

**Internal distribution code:**

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

**Datasheet for the decision  
of 18 April 2012**

**Case Number:** T 2191/08 - 3.2.01

**Application Number:** 01102427.0

**Publication Number:** 1123843

**IPC:** B60R 16/02

**Language of the proceedings:** EN

**Title of invention:**

Vehicle's communication apparatus

**Applicant:**

HONDA GIKEN KOGYO KABUSHIKI KAISHA

**Opponent:**

-

**Headword:**

-

**Relevant legal provisions:**

EPC Art. 123(2)

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

-

**Keyword:**

"Subject-matter extends beyond the content of the application as filed (Main Request, Auxiliary Requests II, III, IV) yes"

**Decisions cited:**

-

**Catchword:**

-



Case Number: T 2191/08 - 3.2.01

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.01  
of 18 April 2012

**Appellant:**  
(Applicant)

HONDA GIKEN KOGYO KABUSHIKI KAISHA  
1-1, Minami-Aoyama 2-chome  
Minato-ku  
Tokyo (JP)

**Representative:**

Liska, Horst  
Weickmann & Weickmann  
Patentanwälte  
Postfach 86 08 20  
D-81635 München (DE)

**Decision under appeal:**

Decision of the Examining Division of the  
European Patent Office posted 28 April 2008  
refusing European patent application  
No. 01102427.0 pursuant to Article 97(2) EPC.

**Composition of the Board:**

**Chairman:** G. Pricolo  
**Members:** H. Geuss  
S. Hoffmann

## Summary of Facts and Submissions

- I. The appeal of the applicant is directed against the decision of the examining division posted 28 April 2008 refusing the patent application No. 01102427.0. The examining division held that claim 1 did not meet the requirements of Article 123(2) EPC since claim 1 has been amended in such a way that it contains subject-matter which extends beyond the content of the application as originally filed.
- II. With the annex to the summons to oral proceedings according to Article 15(1) RPBA (OJ EPO, 2007, 536 et seq.) the Board informed the applicant that the subject-matter of claim 1 of the request submitted with the grounds of appeal does not fulfil the requirements Article 123(2) EPC.
- III. Oral proceedings were held on 18 April 2012. The applicant requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims of the main request submitted with the grounds of appeal on 2 September 2008 or in the alternative on the basis of one of the auxiliary requests numbered as II to IV submitted on 13 March 2012.
- IV. Claim 1 according to the main request reads as follows:
- A vehicle comprising a communication apparatus capable of communicating with a communication partner outside the vehicle though a function of the vehicle, wherein the vehicle comprises:
- a functional component in the form of an auxiliary

instrument (10,37L,R,43) functioning as a communication means of the vehicle, the auxiliary instrument comprising a light device (37L,R,43) at least comprising front wipers (37L,R) and a tail light unit (43),

- a CPU (50) responsive to an operation command of a user and a state of the vehicle,
- a communication display unit (92) connected to the output side of the CPU (50) for displaying a plurality of pseudo creature characters representing different states of the vehicle,
- a seat switch (52) to be operated by the user of the vehicle, and
- a remote control having a switch (70) to be operated by the user and/or a voice control responsive to the voice of the user,

characterized in that

the vehicle is a motor-bicycle and the CPU (50) is responsive to the seat switch (52) and at least the remote control switch (70) or the voice control and commands the front wipers (43L,R) and the tail light unit (43) to blink in response to the remote control switch (70) or the voice control being operated by the user when the seat switch (70) is not operated.

V. Claim 1 according to the auxiliary request II reads as follows:

A vehicle comprising a communication apparatus having a pseudo creature set in the vehicle and capable of communicating with a communication partner outside the vehicle through a function of the vehicle, wherein the vehicle comprises:

- a functional component known as an auxiliary

instrument (10,37L,R,43) functioning as a communication means of the vehicle, the auxiliary instrument (10,37L,R,43) comprising a light device (37L,R,43) in the form of front wipers (37L,R) provided on a front portion of the vehicle and a light device in the form of a tail light unit (43) provided on a rear portion of the vehicle,

- a seat switch (52) to be operated by the user of the vehicle, and

- a remote control having a switch (70) to be operated by the user and/or a voice control responsive to the voice of the user,

characterized in that

the vehicle is a motor-bicycle, wherein the functional component of the vehicle known as the auxiliary instrument (10,37L,R,43) further is provided to function also as a communication means of the pseudo creature and the front wipers (37L,R) and the tail light unit (43) are commanded to blink in response to the remote control switch (70) or the voice control being operated by the user when the seat switch (52) is not operated,

in order for the auxiliary instrument (10,37L,R,43) to represent an intention and a feeling of the pseudo creature, while the auxiliary instrument (10,37L,R,43) is driven in accordance with a state of expression set in advance to express a movement of an eye of the pseudo creature and to express a movement of a tail of the pseudo creature respectively.

VI. Claim 1 according to the auxiliary request III reads as follows:

A vehicle comprising a communication apparatus having a pseudo creature set in the vehicle and capable of communicating with a communication partner outside the vehicle through a function of the vehicle, wherein the vehicle comprises:

- a functional component known as an auxiliary instrument (10,37L,R,43) functioning as a communication means of the vehicle, the auxiliary instrument (10,37L,R,43) comprising a light device in the form of front wipers (37L,R) provided on a front portion of the vehicle and a light device in the form of a tail light unit (43) provided on a rear portion of the vehicle,
  - a CPU (50) included in a meter unit (9) of the vehicle and being responsive to an operation command of a user and a state of the vehicle,
  - a communication display unit (92) in the form of a liquid crystal display device connected to the output side of the CPU (50) for displaying a plurality of pseudo creature characters representing different states of the vehicle,
  - a seat switch (52) to be operated by the user of the vehicle, and
  - a remote control having a switch (70) to be operated by the user and/or a voice control responsive to the voice of the user,
- characterized in that  
the vehicle is a motor-bicycle, wherein the functional component of the vehicle known as the auxiliary instrument (10,37L,R,43) further is provided to function as a communication means of the pseudo

creature and wherein the CPU (50) is responsive to the seat switch (52) and at least the remote control switch (70) or the voice control and commands the front wipers (37L,R) and the tail light unit (43) to blink in response to the remote control switch (70) or the voice control being operated by the user when the seat switch (52) is not operated, in order for the auxiliary instrument (10,37L,R,43) to represent an intention and a feeling of the pseudo creature, while the auxiliary instrument (10,37L,R,43) is driven in accordance with a state of expression set in advance to express a movement of an eye of the pseudo creature and to express a movement of a tail of the pseudo creature respectively.

VII. Claim 1 according to the auxiliary request IV reads as follows:

A vehicle comprising a communication apparatus having a pseudo creature set in the vehicle and capable of communicating with a communication partner outside the vehicle through a function of the vehicle, wherein the vehicle comprises:

- a functional component known as an auxiliary instrument (10,37L,R,43) functioning as a communication means of the vehicle, the auxiliary instrument (10,37L,R,43) comprising a light device (37L,R,43) in the form of front wipers (37L,R) provided on a front portion of the vehicle and a light device in the form of a tail light unit (43) provided on a rear portion of the vehicle,
- a CPU (50) included in a meter unit (9) of the vehicle and being responsive to an operation command of a user and a state of the vehicle, the CPU (50) also

including a GPS unit (62) for detecting information on the position of the vehicle, a transmission and reception unit (63) for transmitting and receiving information from another electronic information processing apparatus and a connection interface (65) serving as an interface with external components,

- a communication display unit (92) in the form of a liquid crystal display device connected to the output side of the CPU (50) for displaying a plurality of pseudo creature characters representing different states of the vehicle,
- a seat switch (52) to be operated by the user of the vehicle, and
- a remote control having a switch (70) to be operated by the user and/or a voice control responsive to the voice of the user,

characterized in that

the vehicle is a motor-bicycle, wherein the functional component of the vehicle known as the auxiliary instrument (10,37L,R,43) further is provided to function as a communication means of the pseudo creature and wherein the CPU (50) is responsive to the seat switch (52) and at least the remote control switch (70) or the voice control and commands the front wipers (37L,R) and the tail light unit (43) to blink in response to the remote control switch (70) or the voice control being operated by the user when the seat switch (52) is not operated,

in order for the auxiliary instrument (10,37L,R,43) to represent an intention and a feeling of the pseudo creature, while the auxiliary instrument (10,37L,R,43) is driven in accordance with a state of expression set in advance to express a movement of an eye of the



pseudo creature and to express a movement of a tail of the pseudo creature respectively.

VIII. The appellant's submissions may be summarized as follows:

The subject-matter of claim 1 of the main request is disclosed in the application documents as originally filed. In particular, the CPU unit 50 and the communication display unit 92 are disclosed on page 26, lines 9 to 15 and page 22, lines 8 to 11 and lines 22 et seq.

In claim 1 of auxiliary request II the CPU-feature has been deleted as a reaction to the Board's objection.

Auxiliary request III reflects the hints in the Board's communication with respect to the CPU, which is now defined as belonging to the meter unit and with respect to the communication display unit which is defined as being a liquid crystal display.

Only as a measure of precaution, all properties of the CPU unit have been integrated into the claim with auxiliary request IV, even though they are not essential for performing the invention as claimed.

The wording of the last paragraph of claim 1 of auxiliary request III and IV, respectively, is based on claims 9 and 11 to 13 as originally filed.

Claim 1 of these requests is restricted to a specific feeling and intention, namely the greeting procedure with front wipers and tail light, which is one of a

plurality of disclosed possibilities. This limitation is in conformity with Article 123(2) EPC.

### **Reasons for the Decision**

1. The appeal is admissible.
2. Claim 1 according to the main request does not fulfil the requirements of Article 123(2) EPC.
  - 2.1 According to the established case law of the boards of appeal, it is not admissible under Article 123(2) EPC to extract isolated features from a set of features which has originally been disclosed in combination for a specific embodiment. An amendment of this nature would only be justified in the absence of any clearly recognizable functional or structural relationship among said features (see e.g. T 1408/04, T 1207/04).
  - 2.2 Claim 1 of the main request defines amongst others a CPU unit 50. This feature, which is not present in the claims of the application as filed, has been taken from a specific embodiment of the description (cf. page 24, second paragraph et seq.).

However, the passages in the description which refer to the specific embodiment define further features that are in functional or structural relationship to the CPU unit which have not been included in the claim. For example, in the specific embodiment the CPU is disclosed as a structural part of the meter unit (9). By reciting the feature of the CPU unit but leaving out that the CPU unit is part of the meter unit, claim 1 as

amended includes the technical information that the CPU could be provided outside the meter unit. This technical information, however, is not disclosed in the original application.

- 2.3 The same situation arises for the communication display unit 92, which has been taken from a specific embodiment of the description, cf. page 21, last line et seq.

According to this embodiment, the communication display unit 92 is a liquid crystal display device. This feature, however, is missing in amended claim 1, which thus encompasses communication display units of any kind.

- 2.4 Accordingly, since features of the specific embodiment are missing in claim 1, its subject-matter extends beyond the contents of the application as filed, contrary to the requirements of Article 123(2) EPC.

3. Claim 1 of the auxiliary request II includes a further feature taken from the description, namely a seat switch (52) to be operated by the user of the vehicle. Claim 1, however, does not include the feature of the CPU unit (50) defined in claim 1 according to the main request.

- 3.1 According to the description on page 24, second paragraph and Fig. 6, the seat switch 52 is connected to the CPU unit 50. The paragraph bridging pages 26 and 27 makes it clear that commands issued by the CPU unit 50 may depend on the state of the seat switch ("... when the seat switch is in an off state. As a reaction R1 to the operation M1, a blinking command is issued ...")

Consequently, there clearly is a functional relationship between the CPU unit 50 and the seat switch.

- 3.2 Since claim 1 of the auxiliary request II has been amended by extracting the feature of the seat switch from a combination of features disclosed in the description which also includes the feature of the CPU unit, and the latter is not recited in claim 1, its subject-matter extends beyond the content of the application as originally filed, contrary to the requirements of Article 123(2) EPC.
  
4. Claim 1 according to auxiliary requests III or IV, respectively, does not fulfil the requirements of Article 123(2) EPC.
  - 4.1 The appellant submits that claim 1 is based upon the general disclosure of original claims 9, 11 to 13, and that it is restricted to a state of expression of the pseudo creature performed by the auxiliary instrument comprising the front wipers and the tail light unit.
  
  - 4.2 Claim 1 of auxiliary requests III and IV recites that the communication apparatus of the vehicle has a pseudo creature set in the vehicle (lines 1 and 2 of the claim). In accordance with the disclosure of the application documents as filed, the pseudo creature and/or its state can be displayed in various manners in the vehicle, such as by means of a display unit (page 23, second paragraph, in which case the creature itself and also its state can be displayed; Fig. 5 shows for instance a hungry rabbit), or by means of "auxiliary" instruments provided in advance on the vehicle for typically safety purposes (page 23, third paragraph). Amongst the auxiliary

instruments there are the front wipers and the tail light unit, by means of which winks and tail movements of the pseudo creature can be expressed (see in particular page 27, second paragraph), the horn and a speaker system (see page 22, second paragraph).

Figs. 8 to 10 are tables showing, in the left column, a number of operations carried out by the user and states of the vehicle, and, in the right column, the corresponding commands issued by the CPU 50 to the auxiliary instruments (see page 26). In response to these commands, the auxiliary instruments operate such as to simulate a behaviour or state of the pseudo creature, cf. page 27, second paragraph.

Figs. 8 to 10 and the associated description (page 26 et seq.) disclose that specific commands of auxiliary instruments correspond to respective specific states of expression of the pseudo creature which are related to specific operations carried out by the user and/or states of the vehicle. For instance, in accordance with the first row of Fig. 8, when the user turns on a remote control switch when the seat switch is in an off state, denoted operation M1, a blinking command is issued to the front wipers as well as the tail light, a start command is issued to the engine and a forcing command to the horn. These auxiliary instruments simulate winks, tail movements, waking, and a cry, respectively, that represent a reaction, denoted R1, of the pseudo creature to user's operation M1 that is intended to provide enjoyment to the eyes of the user and convenience to the user in finding out the vehicle in a short period of time (see page 27, second paragraph). Accordingly, the pseudo creature provides a "greeting" reaction R1 in

response to operation M1, which is the typical operation carried out by the user when it is approaching the vehicle. As a further example, in accordance with the fourth row of Fig. 8, when the vehicle is in a state that the amount of residual fuel is smaller than a predetermined value, then a character string such "I am hungry", showing the state of expression of the pseudo creature in response to low fuel, is displayed on the communication display unit.

4.3 Claim 1 of each auxiliary requests III and IV has been amended to define that the auxiliary instrument comprises the front wipers and the tail light unit, and that these blink in response to a remote control switch or a voice control being operated by the user when the seat switch is not operated. However, claim 1 is not limited to the use of the front wipers and the tail light unit for representing a specific intention and feeling of the pseudo creature, namely a "greeting" reaction R1 as disclosed in the first row of Fig. 8. In fact, having regard to the wording "while the auxiliary instrument (10,37L,R,43) is driven in accordance with a state of expression set in advance", claim 1 implies that a plurality of states of expressions, or intentions and feelings, of the pseudo creature could be expressed by the front wipers and the tail light. For instance, a feeling of sadness could be expressed by a particular combination of front wipers and tail light blinking when the user leaves the vehicle (whereby the seat switch is not operated) and turns it off by means of the remote control switch.

4.4 There is however no disclosure in the application documents as originally filed that vehicle could be

arranged such as to express different states of expressions, or intentions and feelings, of the pseudo creature by means of the front winkers and the tail light, other than the greeting reaction R1 in response to the specific user operation M1 disclosed in the first row of Fig. 8 and the associated description.

4.5 For this reason, claim 1 of the auxiliary request III and IV, respectively, does not fulfil the provisions of Article 123(2) EPC.

## **Order**

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

The appeal is dismissed.

The Registrar:

The Chairman:

A. Vottner

G. Pricolo