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**Datasheet for the decision
of 18 December 2018**

Case Number: T 2495/13 - 3.5.02

Application Number: 09157330.3

Publication Number: 2110838

IPC: H01H71/10, H01H9/34

Language of the proceedings: EN

Title of invention:

Current Path Arrangement for a Circuit Breaker

Applicant:

General Electric Company

Relevant legal provisions:

EPC R. 99(2), 101(1)

Keyword:

Admissibility of appeal - appeal sufficiently substantiated
(no)



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Case Number: T 2495/13 - 3.5.02

D E C I S I O N
of Technical Board of Appeal 3.5.02
of 18 December 2018

Appellant: General Electric Company
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Schenectady, NY 12345 (US)

Representative: Fischer, Jens Peter
General Electric Technology GmbH
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 18 July 2013
refusing European patent application No.
09157330.3 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman R. Lord
Members: F. Giesen
J. Hoppe

Summary of Facts and Submissions

- I. This appeal lies from the decision of the Examining Division refusing European patent application No. 09 157 330.3. The sole reason given for the refusal was that the subject-matter of then pending claim 1 lacked novelty over document D1 (*US 6,248,971 B1*).
- II. In the statement of grounds of appeal dated 27 November 2013 the appellant (applicant) requested that the impugned decision be set aside and that a patent be granted on the basis of the claims on which the impugned decision was based, i.e. those filed by telefax on 17 December 2012, as well as amended description pages 1 and 3 filed with the statement of grounds of appeal and the remaining unreplaced original application documents.
- In a communication pursuant to Article 15(1) RPBA the Board informed the appellant of their preliminary opinion that the appeal appeared not to be sufficiently substantiated as required by Rule 99(2) EPC and was therefore likely to be rejected as inadmissible pursuant to Rule 101(1) EPC. No reaction was received in response to this communication.
- III. Oral proceedings were held before the Board on 18 December 2018, at which the appellant was not represented.
- IV. Claim 1 according to the appellant's sole request reads as follows:

"A circuit breaker apparatus comprising: an enclosure (300), comprising a first chamber and a second chamber, a circuit breaker pole mounted within said enclosure,

said circuit breaker pole comprising a first sub pole (240) and a second sub pole (245), said first sub pole and said second sub pole each comprising a moveable [sic, also in the following instances] contact assembly and a fixed contact assembly, the moveable contact assembly moveable between a closed position in contact with the fixed contact assembly and an open position separate from the fixed contact assembly, said first sub pole moveable contact assembly and said second sub pole moveable contact assembly being conductively bridged together; said first sub pole fixed contact assembly and said second sub pole fixed contact assembly being conductively bridged together when the moveable contact assembly is in the open position wherein said first sub pole is enclosed within said first chamber, and said second sub pole is enclosed within said second chamber; a first arc chute assembly installed on said first chamber; and a second arc chute assembly installed on said second chamber."

- V. The part of the appellant's submissions dealing with the sole ground for refusal of novelty reads as follows:

"In contrast, in our invention as defined in our claim 1 there is provided a circuit breaker apparatus with a circuit breaker pole mounted within an enclosure and having a first sub pole and a second sub pole, wherein a first sub pole movable contact assembly and a second sub pole movable assembly are conductively bridged together and wherein a first sub pole fixed contact assembly and a second sub pole fixed contact assembly are conductively bridged together when the movable contact assembly is in the open position. The first sub pole is enclosed within a first chamber and the second sub pole is enclosed within a second chamber, a first

arc chute assembly is installed on the first chamber and a second arc chute assembly is installed on the second chamber."

The appellant did not present any further arguments in reaction to the summons.

Reasons for the Decision

Admissibility of the appeal (Article 108 EPC, Rule 99(2) EPC and Rule 101(1) EPC)

1. Article 108 EPC requires that the statement setting out the grounds of appeal has to be filed within four months of notification of the decision in accordance with the Implementation Regulations. Pursuant to Rule 99(2) EPC, in the statement of grounds of appeal the appellant shall indicate the reasons for setting aside the impugned decision and the facts and evidence on which the appeal is based.
2. The sole reason leading to the refusal was lack of novelty over document D1.

The appellant appears to argue in the statement of grounds of appeal at the last paragraph of page 1 ("In contrast") **which** features of claim 1 were not disclosed in document D1.

However, as can be seen from the cited passage from the statement of grounds in point V. above, the remainder of the paragraph simply recites most of the features of pending claim 1, which the Examining Division, had considered to be disclosed in D1. This paragraph

amounts thus to the mere allegation that the impugned decision was incorrect as regards the contentious features. There were no other explanations regarding the novelty of the subject-matter of claim 1.

3. On this basis, the Board is unable to discern any reason **why** the assessment of the Examining Division of the contentious features might have been erroneous without having to make investigations of their own, see Case Law of the Boards of Appeal, 8th Edition, 2016, IV.E.2.6.3 a). In particular it is not indicated in the statement of grounds of appeal why the arguments of the Examining Division referring to where and why the specific features of claim 1 were disclosed in D1 were allegedly wrong, although the Examining Division had shown in detail in which passages or figures of D1 these features were disclosed and how the "poles" in D1 were to be interpreted.
4. The statement of grounds of appeal therefore does not meet the requirements of Rule 99(2) EPC. The appeal is therefore rejected as inadmissible pursuant to Rule 101(1) EPC.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



U. Bultmann

R. Lord

Decision electronically authenticated