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Datasheet for the decision
of 10 June 2015

Case Number:	T 1264/11 - 3.5.03
Application Number:	04000807.0
Publication Number:	1441269
IPC:	G05B19/042, E06B9/32
Language of the proceedings:	EN

Title of invention:
Configuration method for an installation comprising solar
protection and/or lighting device

Applicant:
Somfy SAS

Headword:
Configuration method/SOMFY

Relevant legal provisions:
EPC Art. 56
EPC R. 103

Keyword:
Inventive step (main request, first and second auxliary
requests) - (no)
Reimbursement of appeal fee - (no)

Decisions cited:

Catchword:

Case Number: **T 1264/11 - 3.5.03**

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 10 June 2015

Appellant: (Applicant)	Somfy SAS 50, Avenue du Nouveau Monde 74300 Cluses (FR)
Representative:	Bugnion Genève Bugnion S.A. Conseils en Propriété Industrielle Route de Florissant 10 Case Postale 375 1211 Genève 12 (CH)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 11 January 2011 refusing European patent application No. 04000807.0 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	R. Cramer
Members:	A. Madenach
	T. Snell

Summary of Facts and Submissions

I.   The present appeal is against the decision of the
        examining division refusing application No. 04000807.0
        on the ground that none of the requests on file met the
        requirements of the EPC regarding inventive step
        (Articles 52(1) and 56 EPC) having regard to the
        disclosure of

        D1: EP 1 054 134 A1

        and common general knowledge.

II.   In the statement of grounds of appeal, the appellant
        requested that the decision under appeal be set aside,
        and that a European patent be granted for the
        application on the basis of claims 1 to 6 of a main
        request or, as an auxiliary measure, on the basis of
        claims 1 to 6 of either a first auxiliary request or of
        a second auxiliary request, all requests being attached
        to the grounds of appeal. As a further auxiliary
        measure, oral proceedings were requested. Further, a
        request for the reimbursement of the appeal was made.

III.   In a communication accompanying a summons to oral
        proceedings, the board gave a negative preliminary
        opinion as regards clarity (Article 84 EPC) and
        inventive step (Article 56 EPC) in respect of all
        requests as well as regards the request for
        reimbursement of the appeal fee.

IV.   In response to the board's communication, the appellant
        filed new claims of a main request, a first and a
        second auxiliary request.

V.   Oral proceedings before the board were held on
      10 June 2015. The appellant maintained its previous
      requests, i.e. that the decision under appeal be set
      aside and that a patent be granted on the basis of the
      main request, or alternatively, either the first or
      second auxiliary requests, all requests filed with the
      letter dated 8 May 2015. The appellant also requested
      reimbursement of the appeal fee. After deliberation,
      the chairman announced the board's decision.

VI.   Claim 1 of the main request reads as follows:

      "A configuration method for an installation (1)
      comprising solar protection and/or lighting devices {3)
      controlled by a central unit (2) comprising a memory
      (22), computing means (21) and a user interface,
      wherein it comprises the following steps:

      - in a first phase, a parameterization step comprising
      an iteration, over all of the solar protection and/or
      lighting devices (3) , of the following phases:

      - entry and recording of data (Fi) defining the
      exposure of the opening fitted with the solar
      protection device (3) with respect to the sun,

      - entry and recording of data (D1i) defining the type
      of the solar protection and/or lighting device, the
      solar protection being Venetian blinds, combining
      criteria relating to the position and to the
      orientation of the blades and screen blinds comprising
      a criterion of position and possibly a criterion of
      opacity,

      - entry and recording of data (Li) defining the maximum
      desired depth of penetration of the sun into the

building, and/or the sought visual comfort in the zone covered by the solar protection device,

- in a second phase, a step of iterative calculation over all of the solar protection and/or lighting devices (3) during which, for each device, coefficients for a control algorithm and/or a control algorithm, intended for the control of the device, are calculated on the basis of the data (Fi, D1i, Li) recorded in memory in the parameterization step and of general information (D2i) characterizing the different types of solar protection and/or lighting and contained in memory."

In claim 1 of the second auxiliary request the feature

"where the computing means will generate as many algorithms (Ai), or as many groups of coefficients (Ci) used by a same algorithm (Ai), as there are different products or products subjected to different conditions (Fi, D1i, D2i, Li)"

has been added with respect to claim 1 of the main request.

Claim 1 of the first auxiliary request is the same as claim 1 of the second auxiliary request except that the feature relating to Venetian blinds has been removed.

In view of the following decision, it is not necessary to recite the further independent claims.

Reasons for the Decision

1.   *Claim 1 of the main request: inventive step (Art. 52(1) and 56 EPC)*

1.1   The board considers that D1 represents the closest
       prior art.

       This document discloses (see claim 1) a method of
       operating a motorised closure system for a building
       including blinds and window shutters and thus relates
       to an installation comprising solar protection and/or
       lighting devices. The installation is controlled by a
       central server (claim 1) which at least implicitly
       comprises a memory and computing means and a user
       interface. The method comprises the following steps:

       - identifying each of the closure systems which may be
       used (claim 1 and paragraphs [0024] and [0025]),

       - selecting the variable parameters to be considered
       for the operation (claim 1 and paragraph [0025]),

       - defining the threshold values of the variable
       parameters (claim 1 and paragraph [0025]),

       - controlling the operation of the motorised closure
       system if one or more of the variable parameters
       exceeds its threshold value (claim 1).

       According to D1, data defining the exposure of the
       opening fitted with the solar protection device with
       respect to the sun are recorded (paragraph [0018],
       first sentence).

       The first three steps of this method and the recording
       of exposure data serve to configure the motorised
       closure system as they precede the actual control
       process and occur when the system is set up for the

first time (paragraph [0025]). They may thus be
considered to form together a parameterization step.

Further, the identifying step of D1 is considered to
imply the entry and recording in a memory of data
defining the type of solar protection device for the
following reasons. From paragraphs [0028] and [0029] it
follows that the closure system of D1 is applicable to
different types of closure systems ("type store",
"volets roulants"). To the extent that different
devices are used, some kind of distinction needs to be
made at the level of the server in order to be able to
specifically address the different devices. Hence, D1
implicitly discloses the entry and recording of data
defining the type of solar protection device. Further,
one device type is screen blinds ("type store").

Further, the controlling step of D1 implies that a
control algorithm (*e.g.* a generic closing algorithm) is
executed using the threshold values previously defined
(claim 1) by comparing an actual value with the
relevant threshold value (paragraph [0025]).
The threshold values can, thus, be considered as
coefficients of such a control algorithm. Since the
threshold values are specific to the variable
parameters of the operating method of D1 (see claim 1)
they must reflect the exposure and type as well as the
variable parameters used for the control method which
have been previously recorded and, hence, stored in a
memory.

The known method does not explicitly mention any of the
steps being iterated over any number of solar
protection devices. From paragraph [0024] it follows,
however, that the method of D1 is intended to be
applied to several motorised closure systems

("identifier chacun"). This implies that the steps
recited in claim 1 of D1 need to be performed on each
of the several solar protection devices. D1 does,
however, not specify any grouping of this process into
phases.

1.2   The subject-matter of claim 1 differs from the known
        method by the following features:

        -     the solar protection device is Venetian blinds,
        combining criteria relating to the position and to the
        orientation of the blades, and the data entered and
        recorded relate to the position and to the orientation
        of the blades,

        -     the variable parameters to be considered for the
        operation define the maximum desired depth of
        penetration of the sun into the building, and/or the
        sought visual comfort in the zone covered by the solar
        protection device,

        -     the iteration of the method over several solar
        protection devices is performed in such a way that the
        parameterization step is first performed over all solar
        protection devices before the coefficients for the
        control algorithm is calculated for all solar
        protections devices

        -     coefficients for a control algorithm are
        calculated.

1.3   The first feature solves the problem of extending the
        automatisation method of D1 to further solar protection
        devices.

It was common ground that Venetian blinds had been
known for a long time and certainly before the relevant
priority date. It was further undisputed that it was
evident to the skilled person that the functioning of
Venetian blinds is determined by two parameters, *i.e.*
their position (open or (partially) closed) and the
orientation of the blades.

D1 gives various examples for solar protection devices
for which the invention is considered (paragraph
[0021]). This list is, however, not exhaustive
("etc."). Considering that Venetian blinds were known
as solar protection devices and that they can obviously
also be motorised, the skilled person would have
considered extending the invention of D1 to Venetian
blinds in order to profit from the automatisation
provided by it. He would also have considered
automatisation of the known two variables provided by
Venetian blinds, *i.e.* their position and the
orientation of the blades, in order to make full use
provided by the arrangement of blades in a Venetian
blind.

1.4   The problem to be solved by using a parameter internal
to a building like the "maximum desired depth of
penetration of the sun into the building" is to achieve
finer control than would be possible if only external
parameters (from a meteorological station) were used as
is the case in D1.

In order to solve this problem, the skilled person was
aware that the use of internal control parameters was
known (see for example paragraph [0011] of D1). It was
also known that there is a trade-off between using
internal control parameters with a multiplicity of
sensors in or at a building which would allow a more

individual and thus finer control and using a
centralised source of parameters which is less
complicated (D1, paragraph [0013]) but less individual.

Hence, the skilled person would have made an informed
decision to use internal sensors in view of the above
trade-off according to the circumstances of a given
situation without the exercise of an inventive step
(Article 56 EPC).

The specific parameter "maximum desired depth of
penetration" cannot be seen to confer an inventive
step, either. It was common knowledge and corresponds
to every day experience that the depth of penetration
of the sun into a building is an important factor
responsible for the brightness or visual comfort as
well as for the heat development in the building.
Hence, it would have been obvious to the skilled person
to consider such a parameter in order to control for
example the visual comfort in a room.

1.5   The third feature cannot be seen to solve any
       particular problem apart from introducing a specific
       grouping for the iteration process over several solar
       protection devices. Indeed, the further independent
       process claim 2 relates to a method in which the
       iteration is not grouped but performed after completion
       of the parameterization and calculation steps for each
       of the solar protection devices.

       No inventive step can be attributed to a deliberate
       choice of a particular grouping of the iteration over
       all solar protection devices.

1.6   Having regard to the fourth difference, the board notes
       that according to D1, threshold values are determined

by a user (paragraph [0025]) whereby the determination
of the threshold is to be interpreted broadly
(paragraph [0027]).

The board considers this to mean that the threshold
values are not necessarily literally determined by the
user. This would, in a typical situation, not make much
sense if the threshold value used by the closure system
is for example a voltage. Typically, a closure system
would then be set up in such a way that a threshold
value of a type which is easily accessible to a general
user could be entered, like for example a temperature
value or a brightness value. On the level of the
closure system, this value would then have to be
transformed, that means a calculation would have to be
made to turn it into a value which is actually measured
by the detectors used by the system, *e.g.* a voltage.
Hence, the calculation of coefficients for a control
algorithm would at least have been obvious to the
skilled person.

1.7   The appellant argued that the intrinsic properties of
        Venetian blinds comprising two adjustable parameters
        (i.e. blade orientation and position) would entail a
        non-obvious difference in control handling. The board
        does not share this opinion. The two adjustable
        parameters of Venetian blinds are self-evident. Since
        there are no specific details with respect to their
        control in claim 1, no inventive step can be seen in
        simply mentioning these parameters with a generic
        calculation step being based upon them.

        The appellant further argued that the desired depth of
        penetration, which is an internal parameter, is a
        different type of parameter as compared to the
        parameters explicitly discussed in D1 which are all

external parameters. This argument has already been
dealt with under point 1.5 above. The appellant further
argues that the claimed parameter is a parameter on
which the control action acts upon. This argument,
however, is irrelevant for the subject-matter of claim
1 as it invokes a control step which is not claimed.

Finally, the appellant argued that the calculation of
coefficients of a control algorithm or of the control
algorithm itself would involve more than the obvious
transformation of user accessible values into values
used by the closure system (see point 1.6 above). In
particular, the controlled parameter, *i.e.* the maximum
desired depth of penetration, was a parameter which
would require a more complex calculation. The board
does not share this argument as there is nothing in the
application to support it. On the contrary, in
paragraph [0053] of the application as published, it is
mentioned that coefficients of the algorithm are
determined or produced. Hence, not only is the same
language used as in D1 with respect to the threshold
values ("déterminer") but these formulations can be
understood as meaning that instead of the alleged
complex calculations, a simple selection of
coefficients takes place.

1.8   Since, for the above reasons, the subject-matter of
       claim 1 of the main request does not involve an
       inventive step (Article 56 EPC), the request is not
       allowable.

2.   *Claim 1 of the first and second auxiliary requests:*
       inventive step (Articles 52(1) and 56 EPC)

2.1   Claim 1 of the first and second auxiliary requests
       comprises, compared to claim 1 of the main request, the
       additional feature

       "where the computing means will generate as many
       algorithms (Ai), or as many groups of coefficients (Ci)
       used by a same algorithm (Ai), as there are different
       products or products subjected to different conditions
       (Fi, D1i, D2i, Li)".

       The board understands the term "product" in the first
       alternative to relate to a type of solar protection
       and/or lighting device and in the second alternative to
       the same type of solar protection device subjected to
       different conditions as *e.g.* being installed in rooms
       having a different orientation. This feature is,
       however, already known from D1. Claim 1 of D1 applies
       to the operation of closure systems (plural!), and
       variable parameters for their operation are selected
       for each of them ("chacun d'eux"). The variable
       parameters are monitored ("surveiller") with respect to
       threshold values, which the board identified as the
       coefficients in the sense of claim 1 of the present
       invention (see point 1.1 above). Since the threshold
       values (the coefficients in the language of claim 1)
       are specific to the variable parameters of the
       operating method of D1, which themselves are specific
       to a given situation (paragraph [0025]) it follows that
       there exist as many groups of coefficients as there are
       different products or products subjected to different
       conditions.

       The subject-matter of claim 1 of the second auxiliary
       request does not therefore involve an inventive step
       (Article 56 EPC).

2.2   Since the subject-matter of claim 1 of the second
        auxiliary request does not comprise an inventive step
        (Article 56 EPC), the request is not allowable.

2.3   The scope of claim 1 of the first auxiliary request is
        broader than that of latter claim, as the feature

        "the solar protection being Venetian blinds, combining
        criteria relating to the position and to the
        orientation of the blades and screen blinds comprising
        a criterion of position and possibly a criterion of
        opacity"

        has been deleted compared to claim 1 of the second
        auxiliary request. Hence, the previous arguments (see
        point 2.1) apply to the subject-matter of this claim as
        well.

2.4   Since the subject-matter of claim 1 of the first
        auxiliary request does not comprise an inventive step
        (Article 56 EPC), the request is not allowable.

3.   Reimbursement of the appeal fee (Rule 103 EPC)

3.1   According to Rule 103(1)(a) EPC the reimbursement of
        the appeal is unconditionally linked to the Board of
        Appeal deeming the appeal to be allowable.

3.2   As this requirement is not fulfilled, the appeal fee is
        not to be reimbursed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The request for reimbursement of the appeal fee is rejected.

The Registrar: The Chairman:

G. Rauh   R. Cramer

Decision electronically authenticated