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Datasheet for the decision of 20 November 2018

Case Number: T 2360/13 - 3.4.02

Application Number: 01996074.9

Publication Number: 1337808

IPC: G01F1/00

Language of the proceedings: EN

Title of invention:
REMOTE CORIOLIS FLOWMETER SIZING AND ORDERING SYSTEM

Applicant:
Micro Motion, Inc.

Relevant legal provisions:
EPC 1973 Art. 56

Keyword:
Inventive step: yes (amended claims)

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Case Number: T 2360/13 - 3.4.02

D E C I S I O N
of Technical Board of Appeal 3.4.02
of 20 November 2018

Appellant: (Applicant)	Micro Motion, Inc. 7070 Winchester Circle Boulder, CO 80301 (US)
Representative:	Ellis, Christopher Paul Ollila Law Limited Warwick Innovation Centre Warwick Technology Park Gallows Hill Warwick CV34 6UW (GB)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 28 June 2013 refusing European patent application No. 01996074.9 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	R. Bekkering
Members:	F. J. Narganes-Quijano
	T. Karamanli

Summary of Facts and Submissions

I. The appellant (applicant) lodged an appeal against the decision of the examining division refusing European patent application No. 01996074.9.

II. In its decision the examining division held that the subject-matter of the independent claims of the main and the auxiliary requests then on file did not involve an inventive step (Article 56 EPC) in view of *inter alia* the disclosure of the following documents:

D1: DE 199 21 063 C1
D3: US 5 570 292 A
D5: WO 00 35 063 A1.

III. During the appeal proceedings the board introduced the following document into the proceedings:

A1: "FLOSEL: Expert selection of flowmeters", J. E. Lycett *et al.*; Engineering Applications of Artificial Intelligence, Vol. 1, March 1988; pages 37 to 40.

IV. In reply to a first and a subsequent communication of the board, the appellant submitted with the letter dated 31 July 2018 *inter alia* an amended description of the application comprising pages 1 to 9.

V. In reply to the observations made by the board in a communication annexed to the summons to oral proceedings and in a further communication, the appellant submitted with the letter dated 8 November 2018 a set of amended claims 1 to 18.

As its sole request, the appellant requested that the decision under appeal be set aside and a patent be granted in the following version:

- claims: Nos. 1 to 18 filed with the letter dated 8 November 2018;
- description: pages 1 to 9 filed with the letter dated 31 July 2018; and
- drawings: sheets 1/5 to 5/5 of the application as published.

VI. In view of the amendments made to the application according to the appellant's request, the oral proceedings were cancelled.

VII. Independent claims 1 and 10 of the sole request of the appellant read as follows:

"1. A method for providing ordering and configuring of flowmeters, comprising:

in a server (205),

receiving (415) input flow stream parameters over a network (220) from a computer (210) that is remotely located from said server;

determining (420) flowmeter parameters from said input flow stream parameters;

determining (425) whether at least one flowmeter is suitable for said flowmeter parameters;

transmitting (435) information on said at least one flowmeter to said computer over said network for display to a user;

receiving (440) a selection of one of said at least one flowmeter displayed to said user from said computer over said network;

transmitting (475) an order for said selected flowmeter; and

after said user receives said selected flowmeter, remotely configuring said selected flowmeter (477) over said network (220), by connecting the remote computer (210) connected to said server (250) to said selected flowmeter."

"10. A system for providing remote ordering and configuring of flowmeters comprising:

instructions;

a memory (320) configured to store said instructions; and

a processing unit (301) configured to execute said instructions; wherein said instructions are configured to direct said processing unit to:

receive input flow stream parameters over a network (220) from a computer (210) that is remotely located from said system;

determine (420) flowmeter parameters from said input flow stream parameters;

determine (425) whether at least one flowmeter is suitable for said flowmeter parameters;

transmit (435) information on said at least one flowmeter to said computer over said network for display to a user;

receive (440) a selection of one of said at least one flowmeter displayed to said user from said computer over said network;

transmit (475) an order for said selected flowmeter; and

direct said processing unit (301) to remotely configure said selected flowmeter (477) when said selected flowmeter is connected to the remote computer (210)."

The set of claims of the appellant's request also include dependent claims 2 to 9 and 11 to 18 referring back to independent claims 1 and 10, respectively.

Reasons for the Decision

1. The appeal is admissible.

2. *Amendments*

Claim 1 is essentially based on claims 1, 2 and 19 as originally filed, together with the passages on page 13, lines 18 and 19, and page 16, lines 18 to 20, of the description as originally filed. Independent claim 10 is essentially based on claims 25 to 27, 43 and 44 as originally filed, together with the passages on page 13, lines 29 and 30, and page 16, lines 18 to 20, of the description as originally filed. As regards the dependent claims, the board notes that

- dependent claim 2 is based on claims 3 and 4 as originally filed, together with the passage on page 3, lines 6 to 8, of the description as originally filed;

- dependent claims 3 to 7 are based on the following claims as originally filed, respectively: claim 16, claims 17 and 41, claim 18, claim 20, and claim 21;

- dependent claims 8 and 9 are respectively based on the passages on page 13, lines 16 and 17, and on page 16, lines 9 to 14, of the description as originally filed;

- dependent claim 11 is based on claim 29 as originally filed, together with the passage on page 3, lines 6 to 8, of the description as originally filed;

- dependent claims 12 to 16 are based on the following claims as originally filed, respectively: claim 34, claim 41, claim 42, claim 44, and claim 45; and

- dependent claims 17 and 18 are respectively based on the passages on page 13, lines 16 and 17, and on page 16, lines 9 to 14, of the description as originally filed

The amendments to the description relate to the adaption of some of its passages to the invention as defined in the present claims (Article 84 and Rule 27(1)(c) EPC 1973), and to the acknowledgement of the pertinent state of the art (document A1) in the introductory part of the description (Rule 27(1)(b) EPC 1973).

Therefore, the application amended according to the present request of the appellant complies with the requirements of Article 123(2) EPC.

3. *Novelty and inventive step*

3.1 The examining division did not object to the novelty of the subject-matter of the claims of the requests then on file, and - as it is apparent from the following discussion on the issue of inventive step - the board has no reason to question the novelty of the subject-matter of the claims of the present request of the appellant.

3.2 Claim 1 is directed to a method allowing a user to select and order a flowmeter and, upon reception of the flowmeter, to configure the flowmeter, using a computer connected to a server over a network and remotely located from the server. Therefore, as held by the

examining division in the contested decision in respect of the independent method claim of the requests then on file, the claimed method comprises two distinct phases, namely a first phase involving the selection and ordering of the flowmeter, and a second phase involving the configuration of the flowmeter after the user has received the selected flowmeter.

3.2.1 As regards the first phase, in its decision the examining division essentially held in respect of the independent method claim of the requests then on file that

- the features relating to the selection and ordering of the flowmeter (see the claimed steps of receiving input flow stream parameters, determining the corresponding flowmeter parameters, determining flowmeters suitable for the flowmeter parameters, transmitting to a user information on the suitable flowmeters, receiving a selection by the user of one of the suitable flowmeters, and transmitting an order for the selected flowmeter) pertained to an administrative method, and the ordering phase carried out general purpose administrative data processing;

- having regard to the structural elements of the claimed method (i.e. the server, the network, and the remote computer), the closest state of the art was a notoriously known general purpose computer system such as a client-server system;

- remote order placing mechanisms for different products, such as cars, mobile phones, etc., on the basis of parameters set by a user were already known in the state of the art (see document D1, abstract, together with column 1, line 3 to column 8, line 27; and document D3, abstract), and

- it was obvious for the skilled person to implement the administrative method of remotely

allowing the selection and then the ordering of a flowmeter into an appropriate general purpose computer system as claimed (Article 56 EPC 1973).

During the appeal proceedings the appellant has not disputed the examining division's view in this respect, and the board sees no reason for doing otherwise, especially as document A1 considered during the appeal proceedings further supports the examining division's conclusion. Indeed, document A1, which can be considered as an alternative closest state of the art to that considered by the examining division, discloses the use of software programs executed by a computer to first extract from a set of known flowmeters a list of suitable flowmeters adapted to the particular specifications and conditions of use entered by a user, and to then give the user the possibility of selecting one among the list of suitable flowmeters (abstract, and page 37, second column, fourth paragraph, to page 40, second column, first paragraph). Therefore, the first phase of the claimed method does not go beyond the obvious application of the disclosure of document A1 to a remote ordering client-server system and the subsequent transmission of an order for the selected flowmeter.

3.2.2 As regards the second phase of the method relating to the configuration of the flowmeter after the user has selected, ordered and received the flowmeter, the examining division referred to document D5 and held in respect of the independent method claim of the requests then on file that it was obvious to consider remotely configuring the flowmeter. In particular, the examining division held that the expression "configuring the flowmeter" encompassed the installation of an application in the flowmeter, but also communicating

with other devices in a network, and that in any case configuring a flowmeter was known and doing it remotely was obvious.

In the board's view, however, the claimed configuration step goes, in the technical context of the claimed method, beyond a mere communicating with other devices, and in particular with a server, in a network, and requires, as submitted by the appellant, the installation of a configuration application in the flowmeter and therefore the adjustment of the operational characteristics of the flowmeter.

Admittedly, as held by the examining division, it was already known at the priority date to provide a server-based communications network of devices, as illustrated by document D5 disclosing a network constituted by a server interface and a set of utility meters of different types (Fig. 2 to 6 and the corresponding description), in particular of gas or water meters (page 1, first paragraph), and in which the server interface communicates with the meters through a variety of request applications (abstract, and Fig. 7 to 9 together with the corresponding description).

However, as submitted by the appellant, document D5 only discloses the bidirectional communication between the utility meters and the server interface or a remote application connected thereto over a network (page 5, lines 10 to 13, and Fig. 6 together with page 7, lines 25 to 27), and the document is silent as to the installation of configuration applications in the utility meters. In addition, claim 1 has been amended during the appeal proceedings to require that the flowmeter is remotely configured over the network by connecting the remote computer connected to the server

to the flowmeter. Neither document D5, nor the remaining documents on file, disclose or suggest remotely configuring a flowmeter, not within the communications network in which the flowmeter might, in operation, be integrated, but by specifically connecting the flowmeter connected to the remote computer to the same server and over the same network previously used for carrying out the operations of selecting and subsequently ordering the flowmeter.

For these reasons, in the board's view the claimed method involves an inventive step over the available prior art.

3.3 Independent claim 10 is directed to a system for providing remote ordering and configuring of flowmeters comprising a processing unit configured to execute instructions stored in a memory, the instructions being configured to direct the processing unit to execute a series of steps that are in one-to-one functional relationship with the steps of the method defined in claim 1. Accordingly, the system defined in independent claim 10 involves an inventive step for the same reasons given in point 3.2 above in respect of the method of claim 1.

3.4 The board concludes that the subject-matter of independent claims 1 and 10, and therefore also of dependent claims 2 to 9 and 11 to 18 referring back to independent claims 1 and 10, respectively, is new and involves an inventive step over the prior-art documents on file (Articles 54(1) and 56 EPC 1973).

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 with the order to grant a patent in the following version:

   - claims: Nos. 1 to 18 filed with the letter dated 8 November 2018;

   - description: pages 1 to 9 filed with the letter dated 31 July 2018; and

   - drawings: sheets 1/5 to 5/5 of the application as published.

The Registrar: The Chairman:

M. Kiehl R. Bekkering

Decision electronically authenticated