

**Internal distribution code:**

- (A) [ - ] Publication in OJ
- (B) [ - ] To Chairmen and Members
- (C) [ - ] To Chairmen
- (D) [ X ] No distribution

**Datasheet for the decision  
of 14 June 2021**

**Case Number:** T 0537/17 - 3.5.04

**Application Number:** 09837022.4

**Publication Number:** 2382773

**IPC:** H04N5/44

**Language of the proceedings:** EN

**Title of invention:**

ANTENNA DIVERSITY FOR CONTROL DEVICE APPLICATIONS

**Applicant:**

DISH Technologies L.L.C.

**Headword:**

**Relevant legal provisions:**

EPC Art. 54

**Keyword:**

Novelty - (no)

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
**Chambres de recours**

Boards of Appeal of the  
European Patent Office  
Richard-Reitzner-Allee 8  
85540 Haar  
GERMANY  
Tel. +49 (0)89 2399-0  
Fax +49 (0)89 2399-4465

Case Number: T 0537/17 - 3.5.04

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.04**  
**of 14 June 2021**

**Appellant:** DISH Technologies L.L.C.  
(Applicant) 9601 S. Meridian Boulevard  
Englewood, CO 80112 (US)

**Representative:** Sadler, Peter Frederick  
Reddie & Grose LLP  
The White Chapel Building  
10 Whitechapel High Street  
London E1 8QS (GB)

**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 28 July 2016  
refusing European patent application  
No. 09837022.4 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chair** B. Willems  
**Members:** A. Seeger  
B. Müller

## **Summary of Facts and Submissions**

- I. The appeal is against the examining division's decision to refuse European patent application No. 09 837 022.4, published as international application WO 2010/078169 A1.
- II. The documents cited in the decision under appeal included the following:  
  
D3: US 2004/0143847 A1  
  
D4: EP 1 333 669 A2
- III. The decision under appeal was based on the grounds that the subject-matter of claims 1 and 14 according to the then main request and the then auxiliary request lacked inventive step within the meaning of Article 56 EPC and that the application did not meet the requirements of Article 82 EPC.
- IV. The applicant ("appellant") filed notice of appeal. With the statement of grounds of appeal, the appellant filed claims according to a main request and first to third auxiliary requests. It indicated a basis in the application as filed for the claimed subject-matter and provided arguments as to why the claims met the requirements of Article 56 EPC and why the application met the requirements of Article 82 EPC.
- V. The board issued summons to oral proceedings and a communication under Article 15(1) of the Rules of Procedure of the Boards of Appeal in the 2020 version (RPBA 2020, OJ EPO 2019, A63). In this communication,

the board introduced the following document into the proceedings:

D5: US 2005/0280551 A2

and gave the following preliminary opinion:

- Document D3 did not appear to be an appropriate starting point for the assessment of inventive step.
- Whether the application met the requirements of Article 82 EPC hinged on the question whether the subject-matter of claim 1 involved an inventive step and could serve as a single general inventive concept.
- Claim 1 of all requests did not meet the requirements of Article 84 EPC.
- The subject-matter of claim 1 of all requests lacked novelty (Article 54 EPC) over the disclosure of document D5.

VI. By letter dated 15 February 2021, the appellant requested that the oral proceedings be held by videoconference.

VII. By letter dated 14 May 2021, the appellant filed amended claims according to fourth to seventh auxiliary requests.

VIII. On 14 June 2021, the board held oral proceedings by videoconference as requested by the appellant.

During the oral proceedings, the appellant withdrew all auxiliary requests.

The appellant's final request was that the decision under appeal be set aside and that a European patent be granted on the basis of the claims of the main request filed with the statement of grounds of appeal.

At the end of the oral proceedings, the Chair announced the board's decision.

IX. Claim 1 of the main request reads as follows:

"A method for routing control signals comprising:

receiving (420), at a first electronic device (210, 220, 230), a control signal (260) transmitted on a first network;

determining (430) whether the control signal is transmitted by a control device (240) that is paired with the first electronic device; and

after determining that the control signal is transmitted by a control device that is not paired with the first electronic device, transmitting the control signal from the first electronic device to a second electronic device (210, 220, 230) on a second network (250), wherein the first and second networks are of a different type."

X. In the letter dated 14 May 2021 the appellant did not submit arguments against the board's preliminary opinion that the subject-matter of claim 1 of the main request lacked novelty (Article 54 EPC) over the disclosure of document D5. During the oral proceedings, the appellant stated that it had nothing to add in this respect.

## Reasons for the Decision

1. The appeal is admissible.
2. Main request - novelty (Article 54 EPC)
  - 2.1 Document D5 discloses a method for routing control signals comprising:
    - receiving, at a first electronic device a control signal transmitted on a first network (see paragraph [0027]: "*The local IR unit 120 receives the EM remote control signal 180 and converts it to a remote control code 121*")
    - determining whether the control signal is transmitted by a control device that is paired with the first electronic device (see paragraph [0036]: "*if there is a match between portions of a received remote control code 121 and a stored remote control code*")
    - after determining that the control signal is transmitted by a control device that is not paired with the first electronic device (see paragraph [0036]: "*if there is no match between portions of a received remote control code 121 and a stored remote control code ...*" and paragraph [0039]: "*the device code 107 can be used to filter all remote control codes corresponding to a device*"), transmitting the control signal from the first electronic device to a second electronic device on a second network (see paragraph [0036]: "*... then the received remote control code 121 is filtered by outputting a packet portion 195, corresponding to the received remote control code,*

*to the network channel 125 and to the network 130"*  
and paragraph [0030]), wherein the first and second  
networks are of a different type (paragraph [0030]:  
*"The network 130 ... can be a wired network"*)

2.2 Hence, the subject-matter of claim 1 lacks novelty over  
the disclosure of document D5 (Article 54 EPC).

3. Since the appellant's sole request on file is not  
allowable, the appeal is to be dismissed.

### **Order**

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

The appeal is dismissed.

The Registrar:

The Chair:



K. Boelicke

B. Willems

Decision electronically authenticated