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**Datasheet for the decision  
of 8 December 2014**

**Case Number:** T 2106/11 - 3.2.01

**Application Number:** 06112587.8

**Publication Number:** 1714822

**IPC:** B60K35/00, B60K37/06

**Language of the proceedings:** EN

**Title of invention:**

Agricultural vehicle and implement information display

**Patent Proprietor:**

CNH U.K. Ltd.

**Opponent:**

CLAAS KGaA mbH

**Headword:**

**Relevant legal provisions:**

RPBA Art. 13(1)

**Keyword:**

Main Request - filed during oral proceedings: Not admitted

**Decisions cited:**

**Catchword:**



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Case Number: T 2106/11 - 3.2.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.01**  
**of 8 December 2014**

**Appellant:**  
(Patent Proprietor)

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**Respondent:**  
(Opponent)

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**Decision under appeal:**

**Decision of the Opposition Division of the  
European Patent Office posted on 25 July 2011  
revoking European patent No. 1714822 pursuant to  
Article 101(3) (b) EPC.**

**Composition of the Board:**

**Chairman** G. Pricolo  
**Members:** H. Geuss  
D. T. Keeling

## **Summary of Facts and Submissions**

- I. The appeal of the patent proprietor is directed against the decision of the opposition division of the European Patent Office posted on 25 July 2011 revoking European patent No. 1714822 pursuant to Article 101(3) (b) EPC.
- II. With its statement of grounds of appeal, filed on 5 November 2011, the appellant requested that the decision be set aside and the patent be maintained in amended form on the basis of the main request, or in the alternative, the auxiliary request, both as filed with the statement of grounds of appeal.
- III. In its letter of reply, the respondent (opponent) reiterated the objection made during opposition proceedings that the presence of the term "simultaneously" in claim 1 introduced subject-matter extending beyond the content of the application as filed. This objection had been dismissed by the opposition division in the impugned decision, on the grounds that the feature in question was supported by the disclosure in the description and drawings of the application as filed.
- IV. In a communication dated 15 September 2014, the Board referred to this objection and expressed doubts in respect of whether the feature in question was supported by the disclosure in the application as filed.
- V. Oral proceedings were held before the Board of Appeal on 8 December 2014. After hearing the parties the Board announced its finding that the subject-matter of the main request and of the auxiliary request extended beyond the content of the application as filed, in

particular as a result of the introduction of the feature "simultaneously". The appellant (patent proprietor) thereupon withdrew its previous requests and submitted a new main request. It now requested that the decision under appeal be set aside and the patent maintained on the basis of claim 1 of the new main request filed at the oral proceedings on 8 December 2014 and claims 2 to 6 of the previous main request filed on 5 November 2011.

The respondent (opponent) requested that the appeal be dismissed.

VI. Claim 1 of the new main request reads as follows (emphasis in bold, introduced by the Board, indicating the differences with respect to claim 1 of the previous main request as filed with the statement of grounds of appeal):

An agricultural vehicle having

- a display unit (10) incorporating a display screen (12) surrounded by a set of buttons (13a to 13f) according to the industrie [sic] standard for virtual terminals (VT) for ancillary equipment;
- a control panel (16, 13a-13f) associated with the screen (12);
- data buses (18, 22) connected to the screen (12) and to the control panel (16, 13a-13f) to permit the screen (12) to communicate with two computers mounted on board the vehicle and an ancillary equipment connected to the vehicle, respectively, so as to allow the screen (12) to display selectively data relating to both the vehicle and the ancillary equipment,

characterized in that

- the screen (12) is provided with a dual function unit (14a), the dual function unit (14a) being able to act **either** as a cab display (CD) to display information received via a vehicle data bus (22) using a first protocol, which information relates to the operation of the agricultural vehicle, **or** as a virtual terminal (VT) to display information received via an ancillary equipment data bus (18) using a second protocol, which information is for an item of ancillary equipment, the two busses using two different protocols, the control panel (16, 13a-13f) comprises a display manager (16) connected to drive the screen (12) and connected to the vehicle data bus (22) and to the ancillary equipment data bus (18),
- the display manager (16) managing the data received over the two buses (18,22) under program control to display on the first area (14a) of the screen either the image which would normally be seen on a cab display (CD) or that which would normally be displayed on a virtual terminal (VT), **and on a second area (14b) a conventional display of gears (DOG)**, such that the display manager allows the driver of the vehicle to monitor and set parameters in both the vehicle and the implement without having to switch between screens and control panels.

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

The main request as filed during the oral proceeding before the Board of Appeal should be admitted into the proceedings. This request was based on the main request

as filed with the statement of grounds of appeal and claim 1 was amended in order to overcome the objections regarding the expression "simultaneously" in the feature "the screen is provided with a dual function unit (14a) being able to act simultaneously as a cab display (CD)" and as a virtual terminal (VT).

The amendments of claim 1 do not alter the subject-matter with respect of claim 1 of the main request as filed with the statement of grounds of appeal but clarify the function of the screen. For this reason the second area (14b), which is a conventional display of gears (DOG) has been introduced in the claim. Now it is clear that in the dual function unit (14a) the information received via the vehicle data bus and the information received via the ancillary equipment bus are displayed alternatively, while at the same time the information about the status of the gear box is displayed in the second area.

Since the subject-matter has not changed but has been clarified, claim 1 has not been amended in such a way as to extend the protection the granted patent confers.

VIII. The respondent replied to these arguments as follows:

The main request should not be admitted into the proceedings.

Claim 1 of this request was filed during oral proceedings before the Board of Appeal only after the Board gave its opinion with respect to the main request as filed with the statement of grounds of appeal.

However the respondent had already objected in its letter of reply that the feature including the term

"simultaneously" introduced subject-matter extending beyond the subject-matter as originally filed. The Board also expressed its demurs in the communication issued under Article 15(1) RPBA. Accordingly, a further request could have been filed in good time before the oral proceedings. Consequently, the request under consideration is late filed.

Furthermore, amended claim 1 now infringes Article 123(3) EPC since the subject-matter has been changed. The feature that in the dual function unit is able to display (area 14a) information regarding the tractor and information regarding the ancillary equipment simultaneously is no longer part of the claim. This aspect would open a discussion for the first time in a very late stage of the appeal proceedings. Also for this reason, the request should not be admitted into the proceedings.

### **Reasons for the Decision**

1. The appeal is admissible.
2. The new main request (now the sole request) is not admitted into the proceedings.
  - 2.1 According to Article 13 (1) RPBA, amendments to a party's case after it has filed its grounds of appeal or reply may be admitted and considered at the Board's discretion. The discretion shall be exercised in view of inter alia the complexity of the new subject matter submitted, the current state of the proceedings and the need for procedural economy.
  - 2.2 The main request under consideration was filed during the oral proceedings after the discussion of the main

request filed with the statement of grounds of appeal with regard to the feature "simultaneously" (cf. statement of grounds of appeal, Annex, New Claims (Main Request), page 1, line 15).

Claim 1 has been amended for the present main request by replacing "simultaneously" by "either ... or", so that the contested feature now reads as follows:

- the screen (12) is provided with a dual function unit (14a), the dual function unit (14a) being able to act **either** as a cab display (CD) to display information received via a vehicle data bus (22) using a first protocol, which information relates to the operation of the agricultural vehicle, **or** as a virtual terminal (VT) to display information received via an ancillary equipment data bus (18) using a second protocol.

Furthermore,

and on a second area (14b) a conventional display of gears (DOG),

has been added in line 27 of claim 1.

- 2.3 The description of the patent as granted refers to a screen image divided into two areas 14a and 14b, the area 14b being used as a conventional display of gears (DOG), the remaining area 14b being used either as a cab display (CD) to display information relating to the operation of the tractor, or as a virtual terminal (VT) for an item of ancillary equipment (see paragraphs [0023] and [0024]; see Fig. 1). Claim 1 of the patent as granted recites that the screen is provided with a



dual function unit (14a) ... being able to act simultaneously as cab display (CD), to display information ..., which information relates to the operation of the agricultural vehicle, and as a virtual terminal (VT), to display information ..., which information is for an item of ancillary equipment".

Accordingly, it is clear that in the patent as granted the unit 14a of the screen which is able to act simultaneously as cab display and as virtual terminal is distinct from the unit 14b which acts as conventional display of gears (ODG).

With the amendments made to claim 1, the dual function unit 14a no longer acts *simultaneously* as cab display and as virtual terminal but *either* as cab display or as virtual terminal. Moreover, claim 1 is amended to recite a second area 14b showing a conventional display of gears. A simultaneous display of information relating to the operation of the agricultural vehicle (cab display) and of information relating to an item of ancillary equipment (virtual terminal) is apparently excluded by the wording of claim 1. It is noted that according to the wording of claim 1 the second area 14b is not available for this information as it is specifically intended as a conventional display of gears. Accordingly, the amendments made during oral proceedings raise the question of whether the exclusion of the simultaneous operation of the dual function unit as cab display and as virtual display extends the scope of protection attached to the patent and thus raise a new issue under Article 123(3) EPC which throws serious doubts on the allowability of the amendments.

2.4 Considering that the objection with respect to the "simultaneous" feature had already been raised with the

respondent's letter of reply, and that the Board expressed doubts in respect of this feature in the communication (see point IV above), and that the main request was filed at a late stage of the oral proceedings (after the main and auxiliary requests filed with the statement of grounds of appeal had been discussed and the Board had announced its finding that their subject-matter extended beyond the content of the application as filed, in particular as a result of the introduction of the term "simultaneously" in claim 1), the Board, having regard to the state of the proceedings and need for procedural economy, decided to exercise its discretion pursuant to Article 13(1) RPBA not to admit the appellant's new main request.

## Order

### For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



A. Vottner

G. Pricolo

Decision electronically authenticated