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**Datasheet for the decision
of 12 October 2023**

Case Number: T 1313/21 - 3.5.03

Application Number: 12808454.8

Publication Number: 2766779

IPC: G05B19/404, G05B19/416

Language of the proceedings: EN

Title of invention:

Method to command and control the electric motor of an automation unit and connected system

Patent Proprietor:

I.M.A. Industria Macchine Automatiche S.p.A.

Opponent:

Focke & Co. (GmbH & Co. KG)

Headword:

Correcting signal/I.M.A.

Relevant legal provisions:

EPC Art. 84, 100(c), 123(2)
RPBA 2020 Art. 11, 13(2)

Keyword:

Added subject-matter - main request, new 1st, 2nd, 3rd, 6th
auxiliary requests and 1st to 12th auxiliary requests (yes):
unallowable intermediate generalisation
Clarity - new 4th, 5th, 7th, 8th auxiliary requests (no)
Admittance of amended claims after summons - new 9th auxiliary
request (no): no exceptional circumstances
Remittal to the opposition division - (no): no "special
reasons"

Decisions cited:

T 0764/16, T 1294/16, T 2632/18



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Case Number: T 1313/21 - 3.5.03

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 12 October 2023

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Decision under appeal: **Interlocutory decision of the Opposition**
Division of the European Patent Office posted on
29 June 2021 concerning maintenance of the
European Patent No. 2766779 in amended form.

Composition of the Board:

Chair K. Bengi-Akyürek
Members: J. Eraso Helguera
C. Almberg

Summary of Facts and Submissions

- I. This case concerns the appeals filed by the proprietor and the opponent against the interlocutory decision to maintain the opposed patent as amended in accordance with a "New 3rd Auxiliary Request" filed during the opposition proceedings.
- II. Oral proceedings before the board were held on 12 October 2023. The final requests of the parties were as follows:

The proprietor requested that the appealed decision be set aside and that the patent be maintained as granted (**Main Request**) or, in the alternative, as amended based on the claims of **New 1st Auxiliary Request**, both subject to the appealed decision.

In the alternative, the proprietor requested that the opponent's appeal be dismissed, i.e. that the patent be maintained as amended based on the claims of **New 3rd Auxiliary Request** found allowable in the appealed decision (then labelled "New 2nd Auxiliary Request").

In the further alternative, the proprietor requested that the appealed decision be set aside and that the patent be maintained as amended based on the claims of one of

- **New 5th Auxiliary Request**, filed during the opposition proceedings,
- **New 6th and New 7th Auxiliary Requests**, both filed for the first time with the reply to the opponent's statement of grounds of appeal,

- **New 2nd and New 4th Auxiliary Requests**, and **1st to 12th Auxiliary Requests**, all filed during the opposition proceedings (New 2nd Auxiliary Request then labelled "New 3rd Auxiliary Request"),
- **New 8th Auxiliary Request**, filed in response to the board's preliminary opinion, and
- **New 9th Auxiliary Request**, filed during the oral proceedings before the board.

The opponent requested that the appealed decision be set aside and that the patent be revoked or, in the alternative, that the proprietor's appeal be dismissed.

III. Claim 1 of the **main request** (i.e. claim 1 as granted) reads as follows:

"Method to optimize the command and control of an electric motor (12) of an automation unit (10), comprising a mechanical member (13), driven by a shaft (15) of said electric motor (12), to carry out an operating cycle and a central command and control unit (14), the automation unit (10) comprising at least a position detection mean (16) to detect the instantaneous position of said shaft (15) of the electric motor (12) and/or of said mechanical member (13), wherein said electric motor (12) is directly connected to said mechanical member (13), the electric motor (12) and the mechanical member (13) constituting an operating unit (11) suitable to perform at least a portion of a complete rotation of one or more round angles of the mechanical member (13) carrying out said operating cycle, **characterized in that** said method comprises the following steps:

- i) receiving, by said central command and control unit (14), at least signals of the position of the shaft (15) of the electric motor (12) and/or of the mechanical member (13) from said position detection mean (16) or from a mathematical simulator entity configured to simulate the position of the shaft (15) of the electric motor (12) and/or of the mechanical member (13);
- ii) dividing said operating cycle into a plurality of operating sub-phases ("n") equal to each other;
- iii) establishing, by said central command and control unit (14), in which operating sub-phase ("n") the operating unit (11) is, based on signals from said position detection mean (16) or from said mathematical simulator entity of step i);
- iv) selecting, by said central command and control unit (14), a reference current based on a self-learning step, for each of said operating sub-phases ("n"), or for a multiple of sub-phases, established in step iii);
- v) generating, by said central command and control unit (14), a correcting signal based on said reference current of step iv) and sending, by said central command and control unit (14), said correcting signal to the electric motor (12);

wherein said self-learning step comprises:

verifying, by said central command and control unit (14), the position of the shaft (15) of the electric motor (12) and/or of the mechanical member (13) with respect to the operating sub-phases ("n") established in step iii) and the cadence of the operating cycle,

memorizing, by said central command and control unit (14), values of the reference current in a corresponding table for each sub-phase; wherein said reference current is selected at least as a function of one or more between: an instantaneous tracking error, a reference instantaneous speed of the mechanical member (13), a first derivative of the reference instantaneous speed of the mechanical member (13), a second derivative of the reference instantaneous speed of the mechanical member (13) and an instantaneous inertia of the mechanical member (13) in relation to the cadence of the operating cycle."

Claim 1 of **"New 1st Auxiliary Request"** is identical to claim 1 as granted, except for the addition of:

"consisting of an instantaneous current reference (feed forward) for the electric motor (12)"

right after the expression "a correcting signal".

Claim 1 of **"New 3rd Auxiliary Request"** is identical to claim 1 of "New 1st Auxiliary Request", except for the removal of the brackets enclosing "feed forward".

Claim 1 of **"New 5th Auxiliary Request"** is identical to claim 1 of "New 3rd Auxiliary Request", except for the insertion of:

"so that, for each of said sub-phases, or multiple of sub-phases, position and/or speed and/or acceleration at least of the mechanical member (13) are substantially corresponding to the reference ones;"

right after the expression "sending, by said central command and control unit (14), said correcting signal to the electric motor (12)".

Claim 1 of "**New 6th Auxiliary Request**" is identical to claim 1 of "New 3rd Auxiliary Request" and claim 1 of "**New 7th Auxiliary Request**" is identical to claim 1 of "New 5th Auxiliary Request", except for the insertion, in both cases, of:

"through a connection without reduction or through a drive shaft (15) connecting them to a reduction unit (17) that has at most a reduction around a value of 10"

right after the phrase "is directly connected to said mechanical member (13)" and the insertion of:

"configured to detect an instantaneous angular position of said shaft (15) and/or of said mechanical member (13)"

right before the expression "or from a mathematical simulator entity".

Claim 1 of "**New 2nd Auxiliary Request**" is identical to claim 1 of "New 1st Auxiliary Request", except for the omission of "(feed forward)".

Claim 1 of "**New 4th Auxiliary Request**" is identical to claim 1 of "New 5th Auxiliary Request", except for the omission of "feed forward".

Claim 1 of **1st Auxiliary Request** is identical to claim 1 as granted, except for:

- the replacement of the phrase "a reference current, based on a self-learning step," by the expression "a self-learnt reference current," and
- the replacement of "said self-learning step comprises:" by "said self-learnt reference current is obtained by a self-learning step comprising:".

Claim 1 of **2nd Auxiliary Request** is identical to claim 1 as granted, except for the replacement of the expression

"a correcting signal based on said reference current of step iv) and sending, by said central command and control unit"

by the phrase

"a correcting signal corresponding to a corrected value of said reference current of step iv) and sending, in feed forward mode, by said central command and control unit".

Claim 1 of **3rd Auxiliary Request** is identical to claim 1 of 2nd Auxiliary Request, except for the insertion of:

", wherein the reference current is also corrected in relation to the thermal drift determined for example by frictions or by other types of thermal drift, of the mechanical and electrical components of said automation unit (10);"

right after the expression "sending, in feed forward mode, by said central command and control unit (14), said correcting signal to the electric motor (12)".

Claim 1 of **4th Auxiliary Request** is identical to claim 1 as granted, except for the replacement of "in a corresponding table for each sub-phase," by:

"in a corresponding table for each operating sub-phase, wherein said memorizing also provides to memorize instantaneously, during the self-learning procedure, a contribution of reference current supplied to the electric motor (12) intended to instantaneously minimize the tracking errors for each operating sub-phase ("n"), or multiples of ("n");".

Claim 1 of **5th Auxiliary Request** is identical to claim 1 as granted with the amendments carried out in claim 1 of the 1st, 2nd and 4th Auxiliary Requests.

Claim 1 of **6th Auxiliary Request** is identical to claim 1 as granted with the amendments carried out in claim 1 of the 1st, 2nd, 3rd and 4th Auxiliary Requests.

Claim 1 of **7th to 12th Auxiliary Requests** is identical to claim 1 of the 1st to 6th Auxiliary Requests, respectively.

Claim 1 of "**New 8th Auxiliary Request**" is identical to claim 1 of "New 5th Auxiliary Request" except for the deletion of the term "an instantaneous tracking error,".

Claim 1 of "**New 9th Auxiliary Request**" is identical to claim 1 of "New 5th Auxiliary Request" except for the replacement of the term "feed forward" by the expression "in feed forward mode".

Reasons for the Decision

1. MAIN REQUEST

Claim 1 as granted comprises the following limiting features:

- (a) Method to optimise the command and control of an electric motor of an automation unit, comprising a mechanical member, driven by a shaft of said electric motor, to carry out an operating cycle and a central command and control unit, the automation unit comprising at least a position detection mean[s] to detect the instantaneous position of said shaft of the electric motor and/or of said mechanical member, wherein said electric motor is directly connected to said mechanical member, the electric motor and the mechanical member constituting an operating unit suitable to perform at least a portion of a complete rotation of one or more round angles of the mechanical member carrying out said operating cycle,
- (b) receiving, by said central command and control unit, at least signals of the position of the shaft of the electric motor and/or of the mechanical member from said position detection mean[s] or from a mathematical simulator entity configured to simulate the position of the shaft of the electric motor and/or of the mechanical member;
- (c) dividing said operating cycle into a plurality of operating sub-phases equal to each other;
- (d) establishing, by said central command and control unit, in which operating sub-phase the operating unit is, based on signals from said position detection mean or from said mathematical simulator entity of step (b);

- (e) selecting, by said central command and control unit, a reference current based on a self-learning step, for each of said operating sub-phases, or for a multiple of sub-phases, established in step (d);
- (f) generating, by said central command and control unit, a correcting signal based on said reference current of step (e) and sending, by said central command and control unit, said correcting signal to the electric motor;
wherein said self-learning step comprises:
- (g) verifying, by said central command and control unit, the position of the shaft of the electric motor and/or of the mechanical member with respect to the operating sub-phases established in step (d) and the cadence of the operating cycle,
- (h) memorising, by said central command and control unit, values of the reference current in a corresponding table for each sub-phase;
- (i) wherein said reference current is selected at least as a function of one or more between: an instantaneous tracking error, a reference instantaneous speed of the mechanical member, a first derivative of the reference instantaneous speed of the mechanical member, a second derivative of the reference instantaneous speed of the mechanical member and an instantaneous inertia of the mechanical member in relation to the cadence of the operating cycle.

1.1 *Claim 1 - added subject-matter*

- 1.1.1 The board concurs with the opposition division and with the opponent in that claim 1 indeed contains added subject-matter.

1.1.2 On the one hand, **feature (f)** refers to a "correcting signal" based on the "reference current" selected in step (e). In view of this general formulation, the claimed "correcting signal" can be the result of any kind of additional processing, as long as it is based on the previously selected "reference current based on a self-learning step". On the other hand, from the application as filed, and in particular from the passages cited by the proprietor in its statement of grounds of appeal (page 4, lines 8 to 14; page 5, lines 1 to 3; page 5, lines 15 to 28; page 8, lines 4 to 7; page 9, line 30 and page 10, lines 7 to 14 of the underlying application as filed), the skilled person would directly and unambiguously derive that a (value of a) "current reference" is sent to the electric motor. There is, however, only one embodiment contained in the application as filed in which the value of a selected "current reference in feed forward mode" obtained by self-learning techniques is possibly corrected depending on the "thermal drift" (i.e. page 8, lines 4 to 7 of the application as filed). It follows that the application as filed provides no basis for the "correcting signal" according to feature (f), which goes well beyond the originally disclosed correction "depending on thermal drift" of the "current reference in feed forward mode".

1.1.3 The proprietor argued that the passage of the original description from page 4, line 30 to page 5, line 4 clearly disclosed the step of sending the "current reference" to the electric motor in order to cancel the possible drifts. Not only "thermal drift" was mentioned, but also other drifts caused e.g. by friction, wear, cogging, inertial imbalances, etc. This meant that the original description directly and unambiguously supported also many other kinds of

"drift" and not only the correction of the "current reference" in presence of "thermal drift", as disclosed at page 8, lines 4 to 7 of the application as filed.

1.1.4 This is not convincing. First, the application as filed provides no literal basis for either of "correcting signal" and "reference current". Rather, the "current reference" is corrected in relation to the "thermal drift". Second, the application as filed mentions indeed different types of "drift". However, they are either accounted for implicitly through the measurement of position, speed and jerk and its ulterior adjustment, as explained at page 4, line 30 to page 5, line 4, or categorised as specific types of "thermal drift" to be included in the correction of the "current reference" (cf. page 8, lines 4 to 7, page 8, line 30 to page 9, line 1 of the application as filed as well as original claims 9 and 10). Thus, in the application as filed, the "current reference" is explicitly and separately corrected only in relation to "thermal drift".

1.1.5 As to **feature (i)** of claim 1, the board concurs with the opponent in that it constitutes an unallowable intermediate generalisation:

Claim 1 relates to a method to *optimise* the command and control of an electric motor of an automation unit in which a "correcting signal" is generated based on a "selected reference current" and sent. The "reference current" is selected at least as a function of one or more among

- an instantaneous tracking error,
- a reference instantaneous speed of the mechanical member,

- a first derivative of the reference instantaneous speed of the mechanical member,
- a second derivative of the reference instantaneous speed of the mechanical member and
- an instantaneous inertia of the mechanical member in relation to the cadence of the operating cycle.

However, present claim 1 is not limited to a particular function defining the relationship between a "reference current" and the different parameters mentioned in feature (i), nor does it define what is to be optimised. Conversely, the application as filed, considering the embodiments of the description as well as the original claims, directly and unambiguously discloses that the selected "current reference", which is based on those parameters, must be such that "for each of said sub-phases, or multiple of sub-phases, position and/or speed and/or acceleration at least of the mechanical member are substantially corresponding to the reference ones" (cf. page 4, lines 23 to 33 and claim 1 of the original application).

The board is aware of the fact that the disputed feature was repeatedly objected to during the examination proceedings as merely amounting to a statement of the underlying problem, without providing the technical features necessary for achieving this result, until the feature was eventually deleted. It is not for the board to examine whether or not the presence of this feature rendered earlier versions of the claims unclear. At any rate, as explained above, its mere deletion without further specifying *what* is to be optimised or *which* specific parameters are used to select the claimed "reference current" extends the claimed subject-matter beyond the content of the application as originally filed.

1.1.6 The proprietor submitted that feature (i) *per se* found a basis in original claim 6, which, during the examination proceedings, was incorporated into claim 1. The final words of original claim 1, reciting "so that, for each of said sub-phases, or multiple of sub-phases, position and/or speed and/or acceleration at least of the mechanical member (13) are substantially corresponding to the reference ones" had been cancelled because they clearly represented a result to be achieved, not a real limitation of the scope of the claim due to the presence of the introductory words "so that". The deleted part did not provide any criteria in the selection of the reference current but only indicated the purpose of the claimed method and therefore it was not linked to the parameters listed in original claim 6 (now recited in feature (i) of claim 1 as granted). The claim concerned a method to optimise the command and control of an electric motor. Taken as a whole, it was implicit for the skilled person that the values of the "reference current" selected according to feature (e) were such that, for each of said sub-phases, or multiple of sub-phases, the instantaneous tracking error of feature (i) was (progressively) brought down to zero and the instantaneous speed and/or acceleration and/or jerk were (substantially) corresponding to the reference instantaneous speed, its first derivative and its second derivative, respectively, as listed in feature (i).

1.1.7 The board disagrees with the proprietor's claim interpretation. Claim 1 as a whole merely states an objective to "optimise" the command and control of an electric motor and that the "reference current" be selected "as a function" of one or more of the listed parameters, for each of or multiple of the operating

sub-phases ("n"). The selected "reference current" seeks to establish a particular relationship between the instantaneous position/tracking error, speed, acceleration and/or jerk and their respective reference values. However, the claim imposes no explicit or implicit requirements to the function governing this relationship. Thus, claim 1 encompasses undisclosed, yet technically meaningful, scenarios that go well beyond what a skilled person would derive **directly and unambiguously**, using common general knowledge, and seen objectively and relative to the date of filing, from the whole of the application as filed. For instance, the claim further encompasses embodiments where the selected "reference current" seeks to establish pre-defined offsets between instantaneous and reference values of position, speed, etc., as well as other mathematical relations expressed using more complex formulae.

1.2 Thus, the ground for opposition under Article 100(c) EPC prejudices the maintenance of the patent as granted.

2. NEW 1ST, NEW 2ND, NEW 3RD, NEW 6TH, 1ST TO 12TH
AUXILIARY REQUESTS

Claim 1 of each of these auxiliary requests, which includes feature (i) without feature (k), violates Article 123(2) EPC for the same reasons as set out in point 1.1.5 above.

3. NEW 4TH, NEW 5TH, NEW 7TH AUXILIARY REQUESTS

Claim 1 of each of these auxiliary requests further includes the following added feature:

(j) the correcting signal consists of an instantaneous current reference [feed forward] for the electric motor.

3.1 *Clarity (Article 84 EPC)*

3.1.1 The first part of step v) of granted claim 1 (i.e. feature (f)) reads as follows:

"v) generating, by said central command and control unit (14), a correcting signal based on said reference current of step iv) ...".

With the inclusion of feature (j) in claim 1 of the "New 1st to New 7th Auxiliary Requests", step (v) now reads as follows (emphasis added):

"v) generating, by said central command and control unit (14), a correcting signal consisting of an instantaneous current reference [feed forward] for the electric motor (12) based on said reference current of step iv) ...".

3.1.2 According to Reasons 5.2 of the appealed decision, the opponent had objected that the terminology used in feature (j) was not consistent, since the expression "current reference" had been introduced, whereas the expression "reference current" had been used thus far. In Reasons 5.3 of the appealed decision, the opposition division argued that the newly introduced nature of the "correction signal", as an "instantaneous current reference", did not introduce any lack of clarity, since the skilled person considered that a "reference current" or a "current reference" were equivalent.

3.1.3 In section III, first bullet point, at page 6 of its statement of grounds of appeal, the opponent submitted that the corresponding meanings of the "instantaneous current reference" and the "correcting signal" according to feature (j) were completely unclear to the skilled person, as was also the relationship between the "reference current", the "instantaneous current reference" and the "correcting signal".

3.1.4 The board agrees with the opponent, for the following reasons:

(a) First of all, it is worth repeating that neither the term "correcting signal" nor the term "reference current" appear literally in the application as filed. Rather, the application as filed uses "current reference(s)" and "a **signal** consisting of an instantaneous current reference (feed forward) for the electric motor" in original claim 1 (board's emphasis). According to original claim 9, "... the current reference (feed forward) is also corrected in relation to the thermal drift ..." (cf. also point 1.1.4 above).

Granted claim 1 however refers to a "correcting signal" based on a selected "reference current". The granted claims never use the term "current reference". Purportedly, "correcting signal" should be interpreted as "the signal ... for the electric motor", i.e. the physical signal actually sent to the motor, whereas "reference current" should have the same meaning as the originally disclosed "current reference" (possibly corrected) and would provide a basis to the information conveyed by the "correcting signal" (cf. also point 1.1.1 above).

(b) With the inclusion of feature (j), claim 1 relates to a "**correcting signal** consisting of an instantaneous *current reference* [feed forward] based on said *reference current* of step iv)" (emphasis added). This formulation renders unclear whether the "correcting signal consisting of an instantaneous reference [feed forward]" is, as also put forward by the proprietor at the oral proceedings before the board, a *separate* signal to be sent to the electric motor to correct the "selected reference current" also supplied to the electric motor (cf. e.g. dependent claim 5: "... a contribution of reference current supplied to the electric motor ...") or, rather, whether the "correcting signal" is still the signal supplied to the motor, in which case it is unclear how an "instantaneous current reference [feed forward] based on said reference current" is to be interpreted, because in this context both terms may no longer be used interchangeably.

3.1.5 The proprietor argued that the "current reference" was the signal actually sent to the electric motor in a quantity that was a function of instantaneous values of certain physical magnitudes, such as inertia and acceleration. These instantaneous values altogether, evaluated in relation to the specific sub-phase "n", led to corresponding values of the "instantaneous current reference" memorised in suitable tables provided in the central unit or being self-learned. Furthermore, the opposition division had concluded in Reasons 8.2 of the appealed decision that although "linguistically not perfect", the skilled person would have nevertheless **clearly** understood that the "correcting signal" was sent [in feed forward mode] to the motor. Thus, the burden of disproving the qualified

opinion of the opposition division lay with the board and the opponent.

3.1.6 These arguments fail to sway the board. Notwithstanding whether or not the "signal" is actually sent in feed forward mode, claim 1 including amended feature (f) fails to establish a clear relationship between "correcting signal", "instantaneous current reference" and "said [selected] reference current". This objection had been raised by the opponent during the opposition proceedings and in its statement of grounds of appeal and it was extensively discussed during the oral proceedings before the board.

3.1.7 Consequently, at least "New 4th Auxiliary Request", "New 5th Auxiliary Request", and "New 7th Auxiliary Request" are not allowable under Article 84 EPC.

4. NEW 8TH AUXILIARY REQUEST

Claim 1 of "**New 8th Auxiliary Request**" comprises the same features as claim 1 of "New 5th Auxiliary Request", except for the omission of "an instantaneous tracking error" in feature (i).

4.1 *Clarity (Article 84 EPC)*

Irrespective of admittance considerations as to this claim request under Article 13 RPBA 2020, the considerations made in point 3.1.4 above concerning the expression "consisting of an instantaneous current reference feed forward for the electric motor" used in added feature (j) apply *mutatis mutandis* to claim 1 of "New 8th Auxiliary Request".

4.2 Thus, "New 8th Auxiliary Request" is not allowable under Article 84 EPC either.

5. NEW 9TH AUXILIARY REQUEST

Claim 1 of "**New 9th Auxiliary Request**" comprises the same features as claim 1 of "New 5th Auxiliary Request", except for the replacement of the term "feed forward" by the expression "in feed forward mode" in feature (j).

5.1 *Admittance into the appeal proceedings*

5.1.1 The claims of this auxiliary request were filed for the first time during the oral proceedings before the board, i.e. after notification of the summons.

5.1.2 Thus, the admittance of these claim requests is governed by Article 13(2) RPBA 2020, according to which any amendment to a party's appeal case is, in principle, not taken into account unless there are exceptional circumstances, which have been justified with cogent reasons by the party concerned.

The proprietor submitted the following arguments:

(a) the present auxiliary request, filed during oral proceedings before the board, was based on "New 5th Auxiliary Request" formerly on file. The amendment carried out clearly overcame the new objections under Article 84 EPC raised in the board's preliminary opinion and during the oral proceedings before the board,

(b) the amendment did not introduce any additional issues, and

(c) it was neither surprising nor contrary to procedural efficiency.

5.1.3 The proprietor's arguments do not constitute "cogent reasons" justifying "exceptional circumstances" within the meaning of Article 13(2) RPBA 2020. It is irrelevant for the purposes of Article 13(2) RPBA 2020 whether the board's preliminary opinion differed from the contested decision of the opposition division. Parties to proceedings before the Boards of Appeal always have to reckon with an unfavourable preliminary opinion at any time up to the announcement of the decision (see, for example, T 764/16, Reasons 3.3.2). In the case at hand, the board gave its views and heard the proprietor during oral proceedings. The board also recalls that, even if the board's objection was indeed new, the mere fact that a "new" objection was raised by a board would not *per se* amount to "exceptional circumstances" within the meaning of Article 13(2) RPBA 2020 (see e.g. T 2632/18, Reasons 4.3, different from the conclusions drawn in T 1294/16, Reasons 18.2, as cited by the proprietor).

5.1.4 Furthermore, this claim request does not appear *prima facie* allowable either (cf. Article 13(1) RPBA 2020). In particular, the proprietor did not explain, and the board cannot see, how the amendments according to "New 9th Auxiliary Request" would indeed overcome all the outstanding clarity objections, in particular, those objections relating to the nature of the "correcting signal" amended in accordance with feature (j).

5.2 Accordingly, the "New 9th Auxiliary Request" was not admitted into the appeal proceedings (Article 13 RPBA 2020).

6. *Request for remittal of the case*

No fundamental procedural deficiency appears in the opposition proceedings (cf. Article 11 RPBA 2020). From the reasoning above, it is also apparent that the board can decide essentially the whole case based on the objections raised against the claim requests subject to the appealed decision (cf. Article 12(2) RPBA 2020). In other words, going beyond New 3rd Auxiliary Request, which the proprietor opposes, can be done without undue burden and to the benefit of procedural economy. There are thus no "special reasons" for remitting the case to the opposition division (Article 11 RPBA 2020).

7. Since there is no allowable claim request on file, the patent must be revoked.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chair:



B. Brückner

K. Bengi-Akyürek

Decision electronically authenticated