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**Datasheet for the decision
of 10 May 2023**

Case Number: T 1164/20 - 3.2.01

Application Number: 15163914.3

Publication Number: 3081519

IPC: B66B1/34

Language of the proceedings: EN

Title of invention:

METHOD FOR THE POSITION DETECTION OF AN ELEVATOR CAR

Patent Proprietor:

Kone Corporation

Opponent:

Otis Elevator Company

Headword:

Relevant legal provisions:

EPC Art. 100(a), 54

RPBA 2020 Art. 12(3)

Keyword:

Novelty - (yes)

Remittal to the department of first instance - (no)

Decisions cited:

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 1164/20 - 3.2.01

D E C I S I O N
of Technical Board of Appeal 3.2.01
of 10 May 2023

Appellant:
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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted on
13 March 2020 concerning maintenance of the
European Patent No. 3081519 in amended form.

Composition of the Board:

Chairman G. Pricolo
Members: J. J. de Acha González
S. Fernández de Córdoba

Summary of Facts and Submissions

- I. The appeals of the patent proprietor and of the opponent lie against the interlocutory decision of the Opposition Division to maintain the European patent N° 3081519 in amended form according to the auxiliary request 1 filed during the oral proceedings before it.
- II. The Opposition Division held among others that the subject-matter of granted claim 1 was not new in view of **D1** (US 2008/0173502 A1).
- III. Oral proceedings before the Board were held on 10 May 2023 in the form of a videoconference with the consent of the parties.

The appellant (patent proprietor) requested that the decision under appeal be set aside and that the opposition be rejected (i.e. that the patent be maintained as granted as main request), or, in the alternative, that the appeal of the opponent be dismissed (i.e. that the patent be maintained in amended form as in the decision under appeal).

The appellant (opponent) requested that the decision of the Opposition Division be set aside and the patent be revoked.

- IV. Claim 1 of the granted patent (i.e. according to the main request) reads as follows (feature numbering according to the contested decision):

a) *Method for determining the position of an elevator car*

moved in an elevator shaft by the operation of a drive motor, wherein

- b)** *- an acceleration is measured by means of an accelerometer for a moving run sequence of the car,*
- c)** *- processing the acceleration in a processing unit to determine a distance-value the car moved,*
- d)** *- using the distance-value the car has moved to update a car position estimate; characterized by*
- e)** *- measuring open/closed states of a car door by means of a door sensor,*
- f)** *wherein open-states of the door are used to identify floor-levels and the moving run sequence,*
- g)** *- comparing the car position estimate with said allocated floor-levels and determining therefrom the destination floor-level.*

Reasons for the Decision

- 1. *Novelty - Article 100(a) and 54 EPC*
- 1.1 *The subject-matter of granted claim 1 is new over the method disclosed in D1.*
- 1.2 *Among others feature f of granted claim 1 was disputed.*
- 1.3 *As regards the interpretation of feature f, the view of the Opposition Division in the decision under appeal is*

correct (see point 2.2.1.9). The open-state of a door is used to identify that the elevator car is at a floor level and also at the end of a run (it is noted that when the car stops, it is the end point of a run as well as the beginning of the next one; see paragraph [0017] of the patent).

None of the parties contested that interpretation.

- 1.4 The Opposition Division concluded by following the opponent's arguments put forward during the opposition proceedings (see point 2.2.1.13 of the contested decision), that there was nothing in paragraphs [0037] and [0038] of D1 limiting the method steps described therein to be used for safety purposes only (see point 2.2.1.14 of the decision). Paragraph [0037] clearly expressed that the cabin position was adjusted by the status data of the cabin doors, and this was exactly what step f of claim 1 specified.

The opponent maintained the same arguments in the appeal proceedings. In particular, they argued that it derived from paragraph [0037] last sentence that the stationary status of the elevator car was only permitted (forced) when the status of the doors was opened, i.e. when the doors were in an open state. Further, according to paragraph [0038] the stationary status of the elevator car was used to determine the end of a moving run sequence of the car (after each trip made by the car) and the position of the car was then calculated by the positioning system. Since as described in paragraph [0038] the stationary status was forced to be indicated when the doors were in an open state, then the open state of the door indicated the stationary status, which was used to mark the end of a

moving run sequence and thus that the car was at a floor level.

- 1.5 The Board judges following the view of the patent proprietor that it does not derive directly and unambiguously from the disclosure of D1 that the open-states of the doors measured by the acceleration sensors 14 are used to identify floor-levels (feature f).

The cross-use of status data provided by sensors 14 and 15 for the car and the doors respectively is used according to the disclosure of paragraph [0037] to act in faulty machines of the elevator control system 16 that controls the operation of the elevator (see paragraph [0030]). Accordingly, the operation of the elevator by the control system 16 is overridden such that doors are forced to be closed when the status of the car by utilizing acceleration sensors 14 and 15 is 'accelerating' or 'constant speed', or, such that the car is forced to be stopped when the status of the doors is 'opened' or 'closing' (see in this regard paragraph [0035]).

Paragraph [0037] of D1 assumes a correct functioning of the sensors 15 and 14 - and consequently of the detected status of the elevator car and doors by the sensors of the condition monitoring appliance - for detecting a malfunction of the operating/control part of the elevator system 16 - in line with the patent proprietor's submissions (i.e. it relies on the data of the sensors 14 and 15). Contrary to the opponent's allegations, according to paragraph [0037] it is not the status resulting from the measurement of the doors sensors 14 and 15 that is forcibly changed but the operation of the elevator is rectified such that the

status of the doors resulting from the measurement of the door sensors is consequently forced to change. Even if one were to follow that view of the opponent, still it does not derive directly and unambiguously from the last sentence in paragraph [0037] that a stationary status of the elevator car equates to an open state of the doors. Indeed according to that sentence an example is given in which forcing into the stationary status is performed when the status of the doors is opened or closing. Thus a stationary status would also be present when the doors are closing and not opened. Also it is not excluded from the description of that paragraph that a stationary status could also be forced when the status of the doors are opening.

Accordingly, a stationary status of the car 11 does not necessarily correlate to an open door status of the doors 12, 13 at a floor level in D1 and therefore the open state of the doors is not directly and unambiguously disclosed to be used to identify floor levels. In fact, D1 uses a synchronization switch to correct errors in the identification of the floor levels by the positioning system of the car 11 (see paragraph [0034] in combination with paragraph [0038] of D1).

It further ensues from paragraph [0038] of D1 that it is the status of the car as 'stationary', i.e. when it is sensed to be stopped at the end of the trip, which is used to identify floor-levels. The opponent shares this view (see letter of 10 December 2020 page 2). This status of the car is defined by utilizing both sensors 14 and 15 (see paragraph [0035] of D1). How this is specifically performed is left open in D1. Accordingly, it does not derive from this passage

either that open-states of the doors sensed by the door sensor 14 are used to identify floor levels.

Lastly, paragraph [0030] of D1 merely points out that the car is stopped by the control system 16 for the operation of the elevator at floor levels. Accordingly, the doors of the elevator are positioned at the floor levels by the control system 16.

- 1.6 Consequently, the subject-matter of granted claim 1 differs from the method disclosed in D1 at least on account of feature f.

The contested decision is incorrect in this respect.

2. During the oral proceedings the opponent submitted that the case should be remitted to the Opposition Division for dealing with inventive step of the subject-matter of claim 1 because the decision on the granted patent did not deal with that matter.

In these appeal proceedings, the opponent only argued lack of inventive step starting from document D1 in respect of the first auxiliary request. However, the opponent's appeal case does not contain any obviousness objections arising from considering feature f as representing a difference of the subject-matter of granted claim 1 from the method disclosed in D1. In this respect it is noted that the patent proprietor argued in their statement of grounds of appeal that features f and g were distinguishing features over D1.

According to Article 12(3) RPBA 2020 a party must submit their complete appeal case at the outset of the appeal proceedings. Since the appeal case of the opponent does not contain any arguments as regards the

obviousness of said distinguishing feature f, the Board has no reason to question the inventive step of the subject-matter of granted claim 1. Accordingly, there is no reason justifying a remittal of the case to the Opposition Division for further prosecution.

3. It follows that the appeal of the patent proprietor is allowable.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is maintained as granted.

The Registrar:

The Chairman:



A. Vottner

G. Pricolo

Decision electronically authenticated