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Datasheet for the decision of 29 September 2021

Case Number: T 1745/18 - 3.5.02

Application Number: 11717093.6

Publication Number: 2622705

IPC: H02H7/125, G06F1/26, H02J3/36, H02J13/00

Language of the proceedings: EN

Title of invention:
Coordinated control of multi-terminal HVDC systems

Patent Proprietor:
ABB Power Grids Switzerland AG

Opponent:
General Electric Technology GmbH

Relevant legal provisions:
EPC Art. 108, 100(a), 54(2)
EPC R. 99(2)

Keyword:
Admissibility of appeal - appeal fee (paid) - appeal sufficiently substantiated (yes)
Novelty - (no)

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Case Number: T 1745/18 - 3.5.02

D E C I S I O N
of Technical Board of Appeal 3.5.02
of 29 September 2021

Appellant: (Opponent)	General Electric Technology GmbH Brown Boveri Strasse 7 5400 Baden (CH)
Representative:	Openshaw & Co. 8 Castle Street Farnham, Surrey GU9 7HR (GB)
Respondent: (Patent Proprietor)	ABB Power Grids Switzerland AG Bruggerstrasse 72 5400 Baden (CH)
Representative:	Epping - Hermann - Fischer Patentanwaltsgesellschaft mbH Schloßschmidstraße 5 80639 München (DE)
Decision under appeal:	**Decision of the Opposition Division of the European Patent Office posted on 3 May 2018 rejecting the opposition filed against European patent No. 2622705 pursuant to Article 101(2) EPC.**

Composition of the Board:

Chairman	R. Lord
Members:	H. Bronold
	J. Hoppe

Summary of Facts and Submissions

I. The appeal of the opponent lies from the decision of the opposition division rejecting the opposition against European Patent No. 2 622 705.

II. The following document cited during the proceedings before the opposition division is of particular relevance for this decision:

D6 : Hegi M et al: "Control of the Quebec-New England Multi-Terminal HVDC System", CIGRE International Conference on Large High Voltage Electric Systems, Paris, 28th August - 3rd September 1988, 14-04, pages 1 to 6

III. The opposition division found that the subject-matter of claim 1 of the patent was new over document D6 because the feature "monitoring the measurements to identify a steady-state disrupted condition for the HVDC system;" was not known from D6. The same applied for the subject-matter of independent claims 11 and 19.

IV. The appellant (opponent) requested that the decision under appeal be set aside and that the patent be revoked in its entirety.

V. The respondent (patent proprietor) requested that the appeal be deemed not filed because the appeal fee was not paid in due time, or that it be rejected as inadmissible because the appeal was not sufficiently substantiated, or that the appeal be dismissed. The respondent further requested that the appellant's

submissions filed with letter dated 12 October 2018 not be admitted into the appeal proceedings.

VI. In a communication under Article 15(1) RPBA 2007 sent together with summons to oral proceedings, the board informed the parties of its preliminary opinion that it considered the appeal to be validly filed and admissible. Further, the board tended to agree with the appellant that the subject-matter of claims 1, 11 and 19 of the patent as granted was not novel over the disclosure of document D6.

VII. With letter dated 2 August 2021, the appellant requested that the oral proceedings be held as a videoconference.

VIII. With letter dated 26 August 2021, the respondent consented to the oral proceedings being held as a videoconference and declared that they intended not to be present at the oral proceedings.

IX. The oral proceedings before the board were held in the absence of the respondent on 29 September 2021 as a videoconference using the Zoom platform.

X. Claim 1 of the patent as granted reads as follows:

"A method for controlling a multi-terminal HVDC system (20) having a plurality of converter stations (22), the method comprising:
receiving (102) a plurality of measurements from a plurality of measurement units (26) disposed on the HVDC system (20);
identifying (104) from the measurements a disruption within the HVDC system (20);

monitoring (108) the measurements to identify a steady-state disrupted condition for the HVDC system (20); calculating (110) a new set point for at least one of the plurality of converter stations (22), wherein the new set point is based on the steady-state disrupted condition and the measurements; and
transmitting (114) the new set point to the at least one of the plurality of converter stations (22)."

XI. The appellant's arguments, as far as they are relevant for this decision, can be summarised as follows:

Claim 1 of the granted patent was not new over the disclosure of D6. The part of feature d), "to identify a steady-state disrupted condition for the HVDC system", which the opposition division considered not to be disclosed in D6, was in fact known from sections 3.4 and 5.8 of D6, which described that post-fault recovery took place in two steps. Firstly, the master controller quickly restarted the HVDC system to establish a temporary load flow in which the presence of a ground current was acceptable. Secondly, within 15 minutes, the ground current was removed by the setting of a new configuration and load flow for the HVDC system. It was industry standard and also a legal requirement in some countries to eliminate ground current. D6 thus identified a steady-state disrupted condition in the temporary load flow with ground current after restart.

XII. The respondent's arguments, as far as they are relevant for this decision, can be summarised as follows:

The appeal fee had initially been underpaid and the full amount of the appeal fee had been paid only on 17 July 2018, which was too late. Consequently, the appeal

was not deemed to have been filed within the two month period of Article 108 EPC.

The appeal was further inadmissible because in the grounds of appeal the appellant had not analysed the contested decision.

Claim 1 of the granted patent was new over the disclosure of document D6. According to D6, the master control unit determined or established the steady state condition, but it did not identify it, contrary to the wording of claim 1. Further according to paragraph [0023] of the patent, the system was monitored until it reached and stabilised into a steady-state condition. To the contrary, the controller of D6 did not let the system stabilise into a steady state condition, which was clear from the restart of the system within 15 minutes disclosed in D6.

Reasons for the Decision

1. Appeal deemed filed - Article 108 EPC

Regarding the question whether the appeal fee had been paid in due time, the board disagrees with the respondent.

The applicable Rules relating to Fees had entered into force on 1 April 2018. The corresponding decision of the Administrative Council of 13 December 2017 amending Articles 2 and 14 of the Rules relating to Fees *(CA/D 17/17)* contains transitional provisions in Article 3

paragraph 5 according to which "If within six months of 1 April 2018 a fee is paid in due time but only in the amount due before 1 April 2018, that fee shall be deemed to have been validly paid if the deficit is made good within two months of an invitation to that effect from the European Patent Office."

The appellant paid the reduced appeal fee on 6 July 2018 within the above-mentioned period and paid an additional amount of 375 Euro on 19 July 2018. The board also observes that the fact that in the present case the appellant paid the missing amount before the Office had officially invited them to do so cannot be held against them. Therefore the board has arrived at the conclusion that the appeal fee has been validly paid and consequently, the appeal cannot be deemed not to have been filed due to late payment of the appeal fee.

2. Admissibility of the appeal - Rule 99(2) EPC

The board further disagrees with the respondent that the appeal is insufficiently substantiated. The contested decision discusses why "monitoring the measurements to identify a steady-state disrupted condition for the HVDC system;" is not known from document D6 and not rendered obvious starting from document D6 in combination with the common general knowledge of the person skilled in the art or the disclosure of document D1.

In the statement setting out the grounds of appeal the appellant provides arguments addressing all three of the aspects which led to the rejection of the opposition.

Thus, the board has arrived at the conclusion that the appeal is sufficiently substantiated in the sense of Article 108 EPC and Rule 99(2) EPC.

3. Novelty - Article 100(a) and 54(2) EPC

The board concurs with the appellant that the subject-matter of claim 1 is known from the disclosure of document D6.

Regarding novelty over the disclosure of document D6 there was dispute whether feature d) according to claim 1 reading:

"monitoring (108) the measurements to identify a steady-state disrupted condition for the HVDC system (20);"

is disclosed in D6.

The board is not convinced by the respondent's argument that according to D6 the steady-state disrupted condition was determined or established but not identified, and that consequently feature d) was not disclosed in D6. The difference between "determine" or "establish" and "identify" is merely of a semantic nature, since the underlying physics is identical in either case. The respondent argued further that according to paragraph [0023] of the patent "the system is monitored until it reaches and stabilizes into a steady state condition" (see point 3.1 of the reply to the grounds of appeal). The board notes in this respect, that paragraph [0023] does not teach continuous monitoring until the system stabilises and

that the independent claims are in any case not limited accordingly.

Moreover, a state such as the one described in sections 3.4 or 5.8 of D6, which persists for up to 15 minutes, can be interpreted as a steady-state in the field of electric power supply. After this state allowing ground currents, the control according to D6 proceeds with a proposal of new set points for the converters. In that context the board further agrees with the appellant's assumption that if the system remains operational after the occurrence of a disruption, it is clear that such a disrupted condition must be a steady-state one.

As the disclosure of the further features of claim 1 in D6 is not disputed, the board has arrived at the conclusion that the subject-matter of claim 1 is not novel over the disclosure of document D6.

The same applies *mutatis mutandis* to the subject-matter of claims 11 and 19.

4. Conclusion

For the reasons set out above, the board accedes to the appellant's request.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The patent is revoked.

The Registrar: The Chairman:

U. Bultmann R. Lord

Decision electronically authenticated