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**Datasheet for the decision
of 23 November 2021**

Case Number: T 2696/18 - 3.5.02

Application Number: 14181699.1

Publication Number: 2854254

IPC: H02J7/00, B60L11/18

Language of the proceedings: EN

Title of invention:

Charging station having battery cell balancing system

Applicant:

Go-Tech Energy Co., Ltd.

Relevant legal provisions:

EPC Art. 54(2)

EPC R. 137(5)

RPBA Art. 12(2), 12(4)

Keyword:

Novelty - main request (no)

Statement of grounds of appeal - first to third auxiliary
request - insufficient substantiation

Late-filed facts - fourth auxiliary request - admitted (no)

Amendments - fourth auxiliary request - claims relating to
unsearched subject-matter



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Case Number: T 2696/18 - 3.5.02

D E C I S I O N
of Technical Board of Appeal 3.5.02
of 23 November 2021

Appellant: Go-Tech Energy Co., Ltd.
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 21 June 2018
refusing European patent application No.
14181699.1 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman G. Flyng
Members: H. Bronold
W. Ungler

Summary of Facts and Submissions

- I. The appeal of the applicant lies from the decision of the examining division to refuse European patent application No. 14 181 699.1 for lack of novelty of the main request and the first and second auxiliary requests over document D1 (DE 10 2010 017439 A1) as well as for lack of inventive step of the third auxiliary request over a combination of documents D1 and D4 (US 2011/234165 A1).

- II. The appellant requested that the contested decision be set aside and that a patent be granted on the basis of their main request or first to third auxiliary requests as underlying the contested decision or on the basis of their fourth auxiliary request as filed with the statement setting out the grounds of appeal.

- III. The board summoned the appellant to oral proceedings. In a communication under Article 15(1) RPBA 2020 the board informed the appellant that it tended to consider claim 1 according to the main request not to be novel over the disclosure of document D1. Furthermore, the board informed the appellant that the first to third auxiliary requests seemed not to be sufficiently substantiated in the sense of Article 12(2) RPBA 2007 and that they should consequently not be taken into account according to Article 12(4) RPBA 2007. Further, the board was inclined to hold the fourth auxiliary request inadmissible according to Article 12(4) RPBA 2007 because it was late filed. Even if the fourth auxiliary request was admitted, it seemed not to be allowable in the sense of Rule 137(5) EPC.

IV. In a reply of 15 November 2021 to an enquiry of the registry whether the appellant would attend the oral proceedings scheduled for 17 November 2021, the appellant informed the board that they would not attend the oral proceedings and asked for a decision on the basis of the written proceedings.

V. Claim 1 according to the main request reads as follows:

"A charging station (20) having a battery cell balancing system, characterized in that the charging station (20) comprises:
a plurality of balancing charging units (2021, 2022, 2023, 2024), each has
 a detecting element (2021a, 2022a, 2023a, 2024a) for detecting a state of charge of a battery cell (3021, 3022, 3023, 3024); and
 a charging element (2021b, 2022b, 2023b, 2024b) for processing charging to the battery cell (3021, 3022, 3023, 3024);
a power unit (203) for providing electric power; and
a charging control unit (201), linked to the balancing charging units (2021, 2022, 2023, 2024), and the power unit (203), for controlling the electric power from the power unit (203) to the charging element (2021b, 2022b, 2023b, 2024b) to charge the battery cell (3021, 3022, 3023, 3024);
wherein the battery cell (3021, 3022, 3023, 3024) is linked in serial or parallel with other battery cells (3021, 3022, 3023, 3024) in a battery pack (30), and the charging control unit (201) stops the power unit (203) to charge the battery cell (3021, 3022, 3023, 3024) when the state of charge of the battery cell (3021, 3022, 3023, 3024) detected by the detecting element (2021a, 2022a, 2023a, 2024a) is full or exceeds a predetermined value."

VI. In the light of the board's decision to exercise its discretion under Article 12(4) RPBA 2007 not to admit the appellant's first to fourth auxiliary requests, it is not necessary to cite the wording of the first to fourth auxiliary requests here.

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

The main request was novel and inventive over document D1 and a combination of documents D1 and D4, respectively. In particular D1 did not disclose a charging station, wherein the term station already implied that the charging station was stationary, not merely a charging circuit. Since none of the revealed documents disclosed a charging station having a battery cell balancing system incorporated therein, the charging station according to claim 1 was furthermore not obvious.

The same reasons applied to the charging station according to claim 1 of the first to third auxiliary requests.

The additional features of claim 1 according to the fourth auxiliary request that each of the battery cells had two contacts extending out of the housing, one for connecting to the detecting element and the other for connecting to the charging element, was not disclosed or suggested in any of the documents cited. The system of claim 1 was therefore both novel and not obvious for the person skilled in the art.

Reasons for the Decision

1. Admissibility of the appeal

The appeal was filed in due time and form and at least in part sufficiently substantiated. Therefore, the appeal is admissible.

2. Main request - Article 54(2) EPC

The Board is not convinced by the appellant's argument that claim 1 according to the main request was novel over the disclosure of document D1. In particular, the board does not agree that claim 1 is directed to a "charging station" whereas D1 only discloses a "charging circuit". The term station does not imply that the charging station needs to be stationary. In this context, the argument that the claimed charging station was a charging station for electric vehicles and was therefore stationary also does not convince the board.

To the contrary, the board agrees with the examining division in that the expression "charging station" does not have any clear limits since a small charging station for a mobile phone, although movable, is still to be regarded as a charging station.

In this context, the board would like to indicate, that according to Article 84 EPC it is the claims that shall define the matter for which protection is sought, not

the description. Therefore, the board is not convinced by the appellant's argument that claim 1 should be read in the light of the description to mean a charging station for an electric vehicle.

Consequently, the only alleged difference over the disclosure of document D1 argued by the appellant is known from D1 too and the subject-matter of claim 1 is not novel in the sense of Article 54(2) EPC.

Even if it was assumed that the charging circuit according to document D1 is not to be interpreted as a charging station in the sense of claim 1, the board would not be inclined to agree with the appellant that the subject-matter of claim 1 is not obvious for the person skilled in the art. The question of whether functionally identical units are arranged to be stationary or movable lies within the field of ordinary skill, in particular since claim 1 is not even directed to any specific application, as correctly pointed out in the contested decision under item 2.4.

3. First to third auxiliary requests - Article 12(2) RPBA 2007

With respect to the first to third auxiliary requests the appellant in their statement setting out the grounds of appeal merely referred to the fact that they already considered their higher ranking main request allowable, as well as to their arguments already presented during the examination proceedings.

The board considers such references not to be a reason in the sense of Article 12(2) RPBA 2007. In particular not in a case of refusal of the European patent

application in ex-parte proceedings where it is the appellant, as the only party, who has to specify expressly all the facts, arguments and evidence relied on. In the present case the main request was found not to be allowable. Thus, the first to third auxiliary requests could have come into consideration, but no further arguments have been presented to support these requests. Each of these requests should have been reasoned on its own and at least with respect to all features of its independent claim(s). In the absence of such reasoning however, the first to third auxiliary requests are not sufficiently substantiated in the sense of Article 12(2) RPBA 2007 and are consequently not taken into account by the board according to Article 12(4) RPBA 2007.

4. Fourth auxiliary request

4.1 Admissibility - Article 12(4) RPBA 2007

In the fourth auxiliary request, the circuit structure provided at the battery cells is further specified by features taken from the description for the first time in the procedure, namely two contacts at each battery cell, one for connecting to the detection element and the other for connecting to the charging element. The board is not aware of any reason and the appellant has not presented any reason, why it would not have been possible to submit these amendments during the proceedings before the examining division. Thus, the board holds the fourth auxiliary request inadmissible according to Article 12(4) RPBA 2007.

4.2 Amendments - Rule 137(5) EPC.

Even if the fourth auxiliary had been considered to be admissible, it would not be allowable.

The board notes in this respect that apart from a redrafting in the two-part form and the insertion of reference signs in brackets, claim 1 according to the present main request corresponds literally to claim 1 as originally filed. Thus, it is reasonable to interpret claim 1 according to the main request as representing the invention as originally claimed in the sense of Rule 137(5) EPC. The subject-matter of originally filed dependent claims 2 to 8 is directed to the determination of the state of charge, details of the balancing charging unit and a memory unit.

The invention claimed in claim 1 of the fourth auxiliary request however contains the features of originally filed claims 1 and 2 and is further limited with details of the circuit structure provided at the battery cells, features which have been taken from the description and which have never been claimed before. Obviously therefore, the invention as originally claimed provides different technical effects and is directed to the solution of different technical problems than the subject-matter of claim 1 according to the fourth auxiliary request, which, as a consequence, does not combine with the originally claimed invention to form a single general inventive concept.

Thus, even if it had been considered to be admissible, the fourth auxiliary request would be inadmissibly amended in the sense of Rule 137(5) EPC.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



K. Boelicke

G. Flyng

Decision electronically authenticated