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**Datasheet for the decision
of 30 August 2007**

Case Number: T 0379/06 - 3.5.03

Application Number: 98901966.6

Publication Number: 0953167

IPC: G05B 19/042

Language of the proceedings: EN

Title of invention:

Control system for a household appliance

Patentee:

Indesit Company S.p.A.

Opponent:

BSH Bosch und Siemens Hausgeräte GmbH

Headword:

Household Appliance Control/INDESIT

Relevant legal provisions:

EPC Art. 52, 56

Keyword:

"Inventive step - no"

Decisions cited:

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Catchword:

-



Case Number: T 0379/06 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 30 August 2007

Appellant: BSH Bosch und Siemens Hausgeräte GmbH
(Opponent) Carl-Wery-Str. 34
DE-81739 München (DE)

Representative: -

Respondent: Indesit Company S.p.A.
(Patent Proprietor) Viale Aristide Merloni, 47
IT-60044 Fabriano (AN) (IT)

Representative: Dini, Roberto
Metroconsult S.r.l.
Via Sestriere 100
IT-10060 None (Torino) (IT)

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 22 December 2005
rejecting the opposition filed against European
patent No. 0953167 pursuant to Article 102(2)
EPC.

Composition of the Board:

Chairman: A. S. Clelland
Members: D. H. Rees
R. Menapace

Summary of Facts and Submissions

I. This is an appeal against the decision of the opposition division to reject the opposition by the sole opponent against European Patent No. 0 953 167.

II. The independent claims as granted read as follows:

"1. Control system for an appliance (1) which processes household items such as food, laundry, crockery and the like, said appliance (1) comprising an electronic control unit (2) and selection means (3), located in particular on a control panel of the appliance cabinet, for the selection of predetermined basic functions of said appliance (1), whereby, as part of said control system, a first set of information is stored in said electronic control unit (2) and used by said electronic control unit (2), in dependence upon selections made through said selection means (3), for controlling the performance of said basic functions, characterized in that, as a further part of said control system, a second set of information is stored in said electronic control unit (2), for enabling said apparatus (1) to perform additional functions to said basic functions, said electronic control unit (2) being prearranged for interfacing with an external electronic device (5; 9; 9A) which enables the selection and the performance of said additional functions."

"17. Method for programming an electronically controlled appliance (1) for processing household items such as food, laundry, crockery and the like, said appliance (1) being able to perform basic functions and

additional functions, whereby, according to said method, said basic functions are selected by selection means (3) comprised in said household appliance (1), and whereby a first set of information is stored in an electronic control unit (2) and used by said electronic control unit (2), in dependence upon selections made through selection means (3), for controlling the performance of said basic functions, and whereby a second set of information is stored in said electronic control unit (2), for enabling said apparatus to perform said additional functions, and whereby the selection of the said additional functions is enabled by the use of an external electronic device (5; 9; 9A) interfaced with said electronic control unit (2), the selection of said additional functions being possible only through the use of said external electronic device (5; 9; 9A)."

- III. The opponent (appellant) had requested the revocation of the patent on the ground that the claimed subject-matter was not novel or did not involve an inventive step (Articles 100(a), 52, 54 and 56 EPC).

- IV. In oral proceedings held on 8 July 2005 the opposition division decided to reject the opposition. The written reasons were dispatched on 22 December 2005.

- V. The following document discussed in the opposition procedure remains relevant to the present decision:

D11: WO 95/07007 A

- VI. In preparation for oral proceedings requested by both parties and appointed by the board for 30 August 2007 the proprietor (respondent) submitted a number of sets

of amended claims as the basis for auxiliary requests. During the oral proceedings these were withdrawn and replaced by a single auxiliary request. This request includes only one independent claim, which reads as follows:

"Control system for an appliance (1) which processes household items such as food, laundry, crockery and the like, said appliance (1) comprising an electronic control unit (2) and selection means (3), located in particular on a control panel of the appliance cabinet, for the selection of predetermined basic functions of said appliance (1), whereby, as part of said control system, a first set of information is stored in said electronic control unit (2) and used by said electronic control unit (2), in dependence upon selections made through said selection means (3), for controlling the performance of said basic functions, characterized in that, as a further part of said control system, a second set of information is stored in said electronic control unit (2), for enabling said apparatus (1) to perform additional functions to said basic functions, said electronic control unit (2) being prearranged for interfacing with an external electronic device (5; 9; 9A) which sends control information to the control system for improving and extending the functions of the apparatus (1) by enabling the selection and the performance of said additional functions, said electronic unit (2) comprises [sic] memory means (M), where in a first area (N) of said memory means (M) said first set of information is stored and where in a second area (A) of said memory means (M) said second set of information is stored, which is used by the

control system to interpret and convert into actions data from said external electronic device (5; 9; 9A)."

- VII. The appellant requests that the decision under appeal be set aside and that the European patent No. 0 953 167 be revoked. The respondent requests that the appeal be dismissed, or, as an auxiliary request, that the patent be maintained on the basis of the set of claims 1 to 15 as filed in the course of the oral proceedings.

Reasons for the Decision

1. *The main request*

- 1.1 Document D11 discloses a control system for an appliance which processes household items such as food and laundry (page 1, lines 16 to 20), said appliance comprising an electronic control unit (Fig. 1 element 14) and an external electronic device (Fig. 1 element 12 and page 7, line 35, "remote controller 12 of FIGURE 1"). The electronic control unit includes a microprocessor 50 (Fig. 2) for interpreting commands which, in the case of an oven, set temperature and duration (page 6, lines 25 to 34) and a microcontroller 60 (Fig. 2) for interpreting so-called "G-codes" the selection of which may be enabled (using a "G-code switch" - page 6, line 35) and which may be performed by entering a G-code into the remote controller (page 6, lines 35 to 37) or reading a G-code using a barcode reader incorporated into the remote controller (page 6, lines 22 to 24). Fig. 2 of D11 shows ROM associated with each of microprocessor 50 and microcontroller 60. It is implicit to the skilled person that these ROMs

contain the programs for the microprocessor and microcontroller. Thus D11 also discloses first and second sets of information stored in the electronic control unit and used respectively to control the performance of temperature and duration selection on the one hand and G-code interpretation on the other. Clearly the electronic control unit is prearranged to interface with the remote controller.

1.2 D11 states that it "provides, therefore an improved electronic control system for use in conjunction with electrically energized appliances, such as conventional cooking ovens ..." (page 8, lines 18 to 20). The appellant argues that conventional cooking ovens have a set of controls for temperature, heating element choice and possibly duration located on the appliance cabinet. Thus, it is argued, identifying these as the "basic functions" and the G-codes as the "additional functions", which can only be entered if the user has the remote controller, the subject-matter of the independent claims of the contested patent lacks novelty with respect to this disclosure.

1.3 The board considers that the formulation of D11 is not such as to clearly and unambiguously disclose that the conventional controls on the cabinet are necessarily intended to be retained. Hence it does not agree that present independent claim 1 has been demonstrated to lack novelty. However, the board considers that the skilled person would certainly consider the possibility of retaining the conventional controls and would see reasons for doing so, namely firstly so that the oven could still be used if the remote control were mislaid and secondly because one oven may have several users,

some of whom might only be interested in carrying out simple cooking tasks and might not wish to make the investment of learning how to use a technically relatively-complicated remote controller. Thus it would be obvious to produce an appliance as described in D11 with basic controls on the cabinet as well as the remote controller.

1.4 The respondent argues that the skilled person would not retain the conventional controls on the cabinet because D11 teaches that the "controller 12 could be mounted on the oven control unit 14," (page 4, line 6). The board agrees that in this embodiment of D11 there would be reason not to retain the original conventional controls. However this is a different embodiment to that in which the controller is detached, i.e. is a remote controller, so that the argument is not in fact relevant. Moreover there would be good reason to choose to make a remote controller rather than one attached to the cabinet at least in the case where it incorporated a barcode reader.

1.5 The independent claims of the contested patent require that there be some additional functions whose selection and performance is enabled by the external electronic device, i.e. that there be functions that cannot be executed until the user has possession of the external electronic device. This feature would be satisfied by the G-codes, but only if firstly they are not provided on the cabinet as well and secondly they qualify as "functions".

1.6 As to the first point there would be reason not to duplicate the relatively expensive control panel of the

remote controller, with its numerical pad and/or barcode reader. Hence it would be obvious not to provide means for inputting the G-codes on the cabinet.

1.7 As to the second point, the respondent argues that G-codes are not in fact "functions", but merely a way of inputting particular combinations of temperature, duration and heating elements, i.e. the parameters that otherwise need to be set individually using the conventional controls, in a convenient manner. This is asserted to be the import of page 4, line 24 to page 5, line 15 of D11. A "function" in the cooking context would rather be a "recipe" including a sequence of different temperatures and/or combinations of heating elements, as discussed at paragraph [0025] of the patent. However the board considers that D11 discloses that the G-codes may also take the form of a "recipe" at page 6, lines 15 to 21. Thus the board concludes that G-codes are indeed "functions" within the meaning of the term as used in the contested patent.

1.8 When this point was put in the oral proceedings the respondent argued that what was disclosed at page 6, lines 15 to 21 of D11 was just a collection of possible G-codes, rather than a recipe which could be invoked by a G-code. The board finds this unconvincing; clearly the various stages mentioned in this passage (including for example a pause) belong together in combination, and the skilled person would see the advantage of providing G-codes for such combinations.

1.9 Hence the board concludes that the subject-matter of the independent claims of the main request, i.e. the patent as granted, does not involve an inventive step

in the light of the disclosure of D11. The main request is therefore not allowable.

2. *The auxiliary request*

2.1 The independent claim of the auxiliary request adds the following features to claim 1 of the main request: firstly that the external electronic device "sends control information to the control system for improving and extending the functions of the apparatus (1) by enabling ..."; secondly that "electronic unit (2) comprises memory means (M), where in a first area (N) of said memory means (M) said first set of information is stored and where in a second area (A) of said memory means (M) said second set of information is stored, which is used by the control system to interpret and convert into actions data from said external electronic device (5; 9; 9A)." The first additional feature is taken almost literally from the description at paragraph [0035]. The second is dependent claim 2 as granted with the replacement of "to interpret and/or convert" by "to interpret and convert".

2.2 As to the first feature it is clear that in D11 the external electronic device also sends control information to the control system, and this was not disputed by the respondent. However it was argued that the phrase "for improving and extending the functions" further distinguished from the G-codes of D11. An example was given of an oven which had an infra-red heating element which could not be used at all unless the user had bought the external device.

2.3 The board cannot follow this argument. Firstly the skilled person would include "recipes" under "improving and extending the functions", especially since they are identified as belonging to the "additional functions" in the description of the disputed patent (paragraph [0025]). Secondly the board cannot identify any disclosure in the patent corresponding to the respondent's example. Indeed that example goes against the teaching of the patent that including the potential to carry out additional functions in the appliance is of negligible cost - see paragraphs [0030] and [0031]. Thus the board considers that the phrase "for improving and extending the functions" does not further restrict the claimed subject-matter at all.

2.4 As mentioned above (point 1.1) the microprocessor and microcontroller of D11 both have associated ROMs in which their operating programs are stored. These are first and second memory areas as specified in the second additional feature.

2.5 Hence the additional features in the independent claim of the auxiliary request are disclosed in D11 and thus the claimed subject-matter lacks an inventive step for the reasons already given for the main request. The auxiliary request is therefore also not allowable.

3. Since there is no allowable request from the respondent the patent must be revoked.

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:

D. Magliano

A. S. Clelland