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**Datasheet for the decision  
of 8 March 2021**

**Case Number:** T 0850/15 - 3.5.02

**Application Number:** 04405747.9

**Publication Number:** 1667304

**IPC:** H02H7/26, H02J13/00

**Language of the proceedings:** EN

**Title of invention:**

Transmission of Protection Commands to a Remote Tripping  
Device

**Patent Proprietor:**

ABB Power Grids Switzerland AG

**Opponent:**

Siemens Aktiengesellschaft

**Relevant legal provisions:**

EPC Art. 54, 56, 84, 108, 123(2)

RPBA Art. 12(4)

EPC R. 99(2)

RPBA 2020 Art. 25(2)

**Keyword:**

Admissibility of appeal - (yes) - newly filed documents relevant to assessment of public availability in impugned decision

Admissibility of documents - (no) - should have been filed in first instance proceedings

Admissibility of documents D7a-f and D8a-f - (yes) - appropriate reaction to change of opinion of Opposition Division and late objection of respondent concerning public availability

Novelty - (yes) - prior art disclosure ambiguous, availability not proven beyond reasonable doubt

Inventive step (yes)

Clarity - (yes to the extent that it can be examined)

Added subject-matter - (no)



**Beschwerdekammern**

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**Case Number:** T 0850/15 - 3.5.02

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.02**  
**of 8 March 2021**

**Appellant:** Siemens Aktiengesellschaft  
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**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
5 March 2015 concerning maintenance of the  
European Patent No. 1667304 in amended form.

**Composition of the Board:**

**Chairman** R. Lord  
**Members:** F. Giesen  
J. Hoppe

## **Summary of Facts and Submissions**

- I. The present appeal by the opponent lies from the interlocutory decision of the Opposition Division posted on 5 March 2015 concerning maintenance of the European Patent No. 1667304 in amended form on the basis of the main request.
- II. The appellant sought to introduce documents D2a to c, D7a to f, D8a to f and D9 to D16 as well as new alleged facts concerning an alleged lack of novelty in view of D10 and an alleged lack of inventive step starting from document D3 in combination with documents D7 to D9 and D11 to D16 for the first time with the statement of grounds of appeal.
- III. In a notification pursuant to Article 15(1) RPBA the Board set out its preliminary opinion. The Board informed the parties *inter alia* that it was inclined to admit documents D7a to f and D8a to f but not to admit the new evidence D9 to D16 as well as the objections based on it.
- IV. Oral proceedings before the Board took place on 8 March 2021. The parties' requests were as follows:

The appellant (opponent) requested  
that the decision under appeal be set aside and  
that the opposed patent be revoked.

The respondent (patent proprietor) requested  
that the appeal be rejected as inadmissible or that  
it be dismissed (main request)  
or as an auxiliary measure,

that the decision under appeal be set aside and the patent be maintained in amended form according to one of auxiliary requests 1 to 12, filed with the letter dated 7 April 2016.

V. The following documents will be referred to in this decision

D1b SIEMENS Power Network Telecommunication,  
Product Enhancements SWT 3000, two pages  
D2 SIEMENS Equipment Manual ESB 2000i  
Chapter 10: iSWT3000 05.04, 67 pages  
D2a Email of Mr. R. Stoklasek dated  
30 September 2004 concerning SWT 3000 Product  
Enhancement Coded Tripping availability, one  
page  
D3 EP 1 335 469 A1  
D7c, SIEMENS, Presentation "SWT 3000-Coded  
D8f Tripping", six pages

The Board refrains from individually identifying documents D9 to D16 in view of the reasons for the decision.

VI. Claim 1 of the respondent's main request, i.e. the claim as maintained by the Opposition Division, reads as follows:

*"A system for transmitting protection commands to a remote tripping device, including a transmitter (1), a signal link (2) with a transmission band comprising a plurality of tones (F1, F2, F3, F4) and a receiver (3) with a detector (41, 42, 43, 44) for each of the plurality of tones, wherein a protection command (A, B, C, D) or a combination of protection commands (A&B) is mapped to the tones according to one of at least two*

*operating schemes, wherein each operating scheme is either variable-tone, single-tone, dual-tone, triple-tone, or coded FSK; characterized in that the transmitter is adapted to map a first protection command or combination of protection commands according to a first operating scheme to at least one tone (F1), followed by mapping a second protection command or combination of protection commands according to a second operating scheme, distinct from the first operating scheme, to at least the at least one tone (F1)."*

Claim 4 of the appellant's main request is a corresponding method claim. The other claims are dependent claims.

Since the wording of the auxiliary requests is not relevant for the tenor of this decision, it is not reproduced here.

VII. The arguments of the appellant, in as far as they are relevant to the present decision, can be summarised as follows:

Concerning the admissibility of its appeal the appellant did not present any arguments.

Documents D7a-f, D8a-f and D9 to D16 should be admitted. The Opposition Division had changed its opinion concerning the public availability of D1b and D2 during the oral proceedings. The new documents were a reaction to the change of mind and were intended to demonstrate the public availability of information already on file.

The respondent's main request should be excluded from the appeal proceedings. It was filed only during the oral proceedings before the Opposition Division and should not have been admitted.

The subject-matter of claim 1 was not new in view of D1b, which concerned the system SWT3000, and disclosed on page 2 that coded tripping and non-coded tripping, i.e. protection commands encoded using distinct operating schemes, could be used in parallel in the communication between a transmitter and a receiver.

The subject-matter of claim 1 was not new in view of D7c and D8f. This was a new objection, which should be admitted because it was highly relevant. Both documents were identical in content and concerned the same product as D1b and disclosed even more clearly that protection commands encoded using distinct operating schemes could be used in parallel in the communication between a transmitter and a receiver. The subject-matter of claim 1 was also not new in view of D10 which should be admitted into the proceedings.

The subject-matter of claim 1 also lacked novelty in view of D2, the manual accompanying the product SWT2000. The entirety of the presented documents demonstrated the substantial efforts made by the appellant for the introduction into the market of the updated product SWT3000. The respondent was wrong in considering that D2 was not publically available because it could only be obtained by buying the product. Even if this were true this was immaterial to the fact that D2 was publically available (because the product had also been publically available) as of September 2004 as proven by document D2a. D2a is an email announcing the release date of the updated

product SWT3000. Additionally, decision T 0055/01 held that manuals for a mass product should be deemed to have been made publically available quickly. This applied to the present case as well.

The subject-matter of claim 1 did not involve an inventive step in view of document D3 alone. In order to increase the number of protection commands that can be transmitted, a skilled person would consider using distinct operating schemes sharing some of the transmission frequencies. It also did not involve an inventive step in view of D3 in combination with any of the documents D1b, D2, D7c or D8f, which all disclosed that in order to increase the number of protection commands two distinct operating schemes should be used in parallel sharing transmission frequencies or in view of D3 in combination with D9 to D16.

Claim 1 of the main request infringed Article 123(2) EPC. Distinct operating principles had originally only been disclosed in connection with details of the detector, in particular the capability of the detector to determine the amplitude.

Claim 1 as maintained was furthermore not clear. The expression "variable tone" was unclear. It was further unclear whether the first and second protection commands were different or identical. Lastly it was unclear whether in the phrase "either variable tone, single, double, triple tone or coded FSK" the word "either" referred to each of the following list elements or to "variable tone, single-, double-, triple-tone" as a unit.



VIII. The arguments of the respondent, in as far as they are relevant to the present decision, can be summarised as follows:

The appeal was inadmissible. In the statement of grounds of appeal the appellant merely repeated objections which had already been discussed at length in the first instance proceedings or introduced entirely new objections. However, it failed to explain why the reasoning of the impugned decision was erroneous.

Documents D1d to D1f should be excluded from the appeal proceedings because they were filed late during the first instance proceedings and because they were *prima facie* unsuitable for demonstrating the public availability of document D1b.

Documents D2a-D2c, D7a-D7f, D8a-D8f as well as D9-D16 should not be admitted as they should have been filed in the first instance proceedings. The Opposition Division had every right to change their preliminary assessment concerning the public availability of D1b and D2 and had even indicated the need for further proof of this in the annex to the summons.

The subject-matter of claim 1 was new in view of the documents D1b, D7c, D8f and D10. Claim 1 required that a transmitter could communicate with one and the same receiver using two distinct operating schemes. Neither document disclosed directly and unambiguously that the transmitter communicated with a single receiver. The disclosures could equally be understood to mean that the transmitter communicated with one receiver using one operating scheme and with another receiver using another operating scheme.

Document D2 had not been made publically available. It was a manual. The release number "Release p2\_5\_X" at the bottom of its pages indicated that it was clearly not the final version, but rather a draft version. The date at the bottom of the pages "05/04" was not a publication date, but rather the date of the draft. The email D2a referred to the final version with the release number "P2.5.105". It could not be established that the contents of D2 and the finally released version were identical. The standard of proof was the proof beyond reasonable doubt, because all documents stemmed from the sphere of the appellant. This standard had not been met.

## **Reasons for the Decision**

1. *Admissibility of the Appeal*
  - 1.1 The appeal is admissible. The requirements according to Article 108 EPC and Rule 99(2) EPC for admissibility of the appeal are fulfilled.
  - 1.2 The respondent argued that the appellant's arguments in the statement of grounds of appeal did not go beyond those already discussed at length during the opposition proceedings. Rather they presented completely new attacks based on new evidence. There was therefore no explanation why the reasons of the impugned decision were erroneous.

- 1.3 The Board is not persuaded. According to Rule 99(2) EPC in the statement of grounds of appeal the appellant shall indicate the reasons for setting aside the decision impugned. The Opposition Division based their decision concerning novelty on the conclusion that D1a and D1b had not been made publically available. It is apparent from the statement of grounds of appeal that the appellant contested this essential reason of the impugned decision and attempted to support their argument by submitting new documents D7a to D7f and D8a to D8f in order to further prove public availability. It follows that this argument is suitable, at least in principle, to have as a consequence that the impugned decision would have to be set aside. For this reason, the requirement of Rule 99(2) EPC is met. The fact that the appellant additionally based new objections on the new evidence does not change this fact.

As there is no partial admissibility of an appeal, this would hold true even if the new documents were not admitted into the proceedings.

2. *Admissibility of New Documents and Alleged Facts*

- 2.1 The respondent requested that documents D1d-f, D2a-c, D7a-f, D8a-f and D9 to D16 not be admitted into the proceedings.
- 2.2 Pursuant to Article 12(4) RPBA 2007, which is applicable by virtue of Article 25(2) RPBA 2020 to the statement of grounds of appeal and the timely reply in the present case, the Board has the power to hold facts, evidence and requests inadmissible that could (and should) have been filed in the first instance proceedings.

- 2.3 Documents D1d-f have already been filed and admitted in the first instance proceedings by the Opposition Division. However, in the opinion of the Board, the only possible legal basis for excluding documents which were admitted in the first instance proceedings would be that the Opposition Division had exercised its discretion in a clearly erroneous manner. However, this has not been alleged by the respondent, and the Board also sees no reason for reaching such a conclusion.
- 2.4 Concerning documents D2a-c, D7a-f and D8a-f, the Board considers them to be an appropriate attempt to corroborate the appellant's assertion that D1b and D2 had been made publically available. These documents show that the appellant undertook marketing efforts for a product update of the product SWT3000, with which both the product brochure D1b and the manual D2 are concerned, thus making the asserted public availability of D1b and D2 more likely. The appellant is correct in pointing out that the Opposition Division held documents D1b and D2 to have been made publically available in their preliminary opinion in the annex to the summons, *inter alia* because the respondent had not contested this assertion. The respondent is correct in pointing out that the Opposition Division also expressed that more evidence might be needed. However, given that the respondent themselves only contested the public availability after being notified of the Opposition Division's preliminary view, the appellant had only little time to react to the now contested issue. The Board acknowledges that in a corporation as large as the appellant's, finding evidence like D7a-f and D8a-f concerning presentations, client lists and travel expense statements for events that happened about 10 years earlier, requires more effort than could

have been made under these circumstances. Therefore the Board considers that documents D7a-f and D8a-f are an appropriate reaction to the change of the Opposition Division's preliminary opinion in reaction to the respondent contesting the public availability only shortly before the oral proceedings in opposition. The fact that the appellant also tries to base new novelty objections on these documents, as the respondent correctly points out, is not a reason for not admitting the documents. Rather than not admitting the documents, it would have to be considered whether the new objections should not be admitted. The Board therefore does not hold D7a-f and D8a-f inadmissible.

- 2.5 The case is different for documents D9 to D16. Document D9 is a further excerpt from a manual but it is not clear when and under what circumstances it had been printed and whether it had been publically available. It is therefore not suitable to confirm the appellant's assertion concerning the public availability of D1b and D2. Therefore it cannot be seen as a mere corroboration of an objection which was already on file, but rather as a new document that should have been filed during the opposition proceedings.

Documents D10 to D16 are introduced in order to base completely new novelty (D10) and inventive step (D9, D11 to D16) objections on them. These new objections cannot be considered to be a reaction to the turn of events in the opposition proceedings, so they should have been presented in the first instance proceedings.

The Board therefore exercised its discretion under Article 12(4) RPBA 2007 (Article 25(2) RPBA 2020) to exclude the new evidence of documents D9 to D16 from the proceedings.

3. *Admissibility of the Main Request*

- 3.1 The Board does not hold the respondent's main request inadmissible.
- 3.2 The appellant requested that the main request be excluded because it had been filed only during the oral proceedings before the Opposition Division. It was thus late-filed and should not have been admitted by the Opposition Division.
- 3.3 The main request was admitted by the Opposition Division, and the respondent's timely reply was also directed to it. The main request thus formed part of the opposition proceedings and the appealed decision is based on it.

The appellant has not argued on which legal basis the main request could be excluded from the appeal proceedings. While the Board has the power to review discretionary decisions of the Opposition Division, they should only be overturned if they were tainted by an erroneous exercise of the discretion. In the present case the appellant has not presented any arguments to that effect. The appellant's only argument was that the request was late-filed and *ipso facto* should not be admitted. This argument however is tantamount to denying the Opposition Division any discretion to admit late-filed evidence and is therefore not convincing. In the absence of further arguments to this effect, the Board has no reason to exclude the main request.

For the sake of completeness, the Board wishes to add that it appears from the file that the main request was filed in response to a new objection raised by the Opposition Division during the oral proceedings and led

to the maintenance of the opposed patent. The Board finds it far from evident that the exercise of the discretion so as to admit the main request under these circumstances had been erroneous.

4. *Novelty in View of Document D1b*

4.1 The subject-matter of claim 1 of the main request is new over document D1b within the meaning of Article 54 EPC. In view of this finding, it is not necessary for the Board to decide whether D1b had been made publically available before the filing date of the opposed patent.

4.2 Claim 1 defines a system with a transmitter and a receiver coupled by a signal link. In the context of this system with only one receiver, claim 1 clearly expresses that the transmitter transmits different protection commands employing different operating schemes to one and the same receiver.

Document D1b is a product brochure disclosing a feature update of the product SWT3000, which is a communication system with a transmitter, a receiver and a signal link for actuating high voltage circuit breakers, allowing the user to employ two operating schemes, coded tripping and non-coded tripping. In point 4, D1b discloses that

*"[t]he use of four independent commands also permits combinations, e.g. 2+2: This operating mode is particularly suitable for the transmission of protection commands of different protection systems, where two commands are transmitted coded and two commands non-coded."*

This is not a direct and unambiguous disclosure of a transmitter using different operating schemes to encode different protection commands sent to only one receiver. Rather, the passage can be understood to mean that two protection commands are sent to one of the mentioned "different protection systems" using a first operating scheme, e.g. coded tripping, and the other two protection commands are sent to another of the "different protection systems" using the second operating scheme, e.g. non-coded tripping. The box in the right column on the last page does not clarify this ambiguity. The first table solely depicts how commands can be mapped to coded signals, which in D1b is a form of dual-tone coding. The two figures underneath it merely depict in a clearly schematic way how frequency shift keying and dual-tone coding work. This passage does not clarify whether both operating schemes are used in the communication with one and the same receiver or with different receivers. This should in particular be seen in view of the preceding passages of D1b explaining that the transmission range is highest for frequency shift keying but halved for dual-tone coded signals, thus implying that different operating schemes are used for different receivers at different distances from the transmitter.

Therefore, D1b does not directly and unambiguously disclose that the transmitter maps two distinct protection commands to two distinct operating schemes in the communication with one and the same receiver.



5. *Novelty in View of D7a-f and D8a-f*

5.1 The subject-matter of claim 1 of the main request is new over document D7c and over document D8f within the meaning of Article 54 EPC. In view of this finding, it is not necessary for the Board to decide whether the public availability within the meaning of Article 54(2) EPC of D7c before the filing date of the opposed patent has been sufficiently demonstrated by documents D7a, b and d to f and that of D8f by documents D8a to e. Furthermore, in view of this finding the Board also did not need to decide, in view of Article 13(1) RPBA 2020 (Article 25(1) RPBA 2020), whether to admit the new novelty objections, presented for the first time during the oral proceedings before the Board, which contained new factual assertions and which were based on the new evidence.

5.2 According to the appellant D7c is at least an excerpt of a presentation held at a symposium in Mexico. It discloses on slide 6 a teleprotection system which transmits two commands with fastest transmission time using F6 modulation and two commands with highest security using coded tripping. D8f is an excerpt of the same presentation held in Brasilia at the beginning of November 2004. The Board agrees with the appellant that F6 (a form of frequency shift keying) and coded tripping (a form of dual-tone coding) are two different operating schemes. However, similarly to D1b, documents D7c and D8f do not clearly and unambiguously disclose whether the two distinct operating schemes are used in the communication between one transmitter and one and the same receiver or whether they are used in the communication with two different receivers, in particular in view of the upper part of the slide

disclosing "two protection systems" and "two different requirements".

6. *Novelty in View of Document D2*

- 6.1 It has not been proven that document D2 had been made publically available within the meaning of Article 54(2) EPC before the filing date of the opposed patent.
- 6.2 In some cases Boards have adopted the standard of the "balance of probabilities" for the assessment of public availability of brochures of the parties (see Case Law Book, 9th edition, III.G.4.3.4a)). The Board holds that in the present case the standard of proof is a proof beyond reasonable doubt, since D2 is a manual, not a product brochure, and all documents filed in order to demonstrate the public availability of D2 are company internal documents that spring entirely from the appellant's sphere of access. However, even under the lower standard of proof ("balance of probabilities") the evidence on file would not have been sufficient to prove that D2 had been made public available before the filing date of the opposed patent.
- 6.3 Document D2 is an excerpt of a manual for the device SWT3000. At the bottom of its pages the manual carries a copyright remark "© SIEMENS AG 2004", a release number "Release p2\_5\_X" and a date "Date: 05.04". It is not apparent that the date is a publication date. It could instead refer to the date of creation of the version of the document. There is therefore no evidence that the contents of D2 - a preliminary version of a manual - have been made publically available at all.

Document D2a cannot change this assessment. D2a is a company internal email beginning: "Dear colleagues, please be informed that SWT3000 version P2.5.105 is released for Sales and Delivery by 30.9.2004."

Therefore, document D2a only demonstrates that a version P2.5.105 was released. However, it could not be established whether the contents of document D2, which due to the wild card version number p2\_5\_X must be assumed to be a preliminary version, were identical to the final version that was later available for release and delivery in September 2004.

Document D2a mentions code tripping, but this expression merely refers to a dual-tone operating scheme rather than the parallel use of two distinct operating schemes, as can be seen from numerous documents adduced by the appellant, such as D1b, D7c, D8f. Therefore it does not contain any proof that the final version contained a disclosure of the parallel use of distinct operating schemes.

The appellant argued that manuals should be presumed to have been publically available shortly after their creation, citing case law dealing with mass products, such as television sets. This argument must fail for several reasons. Firstly, there is no proof that the contents of D2, being a preliminary version, remained unchanged. Therefore, even assuming some version was published shortly after April 2004, it remains unclear what exactly was published. Secondly, the product SWT3000 is high voltage circuit breaker accessory equipment, which is sold to large electricity providers. As such it is clearly not a mass product. The considerations on which the appellant relied concern products with high sales figures and short product development cycles, which is certainly not the

case for the product SWT3000. In this context, the Board observes that the appellant has not attempted to demonstrate the sale of a product in the appeal proceedings. To the Board, it is reasonable to assume that in the short time between the release of the product for sale in September 2004 and the filing date of the patent on 2 December 2004 no product had been sold yet. This demonstrates that considerations applying to mass products do not apply to the SWT3000 as far as the assumption of public availability of their manuals are concerned.

The above considerations show that it had not been proven, either with high probability or beyond reasonable doubt, that the contents of D2 have been made publically available before the filing date of the opposed patent.

- 6.4 For this reason, the Board did not need to decide whether D2 discloses all features of claim 1 in combination.

7. *Inventive Step*

- 7.1 The subject-matter of claim 1 involves an inventive step within the meaning of Article 56 EPC.

- 7.2 Document D3 is a suitable choice for the closest prior art for assessing inventive step. It describes the respondent's own prior art teleprotection system and was cited in the opposed patent.

- 7.3 D3 does not disclose two distinct operating schemes used alternatively in the communication between a

transmitter and a receiver. The technical problem is to enable more commands to be transmitted.

7.4 Document D3 itself does not suggest using distinct operating schemes alternatively. The appellant's argument in that respect is clearly based on knowledge of the invention and on hindsight.

7.5 The Board explained above why documents D1b, D7c and D8f do not unambiguously disclose the use of distinct operating schemes in the communication between a transmitter and a receiver. Therefore, none of these documents can suggest the claimed solution.

7.6 The Board also explained above why document D2 was not considered part of the state of the art. Hence the objection based on D3 and D2 does not persuade the Board.

## 8. *Amendments*

8.1 The amendments to claim 1 do not add subject-matter going beyond the content of the application documents as originally filed within the meaning of Article 123(2) EPC.

8.2 The appellant argued that claim 1 according to the main request extended beyond the application as filed because distinct operating schemes were originally only disclosed together with the particular construction of the detector, in particular that the detector, in order to distinguish between the operating schemes, would have to be capable of recognising the amplitude of a tone. In particular, detecting the amplitude was the only way to distinguish between frequency shift keying

using amplitudes f1 and f2 and a dual-tone scheme using the same frequencies f1 and f2.

- 8.3 The Board is not convinced by this argument. The second table on page 9 of the application as filed, containing a mixture of single-tone and FSK coding, shows that all commands have the same signal amplitude. It follows that the discrimination between the operating schemes is not exclusively disclosed in connection with a detector possessing the capability to recognise the amplitude.

The appellant stressed that amplitude detection was the only possibility of distinguishing between operating schemes. The Board considers this argument to be potentially relevant in the context of sufficiency of disclosure or lack of essential features, but less so for the question of whether there is an original disclosure of distinct operating schemes without a detector with amplitude detection. Apart from this general remark, the appellant's argument does not persuade the Board from a technical point of view. It would, for example, be possible using logic gates, such as an AND-gate, to detect whether the tones f1 and f2 are detected by the respective detectors simultaneously, as in dual-tone transmission, or alternately, such as in frequency shift keying without amplitude detection being required. Alternatively it would be possible to begin the communication with a further tone signalling the operating scheme.

Rather than with distinguishing between operating schemes, detection of amplitudes is disclosed in the context of assigning a security level to the transmitted protection command. This, however, is merely an optional aspect of the invention.

9. *Clarity*

9.1 Claim 1, in so far as and to the extent that this can be examined, is in compliance with Article 84 EPC.

9.2 The appellant's objection regarding an alleged lack of clarity refers in part to features which were already present in the granted claim and which are hence no longer open for examination as far as the requirements of Article 84 EPC are concerned, see decision G3/14, catchword.

9.3 The only non-compliance that could arise out of an amendment could concern the redrafting of a list of examples for the operating schemes so that it now reads "wherein each operating scheme is either variable-tone, single-tone, dual-tone, triple-tone, or coded FSK".

The appellant argued that this feature was ambiguous because it was not clear whether it defined two alternatives, namely on the one hand variable-tone, single-tone, dual-tone, triple-tone as a single alternative, and on the other hand coded FSK, or whether it contained five alternatives, namely variable-tone or single-tone or dual-tone or triple-tone or coded FSK.

However, the first of the two allegedly possible meanings offered by the appellant is not based on a technically reasonable understanding of claim 1. Combinations of one or more of single-tone, dual-tone, triple-tone etc. are simply not possible. A combination of, for example, a single-tone and a dual-tone communication would, depending on the frequencies used,

simply be dual-tone (in case of a shared frequency) or triple-tone (in case of distinct frequencies).

A technically unreasonable interpretation of a claim is not suitable for demonstrating its ambiguity and hence an alleged lack of clarity.

10. *Claim 4*

All of the above conclusions apply likewise to independent claim 4 of the main request, which is directed to a corresponding method.

11. *Conclusion*

Account being taken of the amendments made, the invention according to the main request meets the requirements of the EPC. The Board therefore accedes to the respondent's main request.



## Order

**For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chairman:



K. Boelicke

R. Lord

Decision electronically authenticated