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**Datasheet for the decision  
of 17 December 2024**

**Case Number:** T 0259/20 - 3.4.01

**Application Number:** 10736103.2

**Publication Number:** 2382582

**IPC:** G06K7/08, A61M39/10, A61M39/18,  
G06K19/077, G06Q20/32,  
B65B55/08

**Language of the proceedings:** EN

**Title of invention:**  
A SYSTEM AND METHOD FOR OPERATING RFID DEVICES ON SINGLE-USE  
CONNECTORS

**Patent Proprietor:**  
Global Life Sciences Solutions USA LLC

**Opponent:**  
SARTORIUS STEDIM BIOTECH GMBH

**Headword:**  
RFID devices on single-use connectors / Sartorius

**Relevant legal provisions:**  
EPC 1973 Art. 100(c), 123(2)  
RPBA 2020 Art. 12(8)

**Keyword:**

Main request and first to third auxiliary requests - added  
subject-matter (yes)



**Beschwerdekammern**

**Boards of Appeal**

**Chambres de recours**

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Case Number: T 0259/20 - 3.4.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.4.01**  
**of 17 December 2024**

**Appellant:**

(Opponent)

SARTORIUS STEDIM BIOTECH GMBH  
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**Representative:**

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**Respondent:**

(Patent Proprietor)

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**Representative:**

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**Decision under appeal:**

**Decision of the Opposition Division of the  
European Patent Office posted on 6 December 2019  
rejecting the opposition filed against European  
patent No. 2382582 pursuant to Article 101(2)  
EPC.**

**Composition of the Board:**

**Chair**

P. Scriven

**Members:**

T. Petelski

D. Rogers

## Summary of Facts and Submissions

- I. The Opposition Division decided to reject the opposition.
- II. The opponent appealed and requested that the decision be set aside and the patent revoked. As an auxiliary measure, they requested that oral proceedings be held.
- III. The proprietor (respondent) requested that the appeal be dismissed, which meant that the patent would be maintained as granted (main request). They also requested that oral proceedings be held.
- IV. As an auxiliary measure, the proprietor requested that the patent be maintained on the basis of first, second, or third auxiliary requests, all filed during opposition proceedings and re-filed with the proprietor's reply to the appeal.
- V. Claim 1 of the patent (main request) reads as follows (reference signs omitted):

*A system for operating RFID tags on a single-use connector, the system comprising:*

*a first single-use connector including a first RFID tag;*

*a second single-use connector including a second RFID tag and intended to be connected to said first connector;*

*and*

*a reader placed close to the first RFID tag and the second RFID tag, and connected to a computer, the system being characterized in that the reader is configured to:*

*determine if the first RFID tag and the second RFID tag are gamma sterilized, by means of the responses to the reader from the first and second RFID tags;*

*determine if the first RFID tag and the second RFID tag were previously used, by means of accessing information about the RFID tags stored on the computer;*

*determine if the first RFID tag and the second RFID tag are authentic, by means of accessing information about the RFID tags stored on the computer; and*

*determine if the first RFID tag matches with the second RFID tag and are thereby operable together, by means of accessing information about the RFID tags stored on the computer.*

VI. The first to third auxiliary requests successively add amendments to the claim 1 of the patent. In the

following reproduction of claim 1 these amendments are marked (and reference signs omitted), where:

- the unmarked text is identical to claim 1 of the main request;
- claim 1 of Auxiliary Request 1 has the first two amendments;
- claim 1 of Auxiliary Request 2 has the first three amendments; and
- claim 1 of Auxiliary Request 2 has all four amendments.

*A system for operating RFID tags on a single-use bioprocess components in the form of connectors, the system comprising:*

*a first single-use connector including a first RFID tag;*

*a second single-use connector including a second RFID tag and intended to be connected to said first connector;*

*the first and second tags including FRAM based memory,  
and*

*a reader placed close to the first RFID tag and the second RFID tag, and connected to a computer, the system being characterized in that the reader is configured to:*

*determine if the first RFID tag and the second RFID tag are gamma sterilized, by means of altered read range and powering requirements of the RFID tags during the responses to the reader from the first and second RFID tags;*

*determine if the first RFID tag and the second RFID tag were previously used, by means of accessing information about the RFID tags stored on the computer;*

*determine if the first RFID tag and the second RFID tag are authentic, by means of accessing information about the RFID tags stored on the computer; and*

*determine if the first RFID tag matches with the second RFID tag and are thereby operable together, by means of accessing information about the RFID tags stored on the computer,*

*-  
the reader being further configured to utilize anti-collision algorithms.*

VII. The Board issued a summons to oral proceedings, together with a preliminary opinion on the case, according to which the subject-matter of claim 1 of all requests extended beyond the content of the application as filed.

VIII. The parts of the preliminary opinion that are relevant to this decision are points 19 to 29, 40 to 41, and 79

to 80. The text uses the Opposition Division's labelling of claim features and reads as follows:

*Main request - added subject-matter*

19. The opponent is of the opinion that features 3.2, 5.1, 6.1, 7.1, 8.1, and 8 contained subject-matter that extended beyond the content of the application as filed.

20. Feature 3.2 defines that the second single-use connector is intended to be connected to the first connector.

21. The only passage in the application as published that is related to this feature is on page 7, line 19, to page 8, line 5. This passage is part of an explanation of how the reader determines if the two RFID tags are operable with each other. The explanation refers to the flow-chart of Figure 2, and the passage in question relates to block 209 of that flow-chart. In block 209, information from the computer is used to determine if the two RFID tags match each other and are operable with each other. These determinations correspond with features 8 and 8.1 of claim 1.

22. Further according to the same passage of the application as published, the RFID tags match, and are operable together, if information from the database of the computer indicates that "the connectors are

intended to be connected together" as per design of the manufacturing system. If not, a message is sent to the computer that the connection is not correct. This means that the original application uses the expression "intended to be connected together" in the sense of "designed to be connected together", or "made for each other".

23. If all pairs of connectors were "intended to be connected together", the reader would not need to be configured to perform a determination according to block 209 (and corresponding feature 8 and 8.1 of claim 1), because there could never be a negative outcome. The fact that this determination is performed implies that the two RFID tags, on which the determination is performed, are not necessarily attached to connectors that are "intended to be connected together".

24. It follows that there is no basis for categorically defining the second connector as intended to be connected to the first connector (feature 3.2) in a system, in which the reader is configured to perform a step (features 8 and 8.1) of determining the matching of tags, which is based on whether the connectors are intended to be connected or not.

25. Feature 5.1 defines that the determination of whether the tags are gamma

sterilized is made by means of the responses to the reader.

26. The passage on page 6, line 23, to page 7, line 7 of the application as published, discloses two different options by which the reader may acquire information about the gamma sterilization. Either the information is stored in a database on the computer, or the information is derived from alterations of the read range and the powering requirements of the memory chip on the tag. The first option is not covered by claim 1. With respect to the second option, which is covered by the claim, the skilled person will understand that it is the properties of the backscattered return signals that need to be evaluated.

27. From page 12, lines 15 - 24, it is evident that alteration of the powering requirements can only be determined if the return signal is evaluated for a number of interrogation signals with different power levels.

28. In contrast to this disclosure, feature 5.1 includes the option that only a single response at one power level is acquired from each RFID tag. This, however, is not originally disclosed.

29. Hence, feature 5.1 is an unallowable generalisation of the original disclosure.

...

40. In summary, features 3.2 and 5.1 introduce subject matter that was not originally disclosed (Article 100(c) EPC), whereas features 6.1, 7.1, 8.1, and 8 do not.

41. Hence, the main request is not allowable.

...

*First, second, and third auxiliary requests*

79. At least the objection of added subject-matter in feature 3.2 (the connectors being "intended to be connected") that applies to claim 1 of the main request (see points 20. to 24.) also applies to claims 1 of each of the first, second, and third auxiliary request (Article 123(2) EPC).

80. For this reason, the first, second, and third auxiliary requests are not allowable.

IX. Seven weeks before the scheduled date, the proprietor withdrew their request for oral proceedings and announced that they would not attend the oral proceedings currently scheduled. They did not comment on the Board's preliminary opinion, and did not state any intention of submitting comments.

X. Thereupon, oral proceedings were cancelled.

- XI. The opponent's initial requests, that the decision be set aside and the patent revoked, and that oral proceedings be held as an auxiliary measure, remain unchanged.
- XII. The proprietor's final requests are that the appeal be dismissed and the patent maintained as granted (main request), or that the patent be maintained on the basis of the first, second, or third auxiliary request.

### **Reasons for the Decision**

1. In its preliminary opinion, as reproduced above, the Board found that the subject-matter of claim 1 of each of the main request and of the first to third auxiliary requests extended beyond the content of the application as filed (Articles 100(c) and 123(2) EPC).
2. The proprietor did not comment on these findings.
3. After reviewing the case once more, the Board sees no reason to deviate from its previous findings.
4. Hence, the main request and the first to third auxiliary requests are not allowable.
5. Since both parties were heard, the proprietor has withdrawn their request for oral proceedings, and the opponent's request for oral proceedings was conditional on a case which did not materialize, the Board may

issue a decision without holding oral proceedings, in accordance with Article 12(8) RPBA.

## Order

### For these reasons it is decided that:

The decision under appeal is set aside.

The patent is revoked.

The Registrar:

The Chair:



D. Meyfarth

P. Scriven

Decision electronically authenticated