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**Datasheet for the decision
of 1 December 2020**

Case Number: T 0876/18 - 3.5.05

Application Number: 13183129.9

Publication Number: 2706704

IPC: H04L12/28

Language of the proceedings: EN

Title of invention:

Home appliance and online system including the same

Patent Proprietor:

LG Electronics Inc.

Opponents:

Dr. Jordan, Volker
Electrolux Rothenburg GmbH Factory and Development

Headword:

Online remote control of appliance/LG

Relevant legal provisions:

EPC Art. 56, 123(2)
RPBA 2020 Art. 13(1)

Keyword:

Inventive step - main request - auxiliary requests 1, 2, 3, 6
(no)

Amendments - added subject-matter - auxiliary requests 4, 5
(yes)

Amendment to appeal case - amendment gives rise to new
objections (yes)

Decisions cited:

Catchword:



Beschwerdekammern
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Case Number: T 0876/18 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 1 December 2020

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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 30 January 2018
revoking European patent No. 2706704 pursuant to
Article 101(3) (b) EPC.**

Composition of the Board:

Chair	A. Ritzka
Members:	P. Cretaine
	F. Blumer

Summary of Facts and Submissions

I. This appeal is against the decision of the opposition division, dispatched on 30 January 2018, to revoke European patent No. 2 706 704. The patent was revoked on the ground that the subject-matter of claim 15 in accordance with a main request (claims as granted) was not novel (Article 54 EPC) over the disclosure of

E3: JP 2004-350930,

an English translation of which was provided as E3B.

Auxiliary requests 1 and 4 were not allowed for lack of inventive step (Article 56 EPC), having regard to the disclosure of E3 in combination with

E2: EP 1 233 602.

Auxiliary requests 2 and 3 were not admitted into the opposition procedure for lack of compliance with the requirements of Rule 80 EPC.

II. The patentee's notice of appeal was received on 29 March 2018 and the appeal fee was paid on the same date.

The statement setting out the grounds of appeal was received on 11 June 2018. The appellant (patentee) filed claims in accordance with auxiliary requests 1 to 6. The claims of auxiliary requests 1, 2 and 6 corresponded to the claims of the auxiliary requests 1, 2 and 4 respectively on which the decision under appeal was based.

The appellant requested that the decision of the opposition division be set aside and that the patent be maintained on the basis of the claims as granted (main request) or of one of auxiliary requests 1 to 6. In the alternative, oral proceedings were requested.

- III. By letter received on 22 October 2018, respondent 1 (opponent 1) commented on the statement of grounds of appeal and requested that the appeal be dismissed. Respondent 1 objected that:
- with respect to the main request: the subject-matter of claim 15 was not novel over E3 (Article 54 EPC) and the subject-matter of claim 1 was not inventive in view of E3 alone or in combination with E2 (Article 56 EPC),
 - with respect to auxiliary request 1: the subject-matter of claim 1 was not inventive in view of E3 alone or in combination with E2 (Article 56 EPC),
 - with respect to auxiliary request 2: this request was not admissible, and furthermore the subject-matter of claim 15 was not novel over E3 (Article 54 EPC) and the subject-matter of claim 1 was not inventive in view of E3 alone or in combination with E2 (Article 56 EPC),
 - with respect to auxiliary request 3: the subject-matter of claim 1 was not inventive in view of E3 alone or in combination with E2 (Article 56 EPC),
 - with respect to auxiliary request 4: claims 1 and 15 did not meet the requirements of Articles 123(2) and 84 EPC, and their subject-matter was not inventive in view of E3 alone or in combination with E2 (Article 56 EPC),
 - with respect to auxiliary request 5: this request was not admissible, and claim 1 did not meet the requirements of Articles 123(2) and 84 EPC and its subject-matter was not inventive in view of E3 alone or in combination with E2 (Article 56 EPC),

- with respect to auxiliary request 6: the subject-matter of claim 1 was not inventive in view of E3 in combination with E2 (Article 56 EPC).

Furthermore, respondent 1 resubmitted all the objections raised against the main request in its notice of opposition.

In the alternative, oral proceedings were requested.

IV. By letter received on 25 October 2018, respondent 2 (opponent 2) commented on the statement of grounds of appeal and requested that the appeal be dismissed.

Respondent 2 objected that:

- with respect to the main request: the subject-matter of claim 15 was not novel over E3 (Article 54 EPC),
- with respect to auxiliary request 1: the subject-matter of claim 1 was not inventive in view of E3 in combination with E2 (Article 56 EPC),
- with respect to auxiliary request 2: the subject-matter of claim 15 was not novel over E3 (Article 54 EPC) and the subject-matter of claim 1 was not inventive in view of E3 in combination with E2 (Article 56 EPC),
- with respect to auxiliary request 3: the subject-matter of claim 1 was not inventive in view of E3 in combination with E2 (Article 56 EPC),
- with respect to auxiliary request 4: claims 1 and 15 did not meet the requirements of Articles 123(2), and their subject-matter was not inventive in view of E3 in combination with E2 (Article 56 EPC),
- with respect to auxiliary request 5: the subject-matter of claim 1 was not inventive in view of E3 in combination with E2 (Article 56 EPC),

- with respect to auxiliary request 6: the subject-matter of claim 1 was not inventive in view of E3 in combination with E2 (Article 56 EPC).

Furthermore, respondent 2 maintained all those other objections raised against the main request (claims as granted) in its notice of opposition which had not been decided upon by the opposition division.

In the alternative, oral proceedings were requested.

- V. By letter received on 30 December 2019, the appellant replied to the objections of respondents 1 and 2. The appellant further requested that the case be remitted to the opposition division should the board be inclined to revoke the patent based on objections that had not been discussed in the impugned decision.
- VI. A summons to oral proceedings was issued on 4 March 2020. In a communication sent on 26 October 2020, the board listed the points to be discussed during the oral proceedings. The board also expressed its preliminary opinion on the case. In particular, in the board's view, the main request and auxiliary requests 1 to 6 did not appear to be allowable for lack of inventive step of claim 1 in view of E3 (Article 56 EPC). Further, auxiliary request 4 did not appear to comply with the requirements of Article 123(2) EPC.
- VII. By letter received on 17 November 2020, the appellant submitted auxiliary request 7 and provided arguments in favour of inventive step in view of E3 and E2 with respect to the main request and auxiliary requests 1 and 7.

VIII. By letter received on 25 November 2020, respondent 1 raised an objection relating to the admissibility of auxiliary request 7 and raised objections under Article 123(2) and 56 EPC to this request.

IX. Oral proceedings were held on 1 December 2020. The appellant requested that the decision under appeal be set aside and that the patent be maintained as granted (main request) or on the basis of any one of auxiliary requests 1 to 6 as filed with the statement setting out the grounds of appeal of 11 June 2018, or on the basis of auxiliary request 7 as filed with a letter dated 17 November 2020. Respondents 1 and 2 requested that the appeal be dismissed.

At the end of the oral proceedings, the decision of the board was announced.

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

"A method of using an online system comprising:
transmitting user information to a server (10) from an external terminal (40) to log in to the server;
the server specifying a home appliance (20, 21) for a remote service based on the user information received from the external terminal and determining whether remote service activation of the specified home appliance is set;
upon determining that the remote service activation of the home appliance is set, the server transmitting operation information of the home appliance to the external terminal;
the external terminal transmitting a command signal to the server wherein the command signal relates to how

the home appliance is operated based on the received operation information;
the server receiving the command signal; and
the server transmitting the command signal to the home appliance such that the home appliance is operated, wherein the home appliance comprises at least one selection unit (110) being configured to be deactivated in a case that the remote service activation of the specified home appliance is set."

Claim 1 of **auxiliary request 1** is identical to claim 1 of the main request.

Claim 1 of **auxiliary requests 2 and 3** adds to claim 1 of the main request the first step of "setting remote service activation of a home appliance (20, 21) via a remote service activation input unit, provided at the home appliance, configured to set or cancel the remote service activation according to user selection;". Further, the wording "the server specifying a home appliance" in the third step has been replaced with "the server specifying the home appliance".

Claim 1 of **auxiliary request 4** at the end of the first step of claim 1 of auxiliary request 2 adds the wording ", the remote service activation is set only when the home appliance is Wi-Fi communication connected to the server;".

Claim 1 of **auxiliary request 5** differs from claim 1 of auxiliary request 4 in that, in the second step, the wording "transmitting user information" has been replaced with "transmitting user information and home appliance information". Further, the third step has been replaced with "upon determining that the user information and the home appliance information are

registered with the server, the server specifying the home appliance for a remote service based on the user information and the home appliance information received from the external terminal and determining whether remote service activation of the specified home appliance is set;".

Claim 1 of **auxiliary request 6** at the end of claim 1 of auxiliary request 3 adds the following features:

", wherein the operation information is changeable by the external terminal,
wherein the server specifies operation information corresponding to the home appliance information and transmits the specified operation information to the external terminal,
wherein the home appliance comprises a laundry machine and the operation information comprises a washing course and option information in the washing course,
and
wherein the operation information comprises at least one selected from among a washing degree, the number of times of rinsing, a spin-drying degree, temperature of wash water, and whether or not steam is used."

The main request and auxiliary requests 2, 4 and 6 each comprise an independent system claim. However, due to the outcome of the appeal, there is no need to give details of it.

Claim 1 of **auxiliary request 7** differs from claim 1 of the main request in that in the sixth step the wording "the server transmitting the command signal" has been replaced with "the server directly transmitting the command signal".

Independent claim 15 of auxiliary request 7 reads as follows:

"An online service system comprising:
a server (10);
a home appliance (20, 21) having a Wi-Fi communication module for directly connecting to the server and a remote service activation input unit to set or cancel remote service activation; and
an external terminal (40) configured to receive operation information of the home appliance from the server only in a case in which the remote service activation of the home appliance is set, to set the operation information, and to transmit a command signal to the server such that the home appliance is operated based on the set operation information, thereby remotely controlling the home appliance,
wherein the home appliance comprises at least one selection unit (110) being configured to be deactivated in a case that the remote service activation of the home appliance is set."

Reasons for the Decision

1. Admissibility of the appeal

The patentee's appeal complies with the provisions of Articles 106 to 108 EPC (cf. point II) and is therefore admissible.

2. Main request

2.1 It was common ground during the proceedings that E3B was the closest prior art to the subject-matter of claim 1.

E3B discloses a method of remote control of a washing machine, or other electrical household appliance, by means of a cellular phone (see Figure 1). The user may use his cellular phone to control the settings of a washing machine, such as the start or stop of operation, the operation mode, the timer, etc. (see paragraph [0002]). Remote control of the washing machine and its program is enabled only when a programmed standby button of the washing machine is pressed (see paragraphs [0006], [0018] and Figure 2). The washing machine is connected by a wireless home LAN to an information display terminal device which is connected through a communication network to a server (see paragraph [0016] and Figure 2). The user can configure the control information through the cellular phone (see paragraph [0017], second sentence). The setup information is transmitted to the washing machine through wireless communication means (see paragraph [0017], third sentence). Then the washing machine configures the operation activation/stop, operating mode, timer, etc. according to the control information thus received (see paragraph [0017], fourth sentence). When the user sets the washing machine to the standby mode, he can operate the washing machine by using the cellular phone (see paragraph [0017], first sentence). Paragraph [0020] gives an example of a remote control operation of the washing machine wherein the user sets a laundry-wash time from the cellular phone, thus causing the washing machine to start its operation at that preset time. Paragraph [0025] specifies that once the programmed standby button has been pressed the use of other buttons is disabled.

The board thus agrees with the decision (see Grounds for the decision, point 6.2) that all the features of claim 1 are disclosed in E3B, with the exception of the feature defining, as a condition for the server transmitting operation information of the home appliance to the external terminal, that it is determined that the remote service activation of the home appliance is set.

The technical effect of this distinguishing feature is that operation information of the home appliance is not provided to the external terminal in the event that remote control for that appliance is not possible. The objective technical problem can thus be formulated, as suggested by the respondents, as being how to avoid erroneously leading the user of the external terminal to assume that the home appliance can be remote-controlled.

The skilled person would immediately realise that transmitting operation information for remote service of a home appliance to the external terminal when remote service is not set does not make sense, since it consumes communication resources in vain and may result in a waste of time for the user. Moreover, the skilled person knows from E3B that remote control of the home appliance by the external terminal is only enabled when the programmed standby mode button has been pressed. They would thus get the indication that remote control instructions, i.e. operation information, should be transmitted to the external terminal of the user only when these instructions can be used for remote control, i.e. when remote service activation is set.

2.2 The appellant argued that the sole problem addressed by E3B, as defined in paragraph [0004], was to remotely control the power turn-on of the home appliance from the external terminal and not to program its operation from the external terminal. According to the appellant, the provision of a programmed standby mode activated by pressing the button 10 solved this problem, in accordance with paragraph [0006]. The appellant further relied on paragraph [0020], which disclosed that only the laundry-wash time TOD could be programmed from the external terminal. The appellant thus disputed that the server in E3B transmitted operation information within the meaning of the patent to the external terminal, and argued that the server only transmitted a start signal enabling the external terminal to remotely control the start of the appliance and not its whole operation, e.g. wash program. The appellant further argued that, as a consequence, no command signal in the context of the patent could be transmitted from the server to the home appliance.

The board is not convinced by these arguments.

Firstly, the wording "operation information of the home appliance" is broad, and an instruction on how to start a home appliance, such as the activation/stop control information and the TOD defined in paragraphs [0017] and [0020] of E3B, respectively, could be seen as coming under this definition.

Secondly, and more importantly, paragraph [0017] of E3B explicitly describes that remote control of the operation of the home appliance through the cellular phone is possible. In that respect, it is disclosed in the second sentence of this paragraph that the user may configure the control information through operation of

the cellular phone. In this sentence the activation/stop of the operation of the home appliance is mentioned, using the term "such as", as only an example of control information. Further, the third sentence of paragraph [0017] discloses that the setup information, which obviously defines the same data as the control information mentioned in the preceding sentence, is transmitted to the appliance through a wireless communication means. The fourth sentence of paragraph [0017] discloses that the appliance configures not only its operation activation/stop but also its operating mode, timer, etc. according to the control information received. The board holds that the use of the wording "operating mode", which is distinguished from the wording "operation activation/stop" in this sentence, is a clear indication to the skilled person reading E3B that remote control of the appliance is not limited to remotely starting the operation of the appliance, but rather encompasses remote programming of the functionalities of the appliance.

Lastly, the board holds that E3B clearly discloses in the above paragraph [0017], in conjunction with Figure 1, that the control information is transmitted from the cellular phone 5 to the appliance 2 through the server 4 and the information display device 1.

2.3 For these reasons, the board holds that the subject-matter of claim 1 does not involve an inventive step, having regard to the disclosure of E3B. The main request is thus not allowable under Article 56 EPC.

3. Auxiliary request 1

Claim 1 is identical to claim 1 of the main request. Therefore auxiliary request 1 is not allowable under

Article 56 EPC for the reasons set out in section 2 above.

4. Auxiliary request 2

The feature that claim 1 adds to claim 1 of the main request is already disclosed in E3B. The programmed standby mode button 10 provided at the washing machine in E3B, which the user has to press intentionally in order to enable remote control of the washing machine, represents a remote service activation input unit within the meaning of claim 1.

The appellant relied on its written submissions in the statement setting out the grounds of appeal to argue novelty of the additional feature of claim 1. However, these submissions dealt with document E2 and not E3B.

The board thus holds that the subject-matter of claim 1 does not involve an inventive step, having regard to E3B. Auxiliary request 2 is thus not allowable under Article 56 EPC.

5. Auxiliary request 3

Claim 1 is identical to claim 1 of auxiliary request 2. Therefore auxiliary request 3 is not allowable under Article 56 EPC for the reasons set out in section 4 above.

6. Auxiliary request 4

Claim 1 adds to claim 1 of auxiliary request 2 that the remote service activation is set only when the home appliance is Wi-Fi communication connected to the server.

The appellant relied on paragraph [0060] of the "A" publication of the patent to argue that the above-mentioned feature was supported by the application documents as originally filed.

However, paragraph [0060] states that the remote service activation of the home appliance may be set only in the Wi-Fi communication connection state. The board agrees with the respondent that the wordings "Wi-Fi communication connected to the server" and "Wi-Fi communication connection state" do not designate the same state of the home appliance. The first wording defines that the home appliance is connected to the server by a Wi-Fi connection, whereas the second wording defines that the home appliance is enabled to communicate with another entity by a Wi-Fi connection. Therefore the second wording used in paragraph [0060] cannot define a state in which the home appliance is connected to the server as required by claim 1. Moreover, it is clear to the skilled person reading the whole disclosure of the patent, in particular in relation to Figure 2, that within the described online system a Wi-Fi connection may be established between the home appliance and an access point AP in the home, but not between the home appliance and the server.

For these reasons, the board holds that the subject-matter of claim 1 extends beyond the content of the application as filed. Therefore auxiliary request 4 is not allowable under Article 123(2) EPC.

7. Auxiliary request 5

Claim 1 differs from claim 1 of the main request *inter alia* in that, in the step of transmitting user

information to a server (10) from an external terminal (40) to log in to the server, the wording "user information" has been replaced by "user information and home appliance information".

The appellant relied on paragraphs [0042], [0043], [0053], [0054], [0061] and [0062] in the application documents originally filed to support this amendment.

However, these paragraphs do not disclose that the home appliance information is used to log in to the server, but rather that it may be determined after login that the home appliance has been registered with the server.

Thus the board holds that the subject-matter of claim 1 extends beyond the content of the application as filed. Therefore auxiliary request 5 is not allowable under Article 123(2) EPC.

8. Auxiliary request 6

The features that claim 1 adds to claim 1 of auxiliary request 2 first define that the operation information is changeable by the external terminal, that the server specifies operation information corresponding to the home appliance information, and that the server transmits the specified operation information to the external terminal.

It has already been assessed with respect to the main request (see point 2.1) that E3B discloses that the cellular phone 5 controls the operation of the appliance 2, which amounts to operation information of a home appliance being changeable by an external terminal. It has also been assessed that the server 4 of E3B specifies and transmits operation information of

the appliance 2 to the cellular phone 5, since the communication between the cellular phone and the controlled appliance is through the server.

Claim 1 further adds to claim 1 of auxiliary request 2 that the home appliance is a laundry machine, and defines several settings of the machine which could be controlled.

E3B discloses that the home appliance may be a laundry machine. Further, the board holds that including the settings listed in claim 1 in the control information disclosed in E3B represents a common measure for the skilled person. The board also notes that the appellant did not provide any arguments as to why these features contributed to an inventive step.

For these reasons, the subject-matter of claim 1 does not involve an inventive step, having regard to the disclosure of E3B. Thus auxiliary request 6 is not allowable under Article 56 EPC.

9. Auxiliary request 7

9.1 This request was filed after the appellant had filed its grounds of appeal.

The appellant argued that this filing was a direct response to the objections raised to the main request by the board in its communication of 26 October 2020. The board concedes that the introduction of the term "directly" in claim 15 may represent a response to the novelty objection raised against that claim in point 6.4 of the board's communication. However, it could be disputed whether the insertion of this term into claim 1 represents a response to the inventive-step objection

raised against claim 1 in point 6.5 of that communication. In that respect, the board notes that the appellant has not provided any argument as to why the feature of direct communication between the server and the appliance might combine with the feature of the server transmitting the operation information upon determining that the remote service actuation is set to provide an inventive step.

9.2 The appellant further argued that the amendments to claims 1 and 15 were supported by paragraphs [0150] and [0151] of the description originally filed. However, this part of the description does not refer to a home appliance having a Wi-Fi communication module for directly connecting to the server. Instead, the description in paragraphs [0148] to [0151] refers to a connection between the server and home appliance based on an open mobile alliance device management (OAM DM) protocol, and does not disclose a direct Wi-Fi connection between the server and home appliance. Moreover, the skilled person will clearly understand from the entire disclosure of the patent that there is no direct connection between the Wi-Fi communication module of the home appliance and the server. As illustrated in Figure 2, the home appliance 20 is actually connected via a home Wi-Fi network to an access point AP 30 which connects to the server 10 via the internet. Thus claim 15 defining that the home appliance has a Wi-Fi communication module for directly connecting to the server does not *prima facie* meet the requirements of Article 123(2) EPC.

9.3 For these reasons, the board decided in the oral proceedings not to admit auxiliary request 7 into the appeal proceedings, as it was filed after the statement

setting out the grounds of appeal and gives rise to new objections (Article 13(1) RPBA 2020).

10. Conclusion

The main request and auxiliary requests 1 to 3 and 6 do not meet the requirements of Article 56 EPC. Auxiliary requests 4 and 5 do not meet the requirements of Article 123(2) EPC. Auxiliary request 7 is not admissible.

None of the requests being allowable, the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



A. Chavinier-Tomsic

A. Ritzka

Decision electronically authenticated