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**Datasheet for the decision
of 4 February 2022**

Case Number: T 0045/18 - 3.5.02

Application Number: 12175750.4

Publication Number: 2685616

IPC: H02P9/02, H02K3/28, H02K11/04

Language of the proceedings: EN

Title of invention:
Stator arrangement and electrical generator

Patent Proprietor:
Siemens Gamesa Renewable Energy A/S

Opponent:
Vestas Wind Systems A/S

Relevant legal provisions:
EPC Art. 54, 56
RPBA 2020 Art. 13(1), 13(2)

Keyword:

Novelty - implicit disclosure (yes) - main request, auxiliary requests 1, 4

Inventive step - obvious solution (yes) - auxiliary request 2

Amendment to appeal case - amendment overcomes issues raised (no)

Amendment after summons - exceptional circumstances (no)



Beschwerdekammern

Boards of Appeal

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Case Number: T 0045/18 - 3.5.02

D E C I S I O N
of Technical Board of Appeal 3.5.02
of 4 February 2022

Appellant: Siemens Gamesa Renewable Energy A/S
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Respondent: Vestas Wind Systems A/S
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 16 November
2017 revoking European patent No. 2685616
pursuant to Article 101(3)(b) EPC.**

Composition of the Board:

Chairman R. Lord
Members: G. Flyng
A. Bacchin

Summary of Facts and Submissions

- I. The appeal lies from the decision of the opposition division with which the European patent number EP 2 685 616 was revoked. The patent proprietor is appellant and the opponent is respondent.
- II. The following document references are used herein:
D1: WO 2011/148058 A2 published 1 December 2011
D2: US 2008/0272669 A1 published 6 November 2008
D10: "Analysis of Electric Machinery and Drive Systems", second edition, Paul C. Krause et al, © 2002, ISBN: 0-471-14326-X, pages vii, 35-40.
- III. The opposition division held *inter alia* that the main request and the auxiliary requests 1, 2 and 4 did not meet the requirement of Article 54 EPC because the respective claim 1 thereof lacked novelty over document D2 and because claim 1 of auxiliary request 1 also lacked novelty over document D1.
- IV. In the statement setting out the grounds for appeal the appellant (patent proprietor) requested that the decision under appeal be set aside and that the patent be maintained in amended form on the basis of the description and drawings as granted, together with the claims according to the requests that were considered in the decision under appeal, namely:
- claims 1 to 12 as filed on 16 August 2016 (hereinafter **main request**); or
 - claims 1 to 11 filed as "**auxiliary request 1**" on 19 April 2017; or
 - claims 1 to 11 filed as "**auxiliary request 2**" on 19 April 2017; or

- claims 1 to 8 filed as **"auxiliary request 3"** on 19 April 2017; or
- claims 1 to 11 filed as **"fourth auxiliary request"** during oral proceedings on 22 June 2017 (hereinafter: **"auxiliary request 4"**).

- V. The Board summoned the parties to oral proceedings, setting out their preliminary observations in a communication pursuant to Rule 15(1) RPBA.
- VI. In response to the summons to oral proceedings, with a letter of 25 November 2021, the appellant filed sets of claims according to:
- a **"new main request"**,
 - a **"new first auxiliary request"**,
 - a **"new second auxiliary request"** and
 - a **"new third auxiliary request"**.
- VII. Oral proceedings before the board were held on 4 February 2022. With the consent of the parties, the oral proceedings were held by videoconference.

The appellant (patent proprietor) withdrew auxiliary request 3 and requested finally that the decision under appeal be set aside and that the patent be maintained in amended form on the basis of the main request filed with letter of 16 August 2016, or on the basis of one of the auxiliary requests 1 and 2 filed with letter of 19 April 2017, or on the basis of the auxiliary request 4 filed during oral proceedings on 22 June 2017, or on the basis of one of the requests filed as new main request and new first to third auxiliary requests with letter of 25 November 2021.

The respondent (opponent) requested finally that the appeal be dismissed. They also requested that the

requests filed with letter of 25 November 2021 not be admitted into the proceedings.

VIII. Claim 1 of the **main request** reads as follows:

"1. Stator arrangement, the arrangement comprising:
a stator (101, 201) extending in a circumferential direction (107, 207) and having plural teeth (113, 213) alternating with plural slots (115, 215) arranged along the circumferential direction;

a first wire (119, 219) arranged in a first slot (117, 217) of the plural slots;

a second wire (123, 223) arranged in a second slot (121, 221) of the plural slots, wherein the second slot is circumferentially adjacent to the first slot;

a first converter (125, 225) having an input terminal (129, 229) connected to the first wire (119, 219);

a second converter (127, 227) having an input terminal (130, 230) connected to the second wire (123, 223),

wherein a number of slots per stator pole is equal to a number of converters times a number of phases,

wherein a tooth of the plural teeth (113, 213) is circumferentially between the first slot (117, 217) and the second slot (121, 221),

wherein the first wire (119, 219) is connected in a same orientation to the first converter (125, 225) as the second wire (123, 223) is connected to the second converter (127, 227)."

Claim 1 of **auxiliary request 1** differs from claim 1 of the main request by the addition at the end of the following features:

", the arrangement further comprising:

another first wire (135, 235) arranged in another first slot, circumferentially adjacent to the second slot, connected to another input terminal (131, 231) of the first converter (125, 225);

another second wire (137, 237) arranged in another second slot, circumferentially adjacent to the other first slot, connected to another input terminal (132, 232) of the second converter (127, 227),

wherein the other first wire (135) is connected in a same orientation to the first converter (125) as the other second wire (137) is connected to the second converter (127)".

Claim 1 of **auxiliary request 2** differs from claim 1 of auxiliary request 1 by the addition at the end of the following features:

", wherein the first wire (119) is connected in an opposite orientation to the first converter (125, 225) as the other first wire (135) is connected to the first converter (125)".

Claim 1 of **auxiliary request 4** differs from claim 1 of the main request in that the following features have been added at the beginning:

"Electro mechanical transducer, in particular electric generator, comprising:"

and in that the following features have been added at the end:

"the electro mechanical transducer further comprising:

a rotor (103, 203) with plural permanent magnets (145, 245),
wherein during operation the first wire (119, 219) and the second wire (123, 223) are magnetically isolated".

Claim 1 of the **new main request** is identical to claim 1 of the main request. The new main request differs from the main request in that some dependent claims pertaining to arrangements with a third converter are deleted.

Similarly, claim 1 of the **new first auxiliary request** is identical to claim 1 of auxiliary request 1.

Claim 1 of the **new second auxiliary request** is identical to claim 1 of auxiliary request 2 except for some changes to the reference numerals in the last paragraph.

Claim 1 of the **new third auxiliary request** differs from claim 1 of the new second auxiliary request in that the following features have been added at the end:

"the arrangement further comprising:

a further first wire (139, 239) arranged in a further first slot, circumferentially adjacent to the other second slot, connected to a further input terminal (133, 233) of the first converter;

a further second wire (141, 241) arranged in a further second slot, circumferentially adjacent to the further first slot, connected to a further input terminal (134, 234) of the second converter (127, 227)".

IX. The appellant's submissions may be summarised as follows.

The appellant contested the opposition division's interpretation of the feature that the first wire is connected in a "same orientation" to the first converter as the second wire is connected to the second converter. The appellant argued that this has to be understood in the sense of the construction and physical arrangement, not in the sense of the direction of currents being in phase - an interpretation that would contradict granted claim 12. It would be implicit to the skilled person that the first wire and the second wire run in the axial direction within the respective slots and that the stator and its slots had a first axial end and a second axial end. The feature defined the connection between the first wire and the first converter to be in the same orientation as the connection between the second wire and the second converter. The skilled person would understand this in the sense that the first wire came out of the slot at the first axial end and was then connected to the first converter and the second wire came out at the same first axial end of the stator and was then connected to the second converter. This was supported by the referencing used in figures 1 and 3, in which unprimed references (a_1 , a_2 etc.) indicated an inward direction of orientation and primed references (c'_1 , c'_2 etc.) indicated an outward direction of orientation.

The appellant submitted that the claimed subject-matter of all requests was novel *inter alia* over documents D1 and D2 and not obvious in view of D1 or D2. The appellant's detailed submissions in this respect are addressed in the reasons for the decision.

Regarding the admittance of new main request and new first and second auxiliary requests under Article 13(1) RPBA 2020 the appellant submitted that the deletion of dependent claims overcame some objections that had been raised during the proceedings.

Regarding the admittance of new third auxiliary request under Article 13(2) RPBA 2020 the appellant submitted that amendments to claim 1 overcame the objections to lack of novelty and inventive step.

X. The respondent's submissions may be summarised as follows.

The respondent argued that the subject-matter of claim 1 of the main request lacked novelty from D1 and from D2. The respondent furthermore argued that the subject-matter claim 1 of auxiliary requests 1, 2 and 4 lacked novelty and inventive step from D1 or D2. The respondent's detailed submissions in this respect are addressed in the reasons for the decision.

Regarding the admittance of new main request and new first and second auxiliary requests under Article 13(1) RPBA 2020 the respondent submitted that the amendments did not overcome the issues of lack of novelty and inventive step raised against earlier requests.

Regarding the admittance of new third auxiliary request under Article 13(2) RPBA 2020 the respondent submitted that the appellant had not set out any exceptional circumstances which justified admittance.

Reasons for the Decision

1. Main request

1.1 Claim interpretation

1.1.1 Feature: "connected in a same orientation ..."

It is not in dispute that it is necessary to determine how the feature is to be interpreted, that the first wire is connected in a same orientation to the first converter as the second wire is connected to the second converter. This is necessary because, rather than defining a complete winding scheme, claim 1 just defines two abstract wires in adjacent slots. As no reference is made to what happens to the wires at the ends of the slots, it is not clear from claim 1 itself what is meant by the "orientation" in which the wires are connected to their respective converter.

The Board shares the appellant's view that the opposition division's interpretation in the sense that the first wire and the second wire are connected so as to allow currents which are "in phase" to run through them, as opposed to currents which are in "counter-phase" is problematic. The currents induced in wires that are angularly displaced cannot in fact be "in phase" - they will necessarily be out of phase due to the angular displacement. This is confirmed by claim 11 of the contested patent (claim 10 of the main request) which refers to "a different phase".

The Board rather considers an interpretation based on the skilled person's understanding of the primed and unprimed notation used in figures 1 and 2 and described in paragraph [0063] of the patent to be appropriate. In paragraph [0063] it is stated that "unprimed quantities indicate an inward direction and primed quantities indicate an outward direction of the orientation or the current direction, respectively". In practice, the current would be alternating. In the field of electrical machines, "current direction" in such a context is generally understood as meaning the direction of an assumed or notional positive current (see document D10, page 37, second paragraph and figure 1.4-1). Hence, the Board favours an interpretation in the sense that the phrase "in a same orientation" means that the first and second wires are connected to their respective converters such that an assumed positive current (to or from the converter) would flow in the same direction along the first and second slots containing the first and second wires, either inward or outward of the page in the sense of figures 1 and 2 of the patent. This corresponds to the appellant's interpretation, expressed in physical terms, that the first and second wires come out of the slot at the same axial end and are connected to the first and second converters, respectively.

1.1.2 *Feature: "number of slots per stator pole ..."*

Claim 1 specifies that "a number of slots per stator pole is equal to a number of converters times a number of phases", but does not define the stator poles or phases in any other way. In particular, there is no indication in the claim as to how the various wires and converter input terminals relate to the "phases" and the "poles". For this reason, the feature that "a

number of slots per stator pole is equal to a number of converters times a number of phases" is so unclear that no significance can be attached to it. The Board therefore decided to disregard this feature for the assessment of novelty and inventive step.

1.2 *Novelty with respect to document D1*

The appellant submitted that in document D1 it is not disclosed that the wire U1 is connected in the same orientation to converter 10 as wire U2 is connected to converter 12.

The respondent disagreed, arguing with reference to figure 2 and page 4, second paragraph that D1 discloses full pitch windings in which the upper level 24 goes in one direction and the lower level 26 recycles the windings, i.e. the sides of the phase windings U1 and U2 that are located in the upper layer of slots 1 and 2 go in the same direction.

Whilst D1 does not state explicitly that sides of the phase windings U1 and U2 located in the upper layer of slots 1 and 2 "go in the same direction", or are connected to the terminals U of the converters 10, 12 "in a same orientation", the Board considers that this would be implicit to the skilled person. As pointed out by the respondent, the phase windings U1, U2 are wound full pitch around the pole (page 4, lines 18 to 24). The phase windings are connected to frequency converters 10, 12, 14 that "are controlled in a synchronized way, so their output frequencies and output voltages are essentially the same" (page 4, lines 9 to 11). In order for the windings to act as redundant windings (page 2, lines 11 to 13) they would have to be connected to the frequency converters in the

same physical orientation, so that their currents flow in the same directions.

The appellant submitted that there were two ways in which the adjacent windings U1, U2 could be connected to their respective converter - in the same orientation or in the opposite orientation. They argued that if they were connected in the opposite orientation it was merely necessary to alter the controlling of the converters compared to the scenario in which the windings were connected in the same orientation to their converters.

The Board did not find these arguments persuasive. The disclosure in page 4, lines 9 to 11 makes clear that the converter control is not to be altered in the manner proposed by the appellant. Furthermore, it would be immediately apparent to the person skilled in the art of electrical machines that if the windings U1 and U2 were connected in the opposite orientation to frequency converters whose output frequencies and output voltages are essentially the same, the electromagnetic effects of the windings U1, U2 would cancel each other out.

Thus, it is implicit to the skilled person that the wire U1 in one slot (for example slot 1) has to be connected in the same orientation to converter 10 as wire U2 in the adjacent slot (for example slot 2) is connected to converter 12. With there being no other distinguishing feature, the Board came to the conclusion that the subject-matter of claim 1 of the main request lacks novelty over document D1.

1.3 *Novelty with respect to document D2*

The appellant submitted that also in document D2 it is not disclosed that the wire U1 is connected in the same orientation to converter 12 as wire U2 is connected to converter 11 (see figure 4).

The respondent referred to figure 4 of D2 and likened the winding sections U1, U2 in slots 1 and 2 to the claimed first and second wires. The respondent argued that it is an inherent technical property that adjacent windings belonging to the same phase group (PU) would have the same orientation and referred to the novelty discussion with respect to D1.

The Board concurs with the respondent that in the winding scheme shown in figure 4 of document D2 the in-phase winding sections U1, U2 in slots 1 and 2 correspond to first and second wires in the meaning of claim 1 of the main request. Furthermore, as with document D1, the Board concurs with the respondent that it would be implicit to the person skilled in the art of electrical machines that the windings U1 and U2 of D2 would have to be connected in the same physical orientation to the respective converters. Document D2 specifies that the converters 11 to 14 are "operated locked in phase or synchronised in phase to one another" (cf. D2, paragraph [0049]). With that being the case, it would be immediately apparent to the skilled person that in order for the windings to act as redundant windings (cf. D2, paragraph [0047]) they would have to be connected to the frequency converters in the same physical orientation, so that their currents flow in the same directions, otherwise they would cancel one another out electro-magnetically.

With there being no other distinguishing feature, the Board came to the conclusion that the subject-matter of claim 1 of the main request also lacks novelty over document D2.

- 1.4 For the reasons set out above the main request does not fulfil the requirement for novelty in the sense of Article 54 EPC.

2. ***Auxiliary request 1***

2.1 *Novelty with respect to document D1*

In line with their submissions on the main request the appellant argued that document D1 did not disclose the claimed features that the first wire and the second wire are connected in the same orientation to their respective converters, and argued further that it did not disclose the additional feature that the other first wire and the other second wire are connected in the same orientation to their respective converters.

The respondent argued that the winding arrangement in figure 2 of document D1 read onto the subject-matter of claim 1 of auxiliary request 1. The respondent likened the phase windings V2 and V3 in the upper layer of slots 8 and 9 to the first wire and second wire of claim 1 and likened the phase windings U2 and U3 in the upper layer of slots 10 and 11 to the other first wire and the other second wire of claim 1. As with the main request the respondent argued it to be implicit to the skilled person that windings of the same phase (i.e. U2 and U3, respectively V2 and V3) have to be connected in the same orientation to their respective converters.

The Board concurs with the respondent that in figure 2 of document D1 the phase windings V2, V3, U2 and U3 in the upper layer of slots 8, 9, 10 and 11 correspond respectively to the first wire, second wire, other first wire and other second wire of claim 1. That is not in dispute.

In the context of the main request the Board has already found it to be implicit to the skilled person that adjacent windings U1 and U2, which belong to the same phase, would have to be connected in the same orientation to their respective converter for them to act as redundant windings. That finding applies *mutatis mutandis* to the same-phase windings V2 and V3 in slots 8 and 9, as well as to the same-phase windings U2 and U3 in slots 10 and 11. For these reasons the Board finds that the features argued by the appellant to be novel over figure 2 of document D1 are implicit to the skilled person.

Hence, the Board came to the conclusion that the subject-matter of claim 1 of auxiliary request 1 lacks novelty over document D1.

2.2 *Novelty with respect to document D2*

In line with their submissions on the main request the appellant submitted that document D2 did not disclose the claimed features that the first wire and the second wire are connected in the same orientation to their respective converters, and argued further that it did not disclose the additional feature that the other first wire and the other second wire are connected in the same orientation to their respective converters.

The respondent argued that the winding arrangement in figure 6 of document D2 read onto the subject-matter of claim 1 of auxiliary request 1. The respondent likened the in-phase winding sections V1 and V2 in the upper layer of slots 9 and 10 to the first wire and second wire of claim 1, and likened the in-phase winding sections U1 and U2 in the lower layer of slots 11 and 12 to the other first wire and the other second wire of claim 1. As with the main request the respondent argued it to be implicit to the skilled person that windings of the same phase (i.e. V1 and V2, respectively U1 and U2) have to be connected in the same orientation to their respective converters.

The Board concurs with the respondent that in figure 6 of document D2, the winding sections V1, V2, U1 and U2 in slots 9, 10, 11 and 12 correspond to the first wire, second wire, other first wire and other second wire of claim 1. That is not in dispute.

Furthermore, for the same reasons as set out in respect of the main request, the Board finds it to be implicit to the skilled person that the adjacent in-phase winding sections V1, V2 would have to be connected in the same orientation to their respective converter for them to act as redundant windings. The same applies for the in-phase winding sections U1, U2. For these reasons the Board finds that the features argued by the appellant to be novel over figure 6 of document D2 are implicit to the skilled person.

- 2.3 For the reasons set out above auxiliary request 1 does not fulfil the requirement for novelty in the sense of Article 54 EPC.

3. *Auxiliary request 2 - Novelty and inventive step with respect to document D2.*

3.1 According to claim 1 of auxiliary request 2, the first wire and the other first wire are connected to the first converter in opposite orientation.

3.2 The respondent argued that the subject-matter of claim 1 of auxiliary request 2 was not novel, or at least was obvious, in view of the winding arrangement in figure 6 of document D2, in particular the winding sections V1, V2, U1 and U2 in slots 9, 10, 11 and 12. The respondent submitted that figure 6 showed a double-layer arrangement of full-pitch windings, in which each winding went in one direction (e.g. inwards) in the upper layer and returned in the opposite direction (e.g. outwards) in the lower layer. Thus, the winding section:

V1 went into slot 9 and came out of slot 19,
V2 went into slot 10 and came out of slot 20,
U1 went into slot 1 and came out of slot 11,
U2 went into slot 2 and came out of slot 12,

or vice versa.

According to the respondent it was thus implicit to the skilled person that the winding section V1 in slot 9 and the winding section U1 in slot 11, corresponding to the claimed first wire and other first wire, were connected to the converter in opposite orientations. Even if this was not considered to be implicit, it was at least an obvious choice from only two options - the same, or the opposite orientation.

3.3 The appellant argued that it was not disclosed in document D2 that in figure 6 the winding sections in the upper layer were in the opposite orientation to

those in the lower layer. It could be that all of the winding sections V1, V2, U1 and U2 in slots 9, 10, 11 and 12 were in the same orientation.

3.4 The Board considers, for the reasons set out above, that it is implicit to the skilled person that in the arrangement of figure 6 of document D2 all of the winding sections of a given phase in a given layer would be orientated in the same direction, so they act as redundant windings. However, the Board concurs with the appellant that there is nothing in document D6 to indicate whether the winding sections of one phase in a given layer would have the same, or the opposite orientation, as the winding sections of a different phase in a given layer. Hence, the Board is not persuaded by the respondent's argument that it is implicit to the skilled person that the winding section V1 in slot 9 and the winding section U1 in slot 11, which belong to different phases, are connected to the converter in opposite orientations.

3.5 Nevertheless, there are only two possibilities, namely that the winding section V1 in slot 9 and the winding section U1 in slot 11 are (to be) connected to the converter in the same, or in the opposite orientation. Faced with a choice of whether to connect them in the same or in the opposite orientation is at most a routine choice from only two options. Furthermore, the non-alphabetical sequence (U, W, V) of the phases in each layer of figure 6 can be seen as a suggestion to the skilled person that the winding sections W1 to W4 in the upper layer of slots 5 to 8 are connected in the opposite orientation compared to the winding sections U1 to U4 and V1 to V4 in the upper layer of slots 1 to 4 and 9 to 12, respectively. In the Board's view it would thus be obvious to consider connecting these

winding sections in this way, with the result that the winding section V1 in slot 9 and the winding section U1 in slot 11, corresponding to the claimed first wire and other first wire, would be connected to the converter in opposite orientations.

3.6 For these reasons the Board came to the conclusion that the subject-matter of claim 1 of auxiliary request 2 does not involve an inventive step in the sense of Article 56 EPC.

4. *Auxiliary request 4 - Novelty with respect to document D2*

4.1 In their preliminary observations the Board noted that the features added to claim 1 of auxiliary request 4 appeared to be known from document D2. The appellant did not challenge this observation.

4.2 Document D2 discloses in paragraph [0022] that the synchronous motor may have a rotor winding for magnetic field production, or alternatively may have permanent-magnetic excitation. Furthermore, as in the contested patent, in document D2 there are stator teeth between the various slots (see figure 2). During operation these would provide the same degree of magnetic isolation between the wires in the slots, as is provided by the same structural arrangement in the patent, whatever that is.

4.3 For these reasons the Board came to the conclusion that the subject-matter of claim 1 of auxiliary request 4 is not new in the sense of Article 54 EPC.

5. *New requests - admittance into the proceedings*

5.1 In the new main request and the new first and second auxiliary requests, claim 1 is identical in substance to that of the main request and auxiliary requests 1 and 2. Thus, the amendments *prima facie* do not overcome the issues of lack of novelty and lack of inventive step raised in respect of claim 1 of the main request and auxiliary requests 1 and 2. This fact was also admitted by the appellant during oral proceedings. It is therefore of no consequence whether, as argued by the appellant, the amendments overcome other issues. For these reasons the Board decided to exercise its discretion under Article 13(1) RPBA 2020 not to admit the new main request and the new first and second auxiliary requests into the proceedings.

5.2 In the new third auxiliary request further features have been added to claim 1 in an attempt to overcome the issues of lack of novelty and lack of inventive step. According to Article 13(2) RPBA 2020, any amendment to a party's appeal case made after notification of a summons to oral proceedings shall, in principle, not be taken into account unless there are exceptional circumstances, which have been justified with cogent reasons by the party concerned. Merely arguing that the amendments filed at this late stage in the proceedings overcome the issues of lack of novelty and inventive step does not demonstrate that exceptional circumstances exist which justify their admittance. Even less pertinent appears the general argument in the appellant's letter of 25 November 2021 (point 2) that the new requests were submitted in response to a ground for opposition raised by either the Board or the opponent. The issues of novelty and inventive step were on the table during the first

instance proceedings and from the beginning of the appeal proceedings and the appellant had reason to address those objections by adequately amending the relevant features earlier in the proceedings. As the appellant failed to demonstrate any exceptional circumstances which justified the filing of the amendments only after the summons to oral proceedings, the Board decided to exercise its discretion under Article 13(2) RPBA 2020 not to take the third auxiliary request into account in the proceedings.

6. *Conclusion*

In the absence of any allowable request from the appellant, the Board acceded to the respondent's request that the appeal 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