative key means, the maximum limit being provided so as to avoid damage to the dishes or laundry, the minimum value being provided for guaranteeing the performance of the wash" are indisputedly not disclosed by D7 and therefore constitute further distinguishing features.

These further distinguishing features provide for an interaction, or dialogue (see par. [0014] of the patent in suit), between the washing machine and the user: should the user try to set temperature values outside the maximum and minimum limits imposed by the programmer, then these temperature values are refused by the programmer.

Accordingly, starting from the closest prior art represented by D7, the objective technical problem to be solved by the subject-matter of claim 1 can be regarded as:
(i) to find a simple manner of selecting a washing program,
(ii) to allow the user to adapt the treatment cycle to his individual needs (see above point 6.2.1), and, additionally,
(iii) to provide a dialogue between the user and the washing machine when the user is adapting the treatment cycle to his individual needs.

7.2.2 The Board accepts the appellant's argument that a skilled person would know that too high temperatures might damage the laundry whilst too low temperatures might result in an insufficient washing performance. However, there is no indication in the available prior art which would suggest providing, in a washing machine in which the temperature is set by the programmer, means for allowing the user to modify the temperature only within a specific range imposed by the programmer itself, thereby providing for a possibility of a dialogue between the user and the washing machine when the user is adapting the treatment cycle to his individual needs. In fact, the usual purpose of a means for overriding the automatic setting of a programmer is to allow the user to take full responsibility over the automatic setting. Accordingly, in the absence of any indications to the contrary, the skilled person would rather consider that the user should be allowed to set any desired temperature value when he is overriding the temperature set by the programmer. The recognition that allowing the user to override the setting of the temperature only within a predetermined range serves a useful purpose, at least in certain circumstances, and is thus not obvious in the light of the prior art.

7.2.3 Therefore, the subject-matter of claim 1 of the second auxiliary request involves an inventive step (Article 52(1), 56 EPC).

7.3 It follows that claim 1, together with dependent claims 1 to 11 and the amended description filed during oral proceedings in accordance with the second auxiliary request of the appellant, together with the

figures as granted, form a suitable basis for maintenance of the patent in amended form.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The case is remitted to the Opposition Division with the order to maintain the patent on the basis of the following documents:

   Claims: 1 to 11 as filed during the oral proceedings held on 27 June 2006;

   Description: columns 1 to 11 as filed during the oral proceedings held on 27 June 2006;

   Figures: 1 to 3 as granted.

The Registrar: The Chairman:

M. Patin P. Alting van Geusau