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**Datasheet for the decision
of 7 November 2019**

Case Number: T 0609/15 - 3.5.03

Application Number: 10188813.9

Publication Number: 2354868

IPC: G05B19/042, G05B15/02

Language of the proceedings: EN

Title of invention:

Customer equipment profile system for HVAC controls

Applicant:

Lennox Industries Inc.

Headword:

Customer equipment profile for HVAC controls/LENNOX

Relevant legal provisions:

EPC Art. 84

Keyword:

Claims - clarity (no)



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Case Number: T 0609/15 - 3.5.03

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 7 November 2019

Appellant: Lennox Industries Inc.
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 23 October 2014
refusing European patent application No.
10188813.9 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman T. Snell
Members: J. Eraso Helguera
J. Geschwind

Summary of Facts and Submissions

- I. An appeal was lodged by the applicant against the decision of the examining division refusing European patent application No. 10188813.9, published with publication No. EP 2354868 A2. The refusal was based *inter alia* on the grounds that independent claim 1 of the main request was not clear (Article 84 EPC), that the subject-matter of claim 1 of the main request was not new (Articles 52(1) and 54(1) and (2) EPC), and that the subject-matter of independent claim 6 of the main request did not involve an inventive step (Articles 52(1) and 56 EPC).

- II. In the statement of grounds of appeal, the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims of a main request filed with the statement of grounds of appeal. Oral proceedings were conditionally requested.

- III. In a communication accompanying a summons to oral proceedings, the board gave a preliminary opinion, *inter alia*, that the subject-matter of the independent claims of the main request was not clear (Article 84 EPC), extended beyond the content of the application as filed (Article 123(2) EPC), was not new (Articles 52(1) and 54(1) and (2) EPC), and did not involve an inventive step (Articles 52(1) and 56 EPC).

- IV. In a submission dated 21 October 2019, the appellant indicated that no written submissions would be filed and that it would neither attend nor be represented at the scheduled oral proceedings. It requested that "a decision be entered on the basis of the file as it currently stands".

V. The oral proceedings were subsequently cancelled.

VI. Claim 1 reads as follows:

"A controller (300) for heating, ventilating and air conditioning, HVAC, equipment, comprising:
an interface (310) configured to receive and transmit a customer equipment profile for said HVAC equipment from a customer profile database external to said HVAC controller, wherein said customer equipment profile can be; *[sic]*
associated with a customer of said HVAC equipment;
previously generated for and specific to HVAC equipment; and
selected from a set of general profiles stored in said external customer profile database, each of which having been developed for typical applications of said HVAC equipment;
a memory (320) coupled to said interface and configured to store said customer equipment profile; and
a processor (330) configured to employ said customer equipment profile to configure said HVAC equipment."

VII. Claim 6 reads as follows:

"A method for configuring heating, ventilating and air conditioning, HVAC, equipment, said method comprising:
receiving a customer equipment profile for said HVAC equipment from a customer profile database external to a controller of said HVAC equipment, wherein said customer equipment profile can be:
associated with a customer of said HVAC equipment;
previously generated for and specific to said HVAC equipment; and

selected from a set of general profiles stored in said external customer profile database, each of which having been developed for typical applications of said HVAC equipment;
storing said customer equipment profile in a memory of said controller; and
configuring said HVAC equipment employing said customer equipment profile."

Reasons for the Decision

1. *Claims 1 and 6 - clarity*

1.1 Claims 1 and 6 are not clear (Article 84 EPC) for the following reasons.

1.2 Claim 1 filed with the statement of grounds of appeal comprises the following feature, including three sub-feature clauses:

*"an interface (310) configured to receive and transmit a customer equipment profile for said HAVC equipment from a customer profile database external to said HAVC controller, wherein said customer equipment profile can be;
associated with a customer of said HVAC equipment [sub-feature 1];
previously generated for and specific to HVAC equipment [sub-feature 2]; and
selected from a set of general profiles stored in said external customer profile database, each of which having been developed for typical applications of said HAVC equipment [sub-feature 3];"*

1.3 In the statement of grounds of appeal, the appellant submits the following with regard to this feature (emphasis added):

"Previously presented independent claim 1 has been amended to more clearly point out that ... the customer equipment profile can be previously generated for and specific to the HVAC equipment **or** can be selected from a set of general profiles *stored in the external customer profile database*, each profile of the set of general profiles having been developed for typical applications of the HVAC equipment."

This indeed reflects what is stated in the description in paragraph [0022].

1.4 However, claim 1 does not clearly correspond to this disclosure. With respect to the wording "wherein said customer equipment profile can be;", the board assumes firstly that the semicolon (;) is meant to be interpreted as a colon (:), as it appears in the corresponding feature of claim 6. In this case, and account being taken of the fact that the appellant has replaced "is" by "can be", it is not clear whether the three sub-features listed after "can be" should be understood as limiting or are merely optional. In the latter case, they would be irrelevant as regards novelty and inventive step.

1.5 In addition, as submitted by the appellant and stated in the description in paragraph [0022], the second and third sub-features are apparently intended to be alternative embodiments, i.e. a customer equipment profile can be previously generated for and specific to the HVAC equipment **or** can be selected from a set of general profiles, but not both at the same time.

However, the unclear formulation of claim 1 apparently embraces this possibility.

1.6 Finally, the term "typical applications" in the third sub-feature does not have a well-recognised meaning in this technical field, i.e. it is not immediately apparent which applications from those known in the technical field should qualify as "typical" and which ones should not, rendering thereby unclear the subject-matter for which protection is sought.

1.7 The same objections apply, *mutatis mutandis*, to claim 6.

2. *Conclusion*

As there is no allowable request, it follows that the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



G. Rauh

T. Snell

Decision electronically authenticated