

**Internal distribution code:**

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

**Datasheet for the decision  
of 10 June 2009**

**Case Number:** T 1226/06 - 3.5.02

**Application Number:** 01111998.9

**Publication Number:** 1158646

**IPC:** H02J 7/00

**Language of the proceedings:** EN

**Title of invention:**

Voltage adjustment device particularly for recharging service batteries

**Applicant:**

Norscia, Fernando

**Headword:**

-

**Relevant legal provisions:**

EPC Art. 84, 111(1), 123(2), 137(4)

**Relevant legal provisions (EPC 1973):**

-

**Keyword:**

"Main request - extension (no) - lack of clarity (yes)"

"Auxiliary requests - unsearched subject-matter - remittal for further prosecution (yes)"

**Decisions cited:**

-

**Catchword:**

-



Case Number: T 1226/06 - 3.5.02

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.02  
of 10 June 2009

**Appellant:** Norscia, Fernando  
Via Puglie, 24  
I-65016 Montesilvano (Prov. of Pesaro) (IT)

**Representative:** Stignani, Stefano  
Dr. Modiano & Associati S.p.A.  
Via Meravigli, 16  
I-20123 Milano (IT)

**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 17 January 2006  
refusing European application No. 01111998.9  
pursuant to Article 97(1) EPC 1973.

**Composition of the Board:**

**Chairman:** M. Ruggiu  
**Members:** J.-M. Cannard  
E. Lachacinski

## Summary of Facts and Submissions

- I. The appellant contests the decision of the examining division to refuse European patent application No. 01 111 998.9. Reasons for the refusal were that the claims of the request filed with a letter dated 6 September 2004 contravened Article 123(2) EPC and the subject-matter of the independent claim 17 of the request filed with a letter dated 9 February 2004 was not novel.
- II. With a communication dated 11 March 2009 annexed to summons to oral proceedings, the Board informed the appellant that the claims in the version refused by the first instance, then maintained as main request, did not appear to contravene Article 123(2) EPC. As regards novelty and inventive step, the Board referred in its communication to the following documents:
- D5: US-A-4 827 393, introduced in the proceedings by the Board, and
- D1: US-A-5 408 170, considered in the first instance.
- III. With a letter dated 8 May 2009, the applicant filed new sets of claims according to a main request and first and second auxiliary requests. Claim 1 of the main request, which is identical to claim 1 of the request filed with the letter of 6 September 2004, reads as follows:
- "Use of a voltage adjustment device for recharging service batteries of a motorized vehicle having its own generator, the voltage adjustment device receiving in

input a voltage signal and a current signal from said generator and being constituted by a battery power supply circuit, comprising switching means, which are connected by way of a first terminal to first filtering means which receive in input said voltage signal and said current signal, and voltage calibration means, which are connected in input to a second terminal of said switching means and in output to said battery, said calibration means being adapted to provide a threshold voltage for recharging said batteries; and by a control circuit comprising a comparator which receives in input a first signal, responsive to a reference voltage, and a second signal, responsive to said threshold voltage, said comparator being adapted to compare said first and second signals and to send an enabling error signal to means for setting the on/off switching threshold of said switching means in order to allow said calibration means to ensure that said threshold voltage is substantially constant."

Claim 1 of the first auxiliary request reads as follows:

"Use of a voltage adjustment device for recharging service batteries of a motorized vehicle having its own generator, a vehicle slave battery and a service battery, the voltage adjustment device receiving in input a voltage signal and a current signal from said generator and being constituted by a battery power supply circuit, comprising switching means, which are connected by way of a first terminal to first filtering means which receive in input said voltage signal and said current signal, and voltage calibration means, which are connected in input to a second terminal of

said switching means and in output to said service battery, said calibration means being adapted to provide a threshold voltage for recharging said service battery; and by a control circuit comprising a comparator which receives in input a first signal, responsive to a reference voltage, and a second signal, responsive to said threshold voltage, said comparator being adapted to compare said first and second signals and to send an enabling error signal to means for setting the on/off switching threshold of said switching means in order to allow said calibration means to ensure that said threshold voltage is substantially constant."

Claim 1 of the second auxiliary request differs from claim 1 of the first auxiliary request in that it comprises the following features at the end of the claim:

", said voltage adjustment device comprising a first voltage divider which is connected to the output of said first filtering means for setting a predefined value of said reference voltage, said first voltage divider being used for changing said threshold voltage according to the load to be supplied."

- IV. Oral proceedings were held on 10 June 2009 before the Board of appeal.
  
- V. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 16 of the main request filed with the letter dated 8 May 2009, or subsidiarily on the basis of claims 1 to 16 of the first auxiliary request or

claims 1 to 15 of the second auxiliary request filed with the same letter.

VI. The appellant's arguments can be summarized as follows:

Claim 1 of the main request was clearly limited to the use of a voltage adjustment device for recharging service batteries. A service battery was not the vehicle battery that was necessarily present in a vehicle for starting the engine and for ignition, or the like. The term "service battery", as explained in the application, meant a second, further battery, added to the vehicle for supplying power to further loads. Service batteries were frequently used in campers and caravans, and they corresponded to the Italian term "batteria di servizio" used in the original application.

None of the prior documents cited in the search report, and in particular not document D5 which specified that only one battery was present in the vehicle, disclosed the use of a voltage adjustment device for recharging a further "service battery". The use according to claim 1 of the main request was novel.

Starting from D5 as the closest prior art, the problem to be solved was to efficiently recharge a further "service battery", should it be installed in the vehicle of D5. D5 did not suggest to install a further "service battery" in a vehicle by connecting it to the vehicle own generator because it referred to single-battery vehicles only. In any case, starting from D5, the skilled person would have to make a non obvious choice among a number of possibilities. The other prior

art documents available, which did not deal with "service batteries", would, to the contrary, suggest to connect such a "service battery" to the mains power supply. The claimed invention allowed to efficiently utilize the power provided by the vehicle own generator and to completely recharge a "service battery" in a short time independently of the voltage level of the slave battery of the vehicle.

Claim 1 of the first auxiliary request clarified that a "service battery" was an additional battery, distinct from the slave battery of the vehicle. This request met the requirements of novelty and inventive step for the same reasons as claim 1 of the main request.

### **Reasons for the Decision**

1. The appeal is admissible.

#### *Main request*

2. Claim 1 of the present main request, as claim 1 in the version refused by the first instance (i.e. claim 1 of the request filed with the letter of 6 September 2004), relates to the use of a voltage adjustment device for recharging service batteries of a motorized vehicle in which the device receives in input a voltage signal and a current signal from the generator of the vehicle. The claims as originally filed do not specify which input voltage and current signals are applied to the voltage adjustment device to which these claims relate. In view of the content of the original application which was filed in Italian, the Board is satisfied that claim 1

of the main request is limited in a way that does not extend its content beyond that of the application as filed (Article 123(2) EPC).

3. The term "ricarica di una o più batterie di servizio... un proprio generatore (ad esempio una dinamo o un alternatore)" at page 1, lines 6 to 8 of the application as originally filed in Italian language corresponds to the phrase "recharging one or more service batteries... its own generator (for example a dynamo or an alternator)" of the translation of the application into English (page 1, lines 6 to 8). Thus, the term "a source" at page 3, line 23 of the translation, which corresponds to the term "un generatore" on page 5, line 4 of the original application in Italian language has to be understood also as covering a generator of a vehicle, as for instance a dynamo or an alternator. Accordingly, the embodiment described in the application with reference to figure 1 covers a voltage adjustment device for recharging service batteries which receives at its input a voltage signal and a current signal from a vehicle generator (see published application, column 2, lines 20 to 25 and 52 to 54). As the invention and in particular the embodiment described in the application relate to a voltage adjustment device for recharging service batteries of a motorized vehicle having its own generator, the application as originally filed discloses the use of a voltage adjustment device for recharging service batteries of a motorized vehicle in which the device receives in input a voltage signal and a current signal from the own generator of the vehicle, as recited in claim 1 of the main request.



4. However, in the judgment of the Board, claim 1 of the present main request does not meet the requirements of Article 84 EPC because the English term "service battery" in isolation is not clear.

4.1 The appellant stated that claim 1 of the main request is clearly limited to use of a voltage adjustment device for recharging service batteries which are distinct from the vehicle battery necessarily present in a motorized vehicle for starting the engine. However, the Board is not aware that the English term "service battery" has per se a well-recognized meaning in the relevant technical field.

4.2 According to the appellant, the service batteries referred to in the application are additional batteries distinct from the normal (or slave) battery used in a motorized vehicle for starting the engine and for ignition and which are installed in the vehicle in order to supply power to other various loads. However, claim 1 of the main request neither specifies the conventional or slave battery connected to the own generator of the motorized vehicle for starting the engine and for ignition, nor makes clear that service batteries are additional batteries which are distinct from said slave battery. A precise meaning of the English term "service battery" is thus not derivable from the wording of the claim itself. Accordingly, claim 1 of the main request does not clearly define the use for which protection is sought and contravenes Article 84 EPC. The main request of the appellant has to be rejected.

*First auxiliary request*

5. Claim 1 of the first auxiliary request differs from claim 1 according to the application as originally filed in substance in that it is restricted to a use of the voltage adjustment device, as recited in said originally filed claim 1, "for recharging service batteries of a motorized vehicle having its own generator, a vehicle slave battery and a service battery, the voltage adjustment device receiving in input a voltage signal and a current signal from said generator". This limitation clarifies the meaning of the term "service battery" by specifying that it is an additional battery, distinct from the slave or conventional battery of the motorized vehicle. In view of the originally filed description (published application, paragraphs [0002] and [0007]) and previous point 3, the Board is satisfied that claim 1 of the first auxiliary request meets the requirement of Article 123(2) EPC.
  
6. As appears from the foregoing, the content of claim 1 of the first auxiliary request differs from the content of the originally filed claims by features taken from the description, in particular because said original claims relate to a voltage adjustment device per se and merely mention "recharging service batteries" as an optional purpose. Taking in consideration both the change in scope of the claims and the fact that merely specifying "service batteries" in the original claims does not made clear that at least two distinct batteries are involved, it is not apparent to the Board whether the subject-matter of claim 1 of the first

auxiliary request relates to searched or unsearched subject-matter.

7. According to Rule 137(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". Accordingly, the Board is not in a position to decide whether the subject-matter of the first auxiliary request can be pursued in the present application. In any case, the claims of the first auxiliary request include substantial amendments which may require further substantive examination (it seems that the communication from the examining division dated 24 February 2004 only considered the voltage adjustment device according to independent claim 17 as lacking novelty). In such circumstances, the Board finds it appropriate to remit the case to the department of first instance for further prosecution (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.

The Registrar:

The Chairman:

D. Meyfarth

M. Ruggiu