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Datasheet for the decision
of 19 July 2024

Case Number: T 0124/22 - 3.5.03

Application Number: 16160611.6

Publication Number: 3070550

IPC: G05B17/02, G05B19/418

Language of the proceedings: EN

Title of invention:
Modeling of an industrial automation environment in the cloud

Patent Proprietor:
Rockwell Automation Technologies, Inc.

Opponent:
Baier, Martin

Headword:
Cloud-modelling of an automation system/ROCKWELL

Relevant legal provisions:
EPC Art. 83
RPBA 2020 Art. 12(8)

Keyword:
Decision in written proceedings - (yes): indication of
proprietor's non-attendance - oral proceedings neither
necessary nor expedient
Sufficiency of disclosure - all claim requests (no)

Decisions cited:
T 0930/92, T 0149/21

Catchword:

It is no more than the usual degree of courtesy owed to the
opposing party's representative and a Board of Appeal that a
party's intention not to attend the oral proceedings is
communicated as early as possible (see point 1.1 of the
Reasons).

Case Number: **T 0124/22 - 3.5.03**

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 19 July 2024

Appellant: (Opponent)	Baier, Martin Friedrichsplatz 9 68165 Mannheim (DE)
Representative:	Ellwanger & Baier Patentanwälte Partnerschaftsgesellschaft Friedrichsplatz 9 68165 Mannheim (DE)
Respondent: (Patent Proprietor)	Rockwell Automation Technologies, Inc. 1 Allen-Bradley Drive Mayfield Heights, OH 44124 (US)
Representative:	Michael Heise Grünecker Patent- und Rechtsanwälte PartG mbB Leopoldstraße 4 80802 München (DE)

Decision under appeal: **Decision of the Opposition Division of the European Patent Office posted on 17 November 2021 rejecting the opposition filed against European patent No. 3070550 pursuant to Article 101(2) EPC.**

Composition of the Board:

Chair	K. Bengi-Akyürek
Members:	K. Peirs
	R. Romandini

Summary of Facts and Submissions

I.   The appeal lies from the decision of the opposition
        division to reject the opposition (Article 101(2) EPC).
        The opposition division deemed that none of the
        opposition grounds

        -   under Article 100(a) EPC in conjunction with
            Article 52(2)(c) EPC and with Articles 54 and 56
            EPC,
        -   under Article 100(b) EPC and
        -   under Article 100(c) EPC in conjunction with
            Article 123(2) EPC

        prejudiced the maintenance of the opposed patent in its
        granted form. Given the opposition division's positive
        assessment of the claims as granted, none of the
        proprietor's fifteen auxiliary requests, filed during
        the opposition proceedings, required consideration by
        the opposition division.

II.   In the appeal proceedings, the parties' requests were
        as follows:

        The appellant (opponent) requests that the appealed
        decision be set aside and that the patent be revoked.

        The respondent (proprietor) requests that the appeal be
        dismissed as its **main request**. In the alternative, the
        respondent requests that the patent be maintained in
        amended form on the basis of one of the **fifteen
        auxiliary requests** filed during the opposition
        proceedings.

III.   The parties were summoned to oral proceedings before
        the board. A communication was issued under
        Article 15(1) RPBA including the board's negative
        preliminary opinion regarding sufficiency of disclosure
        (Article 83 EPC) as regards all claim requests on file.

IV.   By letter of reply, received one day before the
        scheduled oral proceedings, the respondent stated that
        it would not be attending the arranged oral
        proceedings. No substantive submissions were made.

V.   Subsequently, the oral proceedings were cancelled.

VI.   Claim 1 of the **main request**, the **first auxiliary
        request** and the **eighth auxiliary request** reads as
        follows (board's feature labelling):

        A) "A system (300), comprising:
        (a) a modeler component (302) on a cloud platform;
        (b) a mesh network component (340) configured to obtain
            a set of industrial data from a set of
            devices (310, 312, 314, 316) of an industrial
            automation system (306) and communicate the set of
            industrial data to the modeler component (302) on
            the cloud platform,
        (c) wherein respective data is filtered by a segmenter
            component (352) with regard to data that is to be
            provided to the modeler component (302) on the
            cloud platform and data that is not to be provided
            to the modeler component (302) on the cloud
            platform based on respective levels of data
            sensitivity of the data associated with the
            industrial automation system;
        (d) and
            a collection component (308), comprised in the
            modeler component, configured to collect the set of

industrial data and store the set of industrial
data in a data store (318);

(e) wherein the modeler component is configured to
generate (1702) a model of the industrial
automation system that corresponds to the
industrial automation system, based on a result of
an analysis of the set of industrial data."

VII.   Claim 1 of the **second auxiliary request** differs from
claim 1 of the main request in that feature (b) is
replaced by the following feature (board's feature
labelling and highlighting, the latter reflecting
amendments vis-à-vis feature (b)):

(f) "a mesh network component (340) configured to
obtain and gather a set of industrial data from a
set of devices (310, 312, 314, 316) of an
industrial automation system (306) and communicate
the set of industrial data to the modeler
component (302) on the cloud platform via a cloud
gateway component (342),".

VIII.   Claim 1 of the **third auxiliary request** differs from
claim 1 of the main request in that feature (c) is
replaced by the following feature (board's labelling,
amendments vis-a-vis feature (c) highlighted by the
board):

(g) "wherein respective data associated with the
industrial automation system is filtered by a
segmenter component (352) with regard to data that
is to be provided to the modeler component (302) on
the cloud platform and data that is not to be
provided to the modeler component (302) on the
cloud platform based on respective levels of data
sensitivity of the data associated with the

industrial automation system, wherein the segmenter component (352) is associated with the mesh network component;".

IX.   Claim 1 of the **fourth auxiliary request** differs from claim 1 of the third auxiliary request in that feature (g) is replaced by the following feature (board's labelling, amendments vis-a-vis feature (g) highlighted by the board):

(h) "wherein respective data associated with the industrial automation system is filtered by a segmenter component (352) with regard to data that is to be provided to the modeler component (302) on the cloud platform and data that is not to be provided to the modeler component (302) on the cloud platform based on one or more preferences, wherein the one or more preferences are determined or selected based on respective levels of data sensitivity of items of the data associated with the industrial automation system, wherein the segmenter component (352) is associated with the mesh network component;".

X.   Claim 1 of the **fifth auxiliary request** differs from claim 1 of the main request in that feature (d) is replaced by the following feature (board's labelling, amendments vis-a-vis feature (d) highlighted by the board):

(i) "a collection component (308), comprised in the modeler component, configured to collect the set of industrial data and store the set of industrial data in a data store (318), wherein the collection component is employed by the modeler component;"

XI.   Claim 1 of the **sixth auxiliary request** differs from
        claim 1 of the main request in that it further
        comprises (board's labelling)

        - between features A) and (a), the following
          features:

        (j) "a memory that stores computer-executable
            components;
        (k) a processor operatively coupled to the memory, that
            executes the computer-executable components;"

        - and, at the end, the following feature:

        (l) ", wherein the computer-executable components
            comprise the modeler component and the collection
            component".

XII.   Claim 1 of the **seventh auxiliary request** differs from
        claim 1 of the main request in that it further
        comprises, at the end, the following feature (board's
        labelling):

        (m) "to facilitate remote interaction with the
            industrial automation system in response to an
            interaction with a virtualized industrial
            automation system generated based on the model".

XIII.   Claim 1 of the **ninth auxiliary request** differs from
        claim 1 of the main request in that it further
        comprises, at the end, the following feature (board's
        labelling):

        (n) ", wherein the model is a multi-dimensional model
            that facilitates presenting a multi-dimensional

view of the industrial automation system".

XIV.   Claim 1 of the **tenth auxiliary request** differs from
         claim 1 of the third auxiliary request in that it
         further comprises, at the end of feature (g), the
         following features (board's labelling):

         (o) ", wherein the respective levels of data
             sensitivity are set for respective types of data
             associated with the industrial automation system;
         (p) wherein the segmenter component has a slider
             component to facilitate setting the respective
             level of data sensitivity".

XV.   Claim 1 of the **eleventh auxiliary request** differs from
         claim 1 of the third auxiliary request in that
         features (a), (b) and (e) are replaced by the following
         features respectively (board's labelling, amendments
         vis-à-vis features (a), (b) and (e) highlighted by the
         board):

         (q) "a modeler component (302) on a cloud platform,
             wherein the modeler component comprises a model
             management component (304) configured to:

             poll a set of devices (310, 312, 314, 316) of an
             industrial automation system (306) via respective
             cloud gateway components (330, 332, 334, 336) to
             facilitate obtaining a set of industrial data from
             the set of devices via respective information
             provider components (322, 324, 326, 328), and

             generate an inventory of the set of devices of the
             industrial automation system;

(r) a mesh network component (340) configured to obtain the <u>the</u> ~~a~~ set of industrial data from <u>the</u> ~~a~~ set of devices (310, 312, 314, 316) of <u>the</u> ~~an~~ industrial automation system (306) and communicate the set of industrial data to the modeler component (302) on the cloud platform,

(s) wherein the <u>model management component of the</u> modeler component is <u>further</u> configured to generate (1702) a model of the industrial automation system that corresponds to the industrial automation system, based on a result of an analysis of the set of industrial data <u>and based on the inventory</u>."

XVI.   Claim 1 of the **twelfth auxiliary request** differs from claim 1 of the main request in that

-    feature (a) is replaced by the following feature (board's labelling, amendments vis-à-vis feature (a) highlighted by the board):

(t) "a modeler component (302) on a cloud platform<u>,</u> <u>wherein the modeler component comprises a model</u> <u>management component (304)</u>;"

and in that

-    the following feature is added at the end (board's labelling):

(u) "wherein the model management component is configured to:
    in response to a change in one portion of the industrial automation system, determine that operation of the industrial automation system

is deficient and can be improved, and
determine a modification to be made to another
portion of the industrial automation system to
facilitate improving the operation of the
industrial automation system; and
wherein a recommendation to modify the another
portion of the industrial automation system is
presented and/or configuration information are sent
to the another portion of the industrial automation
system to facilitate said modification".

XVII.   Claim 1 of the **thirteenth auxiliary request** differs
from claim 1 of the main request in that, at the end,
it further comprises the following feature (board's
labelling):

(v) "wherein the modeler component (302) is configured
to communicate configuration information of at
least a portion of the model to another industrial
automation system to facilitate configuration of at
least a portion of the other industrial automation
system based on the configuration information".

XVIII.   Claim 1 of the **fourteenth auxiliary request** differs
from claim 1 of the main request in that the following
features are added at the end (board's labelling):

(w) ", wherein the modeler component (302) is
configured to receive a set of legacy industrial
device data from a communication device (320) that
is configured to obtain the set of legacy
industrial device data from a legacy industrial
device that is not associated with a cloud gateway
component (506_{1M}, 506_{NM}; 908; 1008),
(x) wherein the legacy industrial device is part of the
industrial automation system (300),

(y) wherein the legacy industrial device data comprises one or more visual images of the legacy industrial device captured by the communication device, or device information derived from the one or more visual images of the legacy industrial device captured by the communication device, and

(z) wherein at least one of the modeler component or the communication device employ a recognizer technique or an optical character recognition technique to facilitate deriving at least a portion of the legacy industrial device data".

XIX.   Claim 1 of the **fifteenth auxiliary request** differs from claim 1 of the eleventh auxiliary request in that it further comprises, at the end, features (w) to (z).

Reasons for the Decision

1.   *Procedural matters*

1.1   Late notification of non-attendance

         In this case, the respondent's representative provided his videoconferencing details eight days before the oral proceedings, indicating an intention to participate. However, he notified the board of his non-participation only **one day** before the scheduled proceedings (cf. point IV above). Typically, such notifications are given well in advance (see also **T 930/92,** Headnote I). Given that the board's preliminary opinion was issued ten months ahead of the scheduled hearing, the respondent had ample time to inform the board of its non-attendance well ahead of the hearing.

While it is not uncommon for representatives to receive late instructions, they should seek timely directions from their clients, particularly when arranged oral proceedings approach. In this instance, the representative failed to communicate promptly with the board's registry. Instead, the board received a brief written notice only one day before the arranged oral proceedings, without any further explanations. The board (and presumably the opposing party's representative) had already invested some time in preparing for the oral proceedings. According to Article 6 of the epi Code of Conduct, members are required to act courteously in their dealings with the EPO. The same principle applies to behaviour towards other representatives (see Article 5(a) of the epi Code of Conduct).

1.2   *Decision in written proceedings*

The respondent effectively withdrew its request for oral proceedings by declaring its intent not to attend them. In turn, the board did not consider the conduct of oral proceedings to be expedient (cf. Article 116(1) EPC). As a consequence, the decision is handed down in written proceedings (Article 12(8) RPBA).

2.   *Technical background*

2.1   The opposed patent relates to the modelling of an industrial automation environment. It addresses the problem of providing an improved system for generating, on a "cloud platform", a model of an industrial automation system that corresponds to the real system based on data from its devices. The solution involves a "modeller component" that generates a model. According to the opposed patent, this model can be, for instance,

a multi-dimensional model, facilitating a
multi-dimensional (e.g. "3D") view of the system.
Moreover, this model can be used to interact with the
real system, enabling remote viewing, remotely
controlling the system's operations and remote
troubleshooting.

2.2   Figure 1 (reproduced below) of the opposed patent shows
        a high-level overview of the system's architecture and
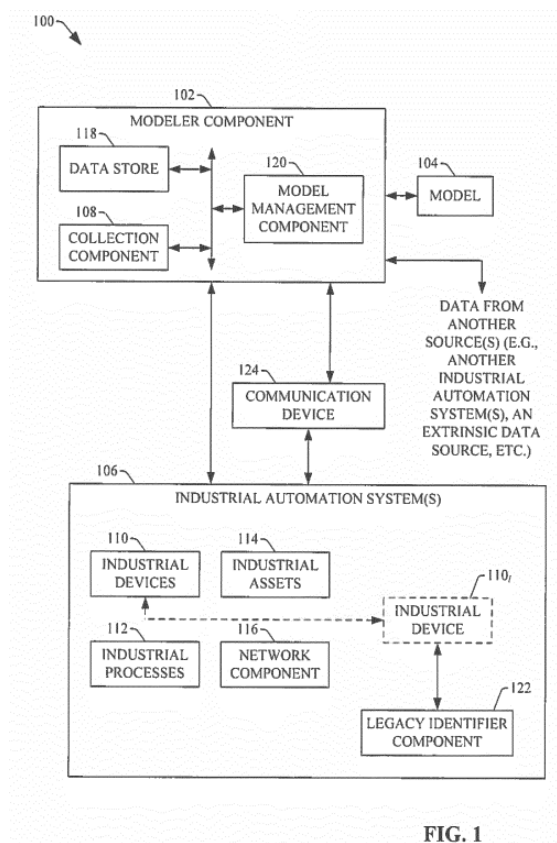   its interaction with an industrial automation
        environment.

FIG. 1

In particular, Figure 1 illustrates industrial
automation system 106 which represents the real-world
system being modelled. Furthermore, industrial
automation system 106 comprises various industrial
devices 110 from which data is collected. This

collected data is stored in data store 118 and used by
modeller component 102 to generate the model of the
industrial automation system based on the collected
data.

3.   *Main request: claim 1 – construction*

3.1   In point 4.1 of the statement of grounds of appeal, the
        appellant re-iterated its arguments summarised in
        Reasons 3.1 of the appealed decision regarding claim
        construction. The board considers it to be expedient to
        focus in this respect on the terms

          - "data" according to **features (b) and (c)** (see
            point 3.2 below)
        and
          - "model" in accordance with **feature (e)** (see
            point 3.3 below).

3.2   Reasons 3.2.2 of the appealed decision states that "*the
        term ['data'] is nowadays common general knowledge for
        communications and computing or computer assisted
        systems*". The board does not question this but notes
        that features (b) and (c) use the term "data" in
        several contexts (emphasis added):

          - "a set of industrial <u>data from a set of
            devices</u>";
          - "respective <u>data</u> [that] is <u>filtered by a
            segmenter component</u>";
          - "<u>data</u> that is <u>to be provided</u> to the modeler
            component";
          - "<u>data</u> that is <u>not to be provided</u> to the modeler
            component";

- "the <u>data</u> [that is] <u>associated with the industrial automation system</u>".

While the skilled reader may regard the first and fifth options above to relate, as a *first group*, to the same "data" and likewise for the second to fourth options above as a *second group*, they would readily understand these two groups not to necessarily concern the same "data": the fact that the filtering in accordance with feature (c) of the "data" of the *second* group is "based on respective levels of data sensitivity" of the "data" of the *first* group does not require the "data" of the two groups to be the same.

Moreover, as correctly pointed out by the appellant, the "segmenter component" of feature (c) is, contrary to what is disclosed in paragraph [00133] of the original application, <u>not</u> mandatorily part of the claimed system. It follows that the claimed system only needs to concern the "data" of the first and fifth options above, i.e. of the "set of industrial data" according to feature (b). Granted claim 1 merely poses the following two restrictions on this "set of industrial data":

- it must be storable in a data store in accordance with feature (d);
- it must be possible to associate "respective levels of data sensitivity" with this data, as set out in feature (c).

3.3   Reasons 3.2.1 of the appealed decision opines that "*the person skilled in the art does well know how the term ['modeling'] is to be understood*". Again, the board sees no reason to question this. In particular, the skilled reader would, based on their common general

knowledge, be aware of several model types that are
frequently used in science and engineering, such as:

1) a <u>visual</u> model type, like a flow diagram for
   processes in a petrochemical plant;
2) a <u>mathematical</u> model type, like the general
   theory of relativity used in GPS-guided vehicles
   that interface with material-handling robots
   (cf. paragraph [0125] of the opposed patent);
3) a <u>computational</u> model type, e.g. to simulate
   1/f noise in an electrical circuit with a
   computer system;
4) a <u>physical</u> model type, like a building's scale
   model made by a 3D-printing system
   and
5) an <u>operational</u> model type, involving concrete,
   replicable procedures for representing a
   particular phenomenon in a physical system, such
   as to measure the mechanical hardness of a
   material produced by an industrial process or to
   optimally position a sonotrode in a "smart
   welder" (cf. paragraph [0124] of the opposed
   patent).

According to feature (e), the "modeler component"
mentioned in feature (a) must generate "a model of the
industrial automation system". Besides that, it must be
generated based on the "set of industrial data"
obtained by the mesh network component "from a set of
devices of an industrial automation system" in
accordance with feature (b), granted claim 1 specifies
no details regarding this model. For instance, no
details are specified regarding

  - the model's input or output,

- the accuracy and technical relevance of outcomes,
insights or predictions provided by the model
and

- the circumstances under which the model is used.
Given this lack of details, the board holds that the
"model of the industrial automation system" can be of
any of the **model types 1) to 5)** mentioned above. As is
apparent from the examples cited for these five model
types above, each of these five model types can be
readily applied in an "industrial automation system".
Moreover, the "data" normally underlying these five
model types can very well, depending on the
circumstances, satisfy the two restrictions mentioned
in the last paragraph of point 3.2 above. For instance,
each of those five model types can in principle rely on
digital data that are under copyright or another form
of data protection. Furthermore, claim 1 as granted
does not provide any details on the "result" or on the
"analysis" of the set of industrial data in accordance
with feature (e) either. This "analysis" could, for
instance, merely relate to the <u>amount</u> of data that is
provided, to the <u>type</u> of data (e.g. "video" or "audio")
or to the <u>integrity</u> of the data. Accordingly, the
"result" of this "analysis" could be a number, a type,
a bit-error report or even a plain acknowledgement that
the analysis was successful or inconclusive.

4.   *Main request: claim 1 - sufficiency of disclosure*

4.1   Reasons 3.2.1 of the appealed decision suggests that
the skilled person would in fact know how to generate
the "model" in accordance with **feature (e)** based on
paragraph [0013] of the opposed patent or even simply
using their common general knowledge. The skilled
person would allegedly know how to do so "*independently
from the chosen structure/configuration of such*

'*modeling*' *activity*". However, the appellant disputes that paragraph [0013] of the opposed patent provides sufficient details in this respect.

4.2   The board notes that paragraphs [0103] to [0105] of the opposed patent state that a "simulation model" of an industrial automation system is generated based on "the set of data relating to the industrial automation system 206". It agrees in this regard with the appellant that the "*person skilled in the art is not able to identify, in the patent as a whole, which set of data is meant*" in **features (d) and (e)**. This is because, as further explained in points 4.2.1 to 4.2.5 below, the opposed patent provides only limited information on the "set of data" to be used to generate the "simulation model":

4.2.1   These paragraphs [0103] to [0105] at most disclose the "set of data" and the associated analysis to be such that the "properties, characteristics, functions, etc." of building blocks of industrial automation system 206 (e.g. blocks 210, 212, 214 and 216 shown in Figure 2 of the opposed patent) or their "interrelationships" can be simulated or emulated.

4.2.2   Paragraph [0064] of the opposed patent suggests that the "data" can relate, for instance, to the type or version of the software utilised by the industrial automation system. However, it does not set out how this kind of data is actually used to generate the "model" according to feature (e).

4.2.3   Paragraphs [0075] and [0076] of the opposed patent describe a scenario where "modeler component 202" analyses "the data" and updates model 204 to reflect or represent a "motor short" that may cause a "fluid

spill" in industrial automation system 206. Updated
model 204 can then be used by a virtualisation
component 224 to update virtualised industrial
automation system 226 and present a graphical
representation illustrating the motor short and fluid
spill. Paragraph [0013] of the opposed patent refers in
this respect also to "relationships" between
"constituent components" of the industrial automation
system and "a multi-dimensional <u>view</u> (e.g. 3-D view or
2-D view) of the industrial automation
system" (emphasis added).

4.2.4   Moreover, paragraph [0081] of the opposed patent seems
         to suggest that the "data" can relate to the role that
         certain "users" can assume with respect to the
         industrial automation system, such as a "maintenance
         engineer", a "shift supervisor" or a "network
         engineer". It is, however, not explained how these user
         roles take part in generating the "model" in accordance
         with feature (e).

4.2.5   Likewise, paragraph [0176] of the opposed patent
         mentions "extrinsic data" such as data relating to
         "energy cost", "material cost" or "web site traffic
         statistics". Yet, it is also not explained how this
         data contributes to generating the "model" in
         accordance with feature (e).

4.2.6   Therefore, the board considers that the opposed patent
         at most concerns a "simulation model" that can be used
         to make a (multi-dimensional) graphical representation.

4.3   This in turn means that, of the five model types
         mentioned in point 3.3 above, the opposed patent
         concerns only **model type 3)** and to some extent also
         model type 1). How the "modeler component" of

feature (e) could generate a "model" of, for instance, **model types 2) and 5)** is however not disclosed in the opposed patent. This would, contrary to what was found in Reasons 3.2.1 of the appealed decision (cf. point 4.1 above), also not be apparent based solely on a skilled person's common general knowledge, given that model types 2) and 5) would, at least in general, require extensive research, knowledge and expertise. The "big data" analysis mentioned in, for instance, paragraphs [0020], [0029] and [0129] of the opposed patent may provide some assistance in this respect, but, in the board's view, it will typically require a highly-trained specialist to manage the relevant data. Moreover, myriads of platforms are available for analysing "big data", typically offering a different trade-off between accuracy, usefulness and cost. Which one to take for generating the "model" in accordance with feature (e) will depend, for instance, on the model's intended purpose, e.g. predicting a system's behaviour, developing a new system or optimising an existing one. The opposed patent only provides vague statements in this respect, such as

- "*provide an improved system*" in paragraph [0009],
- "*facilitate interacting with (e.g., remotely monitoring operation of, tracking operation of, controlling operation of, troubleshooting problems with, providing assistance relating to, etc., via a communication device) the industrial automation system*" in paragraph [0029],
- "*simulating or emulating the properties, characteristics, functions, etc., of the respective devices, processes, and/or assets of the industrial automation system*" in paragraph [0103]

and

-      *"cloud platform 502 [hosting the modeler component as per **feature (a)**] can be <u>any</u> infrastructure that can allow cloud services"* (emphasis added) in paragraph [0127].

4.4   Moreover, even when confining the model types to merely **model types 1) and 3),** the invention defined by granted claim 1 is not sufficiently disclosed by the opposed patent, at least not for all technically meaningful interpretations which would objectively occur to the skilled reader based on their common general knowledge (cf. **T 149/21,** Reasons 3.6). This is because it would not be apparent for the skilled person, neither based on their common general knowledge nor based on the teaching of the opposed patent, how to actually carry out the invention defined by claim 1 for the examples mentioned in the last paragraph of point 3.3 above, i.e. for those *sets* of industrial data, *analyses* of these sets and *results* of these analyses that are not restricted to "properties, characteristics, functions, etc." of selected building blocks of the industrial automation system or their "interrelationships" (cf. point 4.2.1 above).

4.5   Hence, contrary to the opposition division's conclusion drawn in Reasons 3 of the appealed decision, the opposed patent does not disclose the invention defined in claim 1 of the main request in a manner sufficiently clear and complete for it to be carried out by the skilled person. As a consequence, the ground for opposition under Article 100(b) EPC prejudices the maintenance of the patent as granted.

5.   *Auxiliary requests: claim 1 - sufficiency of disclosure*

5.1   The appealed decision was not, within the meaning of
       Article 12(2) RPBA, "based on" the **fifteen auxiliary
       requests** mentioned in point 3 above since the
       opposition division rejected the opposition. In such a
       case, the proprietor has to demonstrate that these
       requests were "admissibly filed and maintained" in the
       proceedings before the opposition division (cf.
       Article 12(4), first sentence, RPBA). If this is done,
       the auxiliary requests form part of the appeal
       proceedings.

5.2   In the case in hand, the board notes that, irrespective
       of this admittance issue, the invention as defined in
       claim 1 of any of these fifteen auxiliary requests is
       not sufficiently disclosed either. This is because none
       of **features (f) to (z)** provides a remedy for at least
       the deficiency mentioned in point 4.4 above. In
       particular, the "model management component" and
       "inventory" mentioned in **features (q) and (s)** do not
       concern *how* to generate a "model" in accordance with
       feature (e) based on any of the "sets of industrial
       data", the *analyses* of these sets and the *results* of
       these analyses set out in the last paragraph of
       point 3.3 above. Likewise, the "set of legacy
       industrial device data" as per **feature (w)** can still be
       analysed merely in relation to the amount, the type or
       the integrity of the data, as explained in the last
       paragraph of point 3.3 above.

5.3   Hence, the fifteen auxiliary requests are not allowable
       under Article 83 EPC either.

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