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**Datasheet for the decision  
of 2 August 2007**

**Case Number:** T 0671/06 - 3.4.03

**Application Number:** 02710269.8

**Publication Number:** 1366646

**IPC:** H05B 4/292

**Language of the proceedings:** EN

**Title of invention:**

System and method for operating a hid lamp

**Patentee:**

Koninklijke Philips Electronics N.V.

**Opponent:**

-

**Headword:**

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**Relevant legal provisions:**

EPC R. 29(2)

**Keyword:**

"Inter-related products - (no) (main request)"  
"Remitted for further prosecution"

**Decisions cited:**

T 0056/01, T 0133/02

**Catchword:**

The term "inter-related products" in Rule 29(2) EPC does not extend to a system which is self-contained in performing the invention and a product which is a constitutive substituent part for the system.

T 0056/01 followed; T 0133/02 not followed. Reasons 5.1 to 5.3.



Case Number: T 0671/06 - 3.4.03

**D E C I S I O N**  
of the Technical Board of Appeal 3.4.03  
of 2 August 2007

**Appellant:** Koninklijke Philips Electronics N.V.  
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**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 30 November 2005  
refusing European application No. 02710269.8  
pursuant to Article 97(1) EPC.

**Composition of the Board:**

**Chairman:** R. G. O'Connell  
**Members:** V. L. P. Frank  
U. Tronser

## Summary of Facts and Submissions

- I. This is an appeal from the refusal of application 02 710 269.8 for non-compliance with Rule 29(2) EPC.

The application contained three independent product claims and no case had been made that these claims fell within the exceptions (a), (b) or (c) of that rule.

- II. The appellant applicant maintains the refused claims as a main claim request on appeal. The impugned claims are worded:

"8. A system (11, 12) for operating a high intensity discharge lamp according to claim 1 with reducing vertical segregation in the high intensity discharge lamp (10), said system (11, 12) comprising:  
a power source (20, 50) operable to provide a current frequency signal ( $CS_2$ ,  $CS_6$ ) to the lamp (10), said current frequency signal ( $CS_2$ ,  $CS_6$ ) exciting an azimuthal acoustic and longitudinal acoustic combination mode of the lamp (10); and  
a controller (30, 60) operable to control said current frequency signal ( $CS_2$ ,  $CS_6$ ) to stabilize a reduction of vertical segregation within the lamp (10)."

"13. A power source (11) for a system according to claim 8 for reducing vertical segregation in a high intensity discharge lamp (10), said power source (11) comprising:  
a bridge (21) operable to provide the primary current frequency sweep signal ( $CS_4$ ) in the form of a square wave; and  
a low pass filter (22) operable to provide the second

current frequency sweep signal (CS<sub>2</sub>) in the form a sine wave in response to said primary current frequency sweep signal (CS<sub>4</sub>) to the lamp (10), said second current frequency sweep signal (CS<sub>2</sub>) having a second frequency range to excite the azimuthal acoustic and longitudinal acoustic combination mode of the lamp (10)."

"15. A power source (12) for a system according to claim 8 for reducing vertical segregation in a high intensity discharge lamp (10), said power source( 12) comprising:

a first signal generator (52) operable to provide a fixed current frequency signal (CS<sub>5</sub>);  
a second signal generator (51) operable to provide a current frequency sweep signal (CS<sub>7</sub>); and  
an adder (53) operable to provide a current frequency signal (CS<sub>6</sub>) as a function of said fixed current frequency signal (CS<sub>8</sub>) and said current frequency sweep signal (CS<sub>7</sub>) to the lamp (10), said current frequency signal (CS<sub>6</sub>) to excite an azimuthal acoustic and longitudinal acoustic combination mode of the lamp (10)."

III. The appeal is also based on an auxiliary claim request which comprises a single independent product claim and a single independent process claim.

IV. The appellant applicant argues as follows:

"The apparatus claims 8, 13 and 15 are claims concerning a plurality of *inter-related products*. It is evident from the description regarding figure 1 of the application that the power source is only a product which is inter-related to a controller and a lamp in

forming a system. Although the power source may be constructed as a single unit together with the controller, it is more and more becoming common practice to physically separate the controller from the power source. This is in particular the case in modern lighting control systems where a plurality of light sources can be controlled on an individual basis from a common control unit.

Restricting applicant to only one type of product claim would therefore deprive applicant unreasonably from part of the scope of matter for which protection is sought."

V. The appellant applicant requests grant of a patent on the basis of

a main request  
claims 1 to 16 filed September 2005

or an auxiliary request  
claims 1 to 16 filed March 2006.

Auxiliarily, oral proceedings are requested.

### **Reasons for the Decision**

1. The appeal is admissible.
2. Given that the auxiliary request contains only one independent claim in the same category and therefore necessarily complies with Rule 29(2) EPC, the sole

issue in this appeal is whether the main request also complies with it.

3. The application was refused on the ground that it comprised three independent product claims, ie claims 8, 13 and 15. Therefore the first question to be addressed is whether these claims are indeed independent claims within the meaning of Rule 29(4) EPC.

3.1 Claim 8 is directed to a system comprising *inter alia* a power source specified in broad functional terms while claims 13 and 15 are directed to two different power sources specified in structural terms "for a system according to claim 8". The power source of claim 13 comprises a bridge providing a primary signal and a low pass filter providing a second signal in response to the first signal. The power source of claim 15 comprises first and second signal generators and an adder providing a signal as a function of the first and second signals.

3.2 The specification in claims 13 and 15 that the power source is "for a system according to claim 8" does not make these claims dependent on claim 8, since the features of the system of claim 8 are not thereby incorporated into claims 13 and 15. Neither are the (structural) features of either claim 13 or 15 specified in claim 8 so that the latter cannot be viewed as dependent on claims 13 or 15.

It follows that claims 8, 13 and 15 are independent product claims.

4. It remains to be decided whether these three independent product claims fall under one of the exceptions provided for in Rule 29(2) EPC, in particular whether they can be viewed as a plurality of *inter-related products* as argued by the appellant applicant.

Rule 29(2) EPC has the following wording:

*"Without prejudice to Article 82, a European patent application may contain more than one independent claim in the same category (product, process, apparatus or use) only if the subject-matter of the application involves one of the following:*

- (a) a plurality of inter-related products;*
  - (b) different uses of a product or apparatus;*
  - (c) alternative solutions to a particular problem, where it is not appropriate to cover these alternatives by a single claim."*
5. The Guidelines for Examination in the EPO present as examples of typical *inter-related products* falling within the scope of the exception mentioned in Rule 29(2)(a) EPC the following cases (C-III, 3.2; version of June 2005):

- plug and socket;
- transmitter-receiver;
- intermediate(s) and final chemical product;
- gene-gene construct-host-protein-medicament;

The explicit mention in the guidelines that this list presents examples of typical situations makes it evident that this list is not exhaustive and that other situations exist which may fall under the exceptions of Rule 29(2) EPC.

- 5.1 However, in the understanding of the board, a claim to a system comprising a power source specified in broad functional terms and a claim to a power source for the system specified in structural terms do not fall under the exception envisaged in Rule 29(2)(a) EPC, since they cannot, contrary to the argument of the appellant applicant, be considered as *inter-related products* within the meaning of the rule. It can be deduced from the examples provided in the guidelines that *inter-related products* are, on one hand, products which although existing independently from each other as stand-alone products only perform the distributed invention when interacting with each other (eg plug and socket, transmitter-receiver), and, on the other hand, chemical products which are derived from their predecessors (ie intermediate(s) and final chemical product, gene-...-medicament). The system as claimed here in claim 8 on the one hand and the power sources of claims 13 and 15 on the other hand (ie a substitute for a part of the system) do not interact with each other, since the system of claim 8 is completely self-contained in performing the invention. The "for" clause used in claims 13 and 15 means "suitable for substitution in" rather than "suitable for interaction with", since the system specified in claim 8 already comprises a functionally defined power source. The power sources of claims 13 and 15 and the system of claim 8 are thus not *inter-related products* but the



former are a constitutive substituent part for the latter.

5.2 As stated in decision T 56/01, "It can be inferred from the examples that *inter-related products* are meant to be different objects that complement each other, or somehow work together" (reasons 4.1). The present board's finding is consistent with the former interpretation, since the power sources of claims 13 and 15 neither complement the system nor work together with it being constitutive substituent parts for the system.

5.3 The board is aware of decision T 133/02 in which it was held that the coexistence of one system claim and one means claim relating to a component of the system did not imply that the claim set as a whole was not clear and concise (cf point 4.1 of the reasons). In this decision the then deciding board found that these claims were directed to *inter-related products*, similar to a plug and a connection system combining the plug with an adapted socket. However, the present board prefers the interpretation of the term *inter-related products* (as used in Rule 29(2) EPC) given in T 56/01, since in particular a claim directed to a connection system comprising the plug would be dependent on the claim to the plug, as it necessarily comprises all the features of the plug (Rule 29(4) EPC). Indeed this was explicitly acknowledged in T 133/02 at 4.1 (a) third paragraph. The present board takes the view that Rule 29(2) EPC is not intended to permit or prohibit claims which are permitted under Rule 29(4) EPC and that the domain of application of these subrules - and the questions of compliance of claims with them -

should be kept separate. This view is consistent with the fact that the example provided in the guidelines refers to a claim to a plug and to a claim to a socket and not to a claim to a connection system. It is also based on the interpretive principle that Rule 29(2) EPC is a specific provision intended to deal with the particular mischief of an excessive number of independent claims in the same category which, saving confirmation of a conflict in the sense of Article 164(2) EPC, leaves no room for a wider judgement as to what might be considered a clear and concise plurality of claims within the meaning of Article 84 EPC - a classic canon of construction traditionally expressed in Latin as *generalia specialibus non derogant*.

6. Neither do the system of claim 8 and the power sources of claims 13 and 15 fall under the exceptions in (b) or (c) of the rule; nor has the appellant argued this.
7. The board concludes therefore that the main claim request does not comply with Rule 29(2) EPC whereas the auxiliary request does.
8. Since substantive examination for compliance with the remaining requirements of the EPC has not yet been started, remittal is appropriate (Article 111(1) EPC).

**Order**

**For these reasons it is decided that:**

1. The decision under appeal is set aside.
2. The case is remitted to the department of first instance for further prosecution.

Registrar

Chair

S. Sánchez Chiquero

R. G. O'Connell