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**Datasheet for the decision
of 25 November 2019**

Case Number: T 1603/13 - 3.5.02

Application Number: 07736091.5

Publication Number: 2193596

IPC: H02K53/00

Language of the proceedings: EN

Title of invention:

The Izuogu machine (the self-sustaining emagnetodynamic machine)

Relevant legal provisions:

EPC Art. 83

Keyword:

Sufficiency of disclosure (no) - perpetual motion machine



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Case Number: T 1603/13 - 3.5.02

D E C I S I O N
of Technical Board of Appeal 3.5.02
of 25 November 2019

Appellant: Izuogu, Ezekiel
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 2 January 2013
refusing European patent application No.
07736091.5 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman R. Lord
Members: C.D. Vassoille
J. Hoppe

Summary of Facts and Submissions

- I. The applicant (appellant) filed an appeal against the decision of the examining division to refuse European patent application no. 07 736 091.5, which is based on the international application published under the PCT as WO 2008/149182 A1.
- II. In the decision under appeal, the examining division *inter alia* came to the conclusion that the application did not fulfil the requirement of Article 83 EPC.
- III. In a communication under Rule 100(2) EPC and in a further communication under Article 15(1) RPBA, the board informed the appellant that it tended to share the examining division's opinion in the decision under appeal.
- IV. Oral proceedings before the board took place on 25 November 2019.

The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the set of claims filed on 16 June 2010 (main request), or as an auxiliary measure on the basis of the set of claims, filed as first auxiliary request with letter dated 15 May 2019.

- V. Claim 1 of the appellant's main request reads as follows:

"An emagnetodynamic machine that uses its own feedback current to operate and runs by the interaction of magnetic poles on a stator and on a rotor, comprising:

a set of permanent magnets placed in a circular pattern and forming an array of like poles of a stator of the machine,

at least one composite magnetic pole, which

- is attached to a spindle,
- is part of a rotor of the machine,
- is carried by a rotor vane,
- faces said array of like poles,
- has a leading composite pole and a trailing composite pole,

a distributor pressing against brushes for energising to release electromagnets releasing the rotor vane from backlashes arising from repulsions/attractions of the rotor composite polarity,

wherein a release electromagnet 22 is timed to develop a pole strength which is similar or equal to the pole strength of the permanent magnets of the stator, when the magnetic axis of the leading composite pole of the rotor has just crossed the magnetic axis of the release electromagnet 22, wherein, as the rotor 26 moves on and at the point where the magnetic axis of the leading rotor composite pole is about to cross the magnetic axis of a stator permanent magnet 19, the distributor 27 makes contact with another brush 35, thereby energizing another stator electromagnet 32, and thereby freeing the trailing composite pole of the rotor, which would have been otherwise attracted and held back."

VI. Claim 1 of the appellant's auxiliary request reads as follows (underlining indicates changes compared to the main request):

"An emagnetodynamic machine that uses its own feedback current to operate and runs by the interaction of magnetic poles on a stator and on a rotor, comprising:

a set of permanent magnets placed in a circular pattern and forming an array of like poles of a stator of the machine,

at least one composite magnetic pole, which

- is attached to a spindle,
- is part of a rotor of the machine,
- is carried by a rotor vane,
- faces said array of like poles,

• has north and south poles of two permanent magnets held together which constitute a leading composite pole and a trailing composite pole,

a distributor pressing against a plurality of brushes for energising to release electromagnets releasing the rotor vane from backlashes arising from repulsions/ attractions of the rotor composite polarity,

wherein a release electromagnet 22 is timed to develop a pole strength which is similar or equal to the pole strength of the permanent magnets of the stator, when the magnetic axis of the leading composite pole of the rotor has just crossed the magnetic axis of the release electromagnet 22, wherein, as the rotor 26 moves on and at the point where the magnetic axis of the leading rotor composite pole is about to cross the magnetic axis of a stator permanent magnet 19, the distributor 27 makes contact with another one of the brushes 35, thereby energizing another stator release electromagnet 32, and thereby freeing or releasing the trailing composite pole of the rotor, which would have been otherwise attracted and held back."

VII. The arguments of the appellant which are relevant for the present decision are as follows:

The claimed machine was described to be "self-sustaining" but any machine was "self-sustaining" at least over a limited period of time. The inertia of

moving machine parts (kinetic energy) would cause a machine to sustain its motion over a limited period of time. The same applied to electromagnetic energy stored in a feedback loop of a machine.

According to the case law of the boards of appeal, the skilled person may use the common general knowledge to supplement the information contained in the application and may even recognise and rectify errors in the description on the basis of such knowledge.

The law of conservation of energy or the first law of thermodynamics were part of the common general knowledge of the skilled person. Thus, the term "self-sustaining" would be interpreted by the person skilled in the art by application of the common general knowledge as "temporarily self-sustaining". It was a general goal to minimize the input energy necessary to run a machine and thus to construct it in a way that it had maximum self-sustaining qualities under the applicable laws of nature.

Even if the person skilled in the art however applied a narrow interpretation of the term "self-sustaining", they would rectify this alleged error in the description on the basis of the general knowledge.

Paragraphs [119] and [121] of the application mentioned feeding a voltage to the electromagnets and a "main input power to the motor". With the clear and unambiguous disclosure of a power supply, the original specification did not exclusively rely on feedback energy and the self-sustaining effect. The invention was thus disclosed in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art.

Neither the examining division nor the board had made a complete assessment of the total energy in the system, including the energy consumed for producing the permanent magnets that permanently create a magnetic field. As a consequence, it was questionable on what basis the opinion was founded that the claimed subject-matter violates the law of conservation of energy. Such finding required a complete assessment of the energy in the system.

The application documents did not contain the statement that the total sum of all energies in the system, including the energy invested in producing a permanent magnet, grows by operating the machine. The application documents simply stated that the rotor rotates using its own feedback current to operate. Consequently, the application documents did not include a statement that the machine violates the law of conservation of energy.

The effect that the rotor rotates using its own feedback current to operate could be seen in the video presented on a CD and in a further video present during the oral proceedings before the board. This effect looked just as surprising as magnetic levitation. The existence of a permanent force field around permanent magnets in combination with a correctly timed activation of electromagnetic forces in accordance with the claims generated this surprising effect that the machine rotated on its feedback current.

Reasons for the Decision

1. The appeal is admissible.
2. *Main request - sufficiency of disclosure (Article 83 EPC)*
 - 2.1 The alleged invention described in the present application does not comply with the generally accepted laws of physics, in particular not with the law of conservation of energy. The application is therefore insufficient to the extent that it does not describe how the claimed machine could be put into practice. The application therefore does not comply with the requirement of Article 83 EPC.
 - 2.2 According to the application, the invention concerns the technical area of magnetic motors (see paragraph [8] of the original application). The stated problem is that in such a magnetic motor of the state of the art a constant high amount of energy is required to keep the motor driving (see paragraph [135]). According to paragraph [13] the machine of the invention "is able to run without any external source of energy". Furthermore paragraphs [135] and [140] indicate that the motor of the present invention requires "heavy" energy only at specific points and does not require an external power supply to function. The power that is required at these specific points seems to be generated by a feedback generator, which is intended to generate energy from the motor rotation (see paragraphs [105] and [133] as well as figure 18).
 - 2.3 The board notes that a motor is generally understood to create motion. In physics, the law of conservation of

energy states that the total energy of an isolated system remains constant - it is said to be conserved over time. Energy can be neither created nor be destroyed, but it is transformed from one form to another. It follows that a motor can create motion (i.e. create kinetic energy) only if it is provided with a supply of (external) power in some form.

- 2.4 Claim 1 of the main request is directed to an "emagnetodynamic machine that uses its own feedback current to operate". Claim 1 further recites "a distributor pressing against brushes for energising to release electromagnets" and further that "a release electromagnet 22 is timed to develop a pole strength".

The board observes that claim 1 does not contain any reference to a power source other than the machine's own feedback current. It is therefore clear that the first sentence in combination with the further above-cited features of claim 1 refers to a machine, whose release electromagnets are energised exclusively by the machine's own feedback current. This understanding is also confirmed by the original application, which emphasises in paragraphs [13] and [140] the advantage of the invention of not requiring an external power supply (except the kick-start battery, see paragraph [103] and claim 13), and which repeatedly refers to a "self-sustaining" operation of the claimed machine (see the original claim 1 and paragraphs [13], [97], [133]) and to a machine that does "not require electricity or battery to operate" and thus "needs no external energy" (see paragraph [140]).

- 2.5 The board interprets the term "self-sustaining" in the light of the application such that a motion of a motor can be maintained without the supply of external energy

and the board does not agree with the appellant's argument that it implies a temporal limitation of the self-sustaining operation. Rather, the board is convinced that the term has been deliberately chosen to express the fact that the claimed machine does not make use of an external power supply to keep the machine running. The clear meaning expressed in the cited paragraphs ("no external energy is needed", and machines "do not require electricity or battery to operate" but are "able to run without any external source of energy") unambiguously indicates that neither small amounts of energy nor intermittent energy is needed to operate the machine and thus exclude the interpretation favored by the appellant that the machine is only temporarily self-sustaining.

2.6 The claims cannot be interpreted in a manner that would contradict the idea of the invention as disclosed in the original application. This is in line with the case law cited by the appellant, which merely applies to the correction of errors on the basis of common general knowledge, but cannot be extended to cases where the deviation from the common general knowledge and in particular from generally accepted laws of physics in the description has been deliberately chosen to describe the invention and thus cannot be identified as an error.

2.7 As regards the appellant's argument that the finding that the claimed subject-matter violates the law of conservation of energy required a complete assessment of the energy in the system, the board notes that the application does not contain sufficient information to enable such a calculation. Considering however the fact that the application in particular in paragraph [131] on page 9, line 5 states that the machine's efficiency

"is well over unity", it is clear that a calculation of energy in the system is not necessary to conclude that the total sum of all energies in the system is described to grow during the operating of the machine (perpetual motion machine), which as a matter of fact constitutes a violation of the law of conservation of energy.

- 2.8 As further regards the video on a CD sent with letter of 21 October 2019 as well as regards the video demonstrated during the oral proceedings before the board on 25 November 2019, the board observes that these videos merely show a rotor in a machine: the rotor rotates for about ten seconds and it cannot be determined from these videos which energy is generated and where it is used in the machine.
- 2.9 The board therefore came to the conclusion that claim 1 of the main request is in fact directed to a machine that uses only its own feedback current and no external source of energy. Such a machine cannot work because it clearly violates the law of conservation of energy (see the board's remarks under point 2.3 above). This has been correctly found by the examining division in the decision under appeal (see point 18.4.3.1 of the reasons) and consequently they were correct in their finding that the claimed subject-matter violates the law of conservation of energy.
- 2.10 For the above reasons, the board came to the conclusion that the subject-matter of the main request does not fulfil the requirement of Article 83 EPC.

3. *First auxiliary request*

- 3.1 The amendments of claim 1 of the first auxiliary request filed with letter dated 15 May 2019 merely serve to overcome objections of lack of clarity (Article 84 EPC) so that the claimed machine still does not contain to a power source other than the machine's own feedback current. The board's findings on the main request as regards the requirement of Article 83 EPC therefore also apply to the first auxiliary request, which consequently also does not fulfil the requirement of Article 83 EPC.

4. *Conclusion*

- 4.1 Since neither of the requests on file fulfilled the requirement of Article 83 EPC, the appeal had to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



U. Bultmann

R. Lord

Decision electronically authenticated