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D E C I S I O N
of 28 September 2004

Case Number: T 0615/02 - 3.5.2

Application Number: 98910868.3

Publication Number: 0986843

IPC: H01R 13/66

Language of the proceedings: EN

Title of invention:
Line protection devices

Applicant:
IDC Plugs Limited

Opponent:
-

Headword:
-

Relevant legal provisions:
EPC Art. 123(2)

Keyword:
"Amendments - added subject-matter (yes)"

Decisions cited:
-

Catchword:
-



Case Number: T 0615/02 - 3.5.2

D E C I S I O N
of the Technical Board of Appeal 3.5.2
of 28 September 2004

Appellant: IDC Plugs Limited
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Alton, Hampshire GU34 1HD (GB)

Representative: Fry, Alan Valentine
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 30 November 2001
refusing European application No. 98910868.3
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: W. J. L. Wheeler
Members: F. Edlinger
E. Lachacinski

Summary of Facts and Submissions

- I. The appeal is against the decision of the examining division refusing European patent application No. 98 910 868.3.
- II. Claim 1 on which the decision under appeal is based was filed with letter dated 14 February 2001 and is worded as follows:

"An electrical surge suppression device comprising a single-piece module (1) having at one of its ends an electrical connector for connection to a male connector and at its other end an electrical connection to a female connector, the device including within its central section circuitry (10) for suppressing voltage transients received from a mains source, and being characterised in that the connectors are IEC power connectors and that the device is for connection in-line between a male IEC power connector (7) connected through cabling to the mains supply of electricity and a female IEC connector (5) of electronic equipment (2) to be protected from voltage transients, and in that the single-piece module (1) has at one of its ends a boss portion forming a female IEC connector (6) for connection to the male IEC connector (7) and at its other end a recessed male connector (4) for connection to the female IEC connector (5) of the electronic equipment (2) to be protected from voltage transients, the module having no other connectors."

Claims 2 to 6 are dependent on claim 1.

- III. The decision under appeal held that the subject-matter of claim 1 did not involve an inventive step over the prior art disclosed in US-A-4 907 118 (D1).
- IV. With the statement of grounds of appeal, the appellant emphasised that the extending male prongs of the surge protector in D1 were not recessed and that the examining division's appraisal of the problem ignored the applicant's solution of a connector whose female IEC connector was recessed so that it could not be connected directly to an outlet of a mains supply of electricity. The female IEC connector was connected to the mains supply through a separate cable having a mains plug at one end and a male IEC power connector at its other end. This arrangement provided a number of advantages, these including the ability for the male IEC power connector of the surge suppression device to be connected in-line directly into a female IEC connector of the electronic equipment to be protected. By so doing, the amount of space necessary to accommodate the electrical surge suppression device was minimised.
- V. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 6 refused by the examining division. Oral proceedings were requested in the event that the decision under appeal were upheld in part or in full.
- VI. With the summons to oral proceedings, the Board sent a communication under Article 11 RPBA. The communication included the following observation:

"The Board harbours doubts as to whether the application as filed (cf Art. 123(2) EPC) disclosed "a boss portion forming a female IEC connector" or "a recessed male connector" at the level of generality recited in claim 1."

Regarding inventive step, the Board said that it was not at present convinced by the appellants arguments that it would not have been obvious to move the surge suppression device from the mains end of the cable (where it was in D1) to the equipment end of the cable.

VII. With letter dated 22 September 2004, the appellant advised the Board that neither the representatives nor the appellant would be attending the oral proceedings scheduled on 28 September 2004.

VIII. Oral proceedings were held on 28 September 2004 in the absence of the appellant.

Reasons for the Decision

1. The appeal is admissible.
2. The Board exercising its power to examine whether the application or the invention to which it relates meets the requirements of the EPC included a new ground for refusal of the application pursuant to Article 123(2) EPC (see point VI above). No basis can be found in the application as filed and published under WO 98/56079 for the features of amended claim 1 filed with the letter of 14 February 2001 relating to a boss portion

forming a female IEC connector and a recessed male connector.

3. The appellant did not file amendments, nor present arguments which could justify a different appreciation of these matters. In the judgement of the Board, claim 1 of the application has been amended in such a way that it contains subject-matter which extends beyond the content of the application as filed and thus infringes Article 123(2) EPC.

4. Since the EPO shall consider and decide upon the European patent application only in the text submitted to it, or agreed, by the applicant for the patent (Article 113(2) EPC), the appeal has to be dismissed for the above reason. There is no need to examine whether the ground for refusal given by the examining division (lack of inventive step) would have led to the same outcome of the appeal.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

D. Sauter

W. J. L. Wheeler