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Case Number: T 1691/14 - 3.5.02

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Language of the proceedings: EN

Title of invention:
Intelligent home automation system providing power saving in standby mode

Patent Proprietor:
Vestel Elektronik Sanayi ve Ticaret A.S.

Opponent:
Interessengemeinschaft für Rundfunkschutzrechte e.V.

Relevant legal provisions:
EPC Art. 54, 56

Keyword:
Novelty - main request (no) - Inventive step - auxiliary requests 1 and 2 (no)

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Case Number: T 1691/14 - 3.5.02

D E C I S I O N
of Technical Board of Appeal 3.5.02
of 1 August 2019

Appellant: (Patent Proprietor)	Vestel Elektronik Sanayi ve Ticaret A.S. 45030 Manisa (TR)
Representative:	Cayli, Hülya Paragon Consultancy Inc. Koza Sokak No: 63/2 GOP 06540 Ankara (TR)
Respondent: (Opponent)	Interessengemeinschaft für Rundfunkschutzrechte e.V. Hohenzollernstrasse 11-13 40211 Düsseldorf (DE)
Representative:	Pröll, Jürgen Die Patenterie GbR Patent- und Rechtsanwaltssozietät Leibnizstraße 6 95447 Bayreuth (DE)
Decision under appeal:	**Decision of the Opposition Division of the European Patent Office posted on 10 June 2014 revoking European patent No. 2051379 pursuant to Article 101(3)(b) EPC.**

Composition of the Board:

Chairman	R. Lord
Members:	C. Vassoille
	W. Ungler

Summary of Facts and Submissions

I. This is an appeal of the patent proprietor against the decision of the opposition division to revoke European patent no. 2 051 379 for lack of novelty and lack of inventive step.

II. The following document is relevant for the present decision:

D3: DE 30 03 425 A1

III. Oral proceedings before the board took place on 1 August 2019 in the absence of the respondent.

The appellant (patent proprietor) requested that the decision under appeal be set aside and the patent be maintained in amended form on the basis of the main request or auxiliary request 1, both filed with the statement of grounds of appeal, or on the basis of auxiliary request 2 filed with letter dated 1 July 2019.

The respondent (opponent) requested in writing in their response to the statement of grounds of appeal dated 9 February 2015 that the appeal be dismissed.

IV. Claim 1 of the appellant's main request (patent in amended form) reads as follows:

"A method of controlling the ON, STANDBY, or the OFF state of at least one electronic device in a system in which multiple electronic devices are present and at least one of such electronic devices is controlled by means of the remote control signals of at least one of such devices, in which method

• such electronic devices are connected to a controller for controlling the ON, standby, and OFF mode of such devices, wherein information of which devices run together with which devices is stored on a nonvolatile memory of the controller as rules of the controller for turning ON, switching to the standby mode, or turning OFF operations and the meanings of the remote controller commands are stored on said nonvolatile memory;
• said controller detects the remote control signals controlling the electronic devices;
• once a signal is transmitted from at least one of the remote controls of such electronic devices for turning ON, turning OFF or switching to the standby mode such an electronic device, said controller controls the switching to the standby mode, turning ON, or turning OFF of at least one electronic device according to said rules;
• once a signal is transmitted from at least one remote control of such electronic devices for switching an electronic device to the standby mode, said controller shuts off the power of at least one electronic device according to the ON, standby, or OFF state of that electronic device as required by a predetermined turning OFF rule of said controller;
• once a signal is transmitted from at least one remote control of such electronic devices for turning ON an electronic device, said controller supplies power to at least one electronic device according to the ON, standby, or OFF state of that electronic device as required by a predetermined turning ON rule of said controller;
• once a signal is transmitted from at least one remote control of such electronic devices for turning ON an electronic device already in the OFF state, said controller provides the turning ON of at least one

electronic device according to a predetermined turning ON rule of said controller."

V. Claim 1 of auxiliary request 1 adds to claim 1 of the main request the following feature, in the first bullet point:

"[rules], which can be altered by the user or manufacturer afterwards,"

VI. Claim 1 of auxiliary request 2 adds to claim 1 of the main request the following feature, also in the first bullet point:

"[rules], which can be altered by the user or manufacturer afterwards by means of a special software using a bus to change data on said nonvolatile memory,"

VII. The arguments of the appellant which are relevant for the present decision are as follows:

According to claim 1 of the main request, information of which devices run together with which devices was stored in the memory of the controller as control rules. Therefore, when a device was turned on, only the related devices were turned on according to said rules. Document D3, however, did not disclose storing information of which devices run together with which devices on a non-volatile memory.

Document D3 merely disclosed the activation of a pre-amplifier in the event that a tuner, pickup or cassette player was activated. Although document D3 disclosed storing programing information on a non-volatile memory, there was no indication that said programming information comprised information as to which devices

run together with which other devices. According to the subject-matter of claim 1 of the main request, different electronic devices and combinations thereof could be controlled more easily.

Consequently, the subject-matter of claim 1 as well as that of the corresponding independent system claim 6 was new in view of document D3.

Claim 1 of auxiliary request 1 referred to control rules stored on a non-volatile memory of the controller and in particular to altering said rules by a user or a manufacturer afterwards. Altering the control rules by a user or manufacturer was advantageous, because the variety of different electronic devices that could be used with the system increased significantly.

Furthermore, the feature of storing information of which devices run together with which devices on a non-volatile memory of the controller as control rules and the further feature of altering the control rules afterwards by a user or manufacturer had a synergetic effect, which significantly increased the variety of different electronic devices that could be used with the system.

Since neither of the prior art documents disclosed the combination of said features, the subject-matter of independent claim 1, and accordingly independent system claim 3, according to auxiliary request 1 was new and involved an inventive step.

Furthermore, as regards claim 1 of auxiliary request 2, document D3 only mentioned on page 11 the possibility to use a microprocessor without any further explanation in this respect. Therefore, document D3 did not

disclose storing of information of which devices run together with which devices on a non-volatile memory of the controller as rules, which could be altered by the user or manufacturer afterwards by means of a special software using a bus to change data on said non-volatile memory.

The distinguishing feature further involved an inventive step with respect to document D3. This document related to a fixed system providing fixed rules, and the skilled person therefore had no motivation to change the rules afterwards by a special software using a bus.

Consequently, the subject-matter of claim 1 of auxiliary request 2 was new and involved an inventive step over the prior art. The same applied to the independent system claim 3.

VIII. The arguments of the respondent which are relevant for the present decision are as follows:

The subject-matter of claims 1 and 6 of the main request was not new in view of document D3.

In document D3, the meanings or consequences of the control commands were also stored in a non-volatile memory, since the system of D3 had a non-volatile memory and a microprocessor (see page 11, lines 1 to 6). In particular, the memory stored information about which operations were to be performed under which condition (switch-on state, switch-off state or standby state).

According to document D3 the advantage of the invention was that all other operations necessary for the

reproduction of e.g. cassette music were carried out automatically, if the desired function was selected (see D3 on page 4, lines 31 to 34).

Furthermore, document D3 on page 5, lines 23 to 28 disclosed that the control centre had network relays which were adapted to controllably connect the individual components of the system (record player, cassette player, tuner, preamplifier) to the supply voltage.

On page 7, lines 31 to 34 of D3, it was stated that a user may connect the tuner to the supply voltage by simply pressing the corresponding station button on the hand control. The user could also press the "Tuner" button on the preamplifier to achieve the same effect. Document D3 thus explicitly disclosed that, for example, pressing a button on the preamplifier via the control centre connected the tuner to the supply voltage. In addition, the hand control also had a tuner button to switch on the preamplifier. If the user pressed the button "51", the tuner as well as the preamplifier would be connected to the supply voltage depending on the rules stored in the control centre and in particular in the non-volatile memory thereof.

Furthermore, document D3 on page 8, lines 1 to 7 disclosed that the preamplifier was connected to the supply voltage by either pressing one of the function buttons, for example tuner, record player, or cassette player on the preamplifier or the corresponding command buttons on the hand control. In addition, the preamplifier was also connected to the supply voltage in the event that one of the buttons on the tuner, the cassette player or the record player was pressed,

causing these components to be connected to the supply voltage.

Consequently, document D3 disclosed storing in the non-volatile memory of the control centre that switching on (i.e. connecting to the voltage supply) the tuner, the cassette player or the record player automatically caused a connection of the preamplifier to the power supply. In addition, document D3 on page 8, lines 9 to 11 disclosed that the preamplifier was disconnected from the supply voltage if the cassette player automatically switched off or if a standby command had been issued via the control centre.

It was therefore clear that document D3 must necessarily save information about which device was to be operated with which other devices of the system in the non-volatile memory of the control centre. This information was then used by the control centre to decide which devices should be switched on, switched off or should be switched to standby mode. Furthermore, the meanings or consequences of the control commands were also stored in this non-volatile memory, since otherwise the operations described on page 8, lines 1 to 11 of D3 could not be carried out.

Claim 1 of auxiliary request 1 comprised the additional feature of the possibility to alter the rules by the user or manufacturer afterwards. The additional feature formed part of the common general knowledge of the skilled person and was therefore obvious. Consequently, the subject-matter of claims 1 and 3 of auxiliary request 1 did not involve an inventive step in view of document D3.

Reasons for the Decision

1. The appeal is admissible.

2. Main request - novelty (Article 54 EPC)

2.1 The subject-matter of claim 1 of the main request is not new in view of document D3.

2.2 The appellant has not challenged the conclusion in the decision in suit that document D3 discloses a method comprising all the technical features of the then independent claim 1. It is also not disputed by the appellant that document D3 on page 7, lines 6 to 11 discloses a control centre comprising a non-volatile memory in order to store control commands thereon (see the statement of grounds of appeal on page 3, lines 1 to 2).

2.3 The appellant however disputed that document D3 discloses the feature of storing of "information of which devices run together with which devices [...] as rules of the controller" in a non-volatile memory according to claim 1.

2.4 The board considers that information of which devices of the system run together with which devices is stored in the non-volatile memory is implied by D3, in particular by the fact that turning on and off of the components is centrally controlled by the control centre (see D3 for example on page 4, line 36 to 39, page 5, lines 23 to 28 and in particular page 7, line 19: "...Steuerung über die Steuerzentrale 5..."). The control centre must therefore have the necessary information. Since there is no other way disclosed in

D3 to provide the necessary information and corresponding rules to the control centre, it is evident that they are stored in the non-volatile memory of the control centre.

2.5 The board further notes in this respect that in order to automatically activate all other operations required for a specific selected function of the system according to D3, it is necessary to define rules regarding which devices of the system should be activated in the event that a specific function is selected. As has been argued by the respondent, this is particularly clear from D3 on page 4, lines 31 to 34:

"The advantage of the invention is in particular that only the desired function - e.g. "Start cassette playback" - has to be initiated and all other operations necessary for the playback of cassette music are carried out automatically." (translation by the board)

2.6 As a consequence, the board agrees with the respondent that document D3, in particular on page 4, lines 31 to 34, page 8, lines 1 to 7, and page 10, lines 12 to 21, discloses that "information of which devices run together with which devices" must necessarily be stored in the non-volatile memory of the control centre ("Steuerzentrale 5") in order to switch on the preamplifier ("Vorverstärker 4") at the same time as the tuner ("Tuner 3"), the cassette player ("Kassettengerät 2") or the record player ("Plattenspieler 1"), in the event that one of these components is switched on.

2.7 Finally, document D3 on page 11, lines 4 to 6 discloses that programming of a microprocessor in such a way that

it performs the described individual control commands in the desired manner, was well known in the art. It is evident that the mentioned individual control commands refer to information of which devices run together with which devices as rules of the controller for turning ON, switching to standby mode, or turning OFF operations and the meanings of the remote controller commands, and that programming of a microprocessor in such a way that it performs the desired individual control commands includes the storing of corresponding rules in the non-volatile memory.

2.8 The board therefore concludes that even if it is not explicitly mentioned in D3, there can not be any reasonable doubt that the skilled person would understand anything else from D3 than that the non-volatile memories of the control centre serve to store information of which devices of the system run together with which devices as rules of the controller for turning ON, switching to the standby mode, or turning OFF operations.

2.9 In conclusion, document D3 discloses all features of claim 1, the subject-matter of which is therefore not new in the sense of Article 54 EPC.

3. Auxiliary request 1 - inventive step (Article 56 EPC)

3.1 The respondent in the reply to the statement of grounds of appeal has acknowledged that document D3 does not disclose the additional feature of claim 1 of auxiliary request 1, i.e. the possibility to alter the rules by a user or manufacturer afterwards. The respondent argued that the distinguishing feature belongs to the common general knowledge and is therefore obvious to the person skilled in the art. The opposition division in

the reasons for the decision under appeal on page 12, lines 1 to 4 came to the conclusion that the distinguishing feature represented a mere design choice, which was obvious to the skilled person.

3.2 The appellant contested the respondent's allegation that altering the rules by a user or manufacturer afterwards was common general knowledge and therefore obvious to the skilled person.

3.3 The technical effect of the distinguishing feature was considered by the appellant to provide a more flexible use of the system with a significantly higher number of possible different electronic devices.

3.4 The board observes that the capability of a non-volatile memory to be (re)programmable is an inherent characteristic of such a memory. On the other hand, document D3 does not explicitly disclose the possibility for a user or a manufacturer to afterwards change the rules, as was agreed by the parties.

3.5 Taking in particular into account the considerable time span between document D3 (publication date in 1980) and the contested patent (priority date in 2007), the board considers it to be obvious that the person skilled in the art would have adapted the system of document D3 in the meantime to enable a user or manufacturer to use the system with more or different (modern) types of devices such as a CD or MP3 player, in order to solve the problem of how to provide a more flexible (HiFi) system. The skilled person thereby would further have used the necessarily existing interface of the non-volatile memory of the control centre to enable altering of the information and corresponding rules

stored in it, as regards which devices run together with which devices.

3.6 The board has therefore come to the conclusion that the subject-matter of claim 1 of auxiliary request 1 is obvious in view of D3 and the common general knowledge of the skilled person and that it consequently does not involve an inventive step in the sense of Article 56 EPC.

4. Auxiliary request 2 - inventive step (Article 56 EPC)

4.1 The additional feature of claim 1 of auxiliary request 2, i.e. that the rules can be altered by the user or manufacturer afterwards by means of a special software using a bus to change data on said non-volatile memory, does not add anything to claim 1 that would form the basis of an inventive step.

4.2 Notwithstanding the unclear meaning of the expression "special software", the board considers it obvious that the altering of rules, which are stored on a non-volatile memory, necessarily implies the use of software, be it "special" or not, as well as a "bus" in order to be able to access the non-volatile memory and perform changes of the rules stored thereon. The amendment therefore does not add anything to claim 1 that would go beyond what the skilled person would do anyway in order to alter the rules stored on the non-volatile memory. The board's arguments with respect to claim 1 of auxiliary request 1 therefore also apply to claim 1 of auxiliary request 2 (see the reasons under point 3 above).

4.3 Consequently, the board has come to the conclusion that the subject-matter of claim 1 of auxiliary request 2 is

obvious in view of D3 and the common general knowledge of the skilled person and that it therefore does not involve an inventive step in the sense of Article 56 EPC.

5. Conclusion

Since neither the appellant's main request nor auxiliary requests 1 or 2 were allowable, the board had to accede to the request of the respondent to dismiss the appeal.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

U. Bultmann R. Lord

Decision electronically authenticated