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**Datasheet for the decision
of 1 March 2024**

Case Number: T 0536/22 - 3.5.05

Application Number: 18164354.5

Publication Number: 3358787

IPC: H04L12/28, H04W12/06,
H04W12/08, H04W76/10

Language of the proceedings: EN

Title of invention:

Network system of a home appliance and network setup method of the home appliance

Patent Proprietor:

Samsung Electronics Co., Ltd.

Opponent:

von Behren, Jens

Headword:

Home appliance WiFi set-up/SAMSUNG

Relevant legal provisions:

EPC Art. 56, 113

EPC R. 103(1)(a)

RPBA 2020 Art. 12(8)

Keywords:

Decision in written proceedings - (yes): no oral proceedings
necessary or expedient

Inventive step - (no)

Substantial procedural violation - (no): no violation of the
right to be heard

Reimbursement of the appeal fee in full - (no)



Beschwerdekammern
Boards of Appeal
Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0
Fax +49 (0)89 2399-4465

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D E C I S I O N
of Technical Board of Appeal 3.5.05
of 1 March 2024

Appellant: von Behren, Jens
(Opponent) K & H Bonapat
Patentanwälte Koch · von Behren & Partner mbB
Donnersbergerstraße 22A
80634 München (DE)

Representative: K & H Bonapat
Patentanwälte Koch · von Behren & Partner mbB
Donnersbergerstraße 22A
80634 München (DE)

Respondent: Samsung Electronics Co., Ltd.
(Patent Proprietor) 129, Samsung-ro
Yeongtong-gu, Suwon-si
Gyeonggi-do, 443-742 (KR)

Representative: Grünecker Patent- und Rechtsanwälte
PartG mbB
Leopoldstraße 4
80802 München (DE)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
17 December 2021 concerning maintenance of the
European Patent No. 3358787 in amended form.**

Composition of the Board:

Chair K. Bengi-Akyürek
Members: P. Cretaine
C. Almberg

Summary of Facts and Submissions

- I. The opponent filed an appeal against the decision of the opposition division maintaining the patent in amended form in accordance with "auxiliary request 1" as filed in the first-instance oral proceedings.
- II. The decision under appeal cited, *inter alia*, the following prior-art documents:

D11: US 2010/0115262 A1
D5: EP 2 285 163 A2.
- III. The opponent (appellant) requested in writing that the appealed decision be set aside and that the patent be revoked. In addition, the appellant contended that the opposition division had violated its right to be heard under Article 113 EPC on the grounds that it did not admit at oral proceedings an inventive-step objection starting from document D5 and in view of document D11. Oral proceedings were requested on an auxiliary basis.
- IV. The proprietor (respondent) did not reply to the statement setting out the grounds of appeal of the appellant.
- V. A summons to oral proceedings was issued. In response to the summons, the respondent announced that they would not be attending the scheduled oral proceedings.
- VI. The board cancelled the oral proceedings and issued a communication. With the communication, the board announced its intention to revoke the patent and gave the reasons why it considered that no basis was present

for the reimbursement of the appeal fee or for the remittal of the case to the opposition division.

VII. None of the parties responded to the board's communication.

VIII. Claim 1 of "**auxiliary request 1**" (claim 1 as maintained) comprises the following features (appellant's labelling):

"1.1 A home appliance (10) having a WIFI module (12), the home appliance comprising:
1.2 an input unit (20, 22) configured to select an access point, AP, conversion mode of the home appliance
1.2.1 so that an external device is connected to the home appliance without going through a wireless access apparatus, and
1.3 a control unit (24) configured to operate the home appliance as an AP home appliance when the AP conversion mode is selected,
1.4 wherein the control unit operates the home appliance in the AP conversion mode to receive network set-up information for setting up a network of the home appliance,
1.4.1 from the external device,
1.4.2 by using the WIFI module,
1.4.3 without a user input, and
1.4.4 wherein the network set-up information is used at the external device,
1.5 wherein the network set-up information includes a Service Set Identifier, SSID, an authentication method, an encryption method, and an authentication key, and
1.6 wherein the external device is a terminal."

Reasons for the Decision

1. Since none of the parties responded to the board's communication, the board does not see any reason to deviate from its appreciations as set out in said communication.
2. Alleged substantial procedural violation
 - 2.1 Towards the end of the first-instance oral proceedings, the opposition division seems to have decided not to admit any further attacks on novelty and inventive step, in particular an inventive-step attack starting from D5 and in view of D11 that it labelled a "new objection" or "new fact" (cf. appealed decision, Reasons 25 and 26; minutes, points 66, 67 and 69).
 - 2.2 The appellant regarded this as an improper exercise of discretion, as well as a violation of its right to be heard under Article 113 EPC (statement of grounds of appeal, pages 44 to 46).
 - 2.3 While the board takes issue with the seemingly sweeping prevention to submit any further attacks, and whereas some considerations underlying the use of discretion seem flawed, such as the advanced time of day (minutes, point 67), and the particular restriction on "promising attacks" (appealed decision, point 26), the board cannot recognise any *substantial* procedural violation within the meaning of Rule 103(1)(a) EPC or a *fundamental* procedural deficiency within the meaning of Article 11 RPBA 2020. Here, the board also notes that any disagreement it may have with the appealed decision in terms of the qualification of the attack as an "objection", a "fact" or an "argument", and its *prima facie* relevance, concerns matters rather of judgment

than of procedural legality.

2.4 No basis is thus present for the reimbursement of the appeal fee in full (cf. Rule 103(1)(a) EPC), and the board sees no procedural or other "special reasons" for remitting the case to the opposition division (cf. Article 11 RPBA 2020), both matters of which the board has looked into *ex officio*.

3. Decision in written proceedings

3.1 The appellant made a request for oral proceedings under the condition that the board intended not to revoke the opposed patent (statement of grounds of appeal, page 1). In view of the board's intention to revoke the patent, this condition is however not met, and the respondent's sole submission in these appeal proceedings, i.e. their intent not to attend the oral proceedings, is also a waiver of the opportunity to be heard orally on that matter.

3.2 Moreover, the board, on its own motion, does not consider holding oral proceedings expedient (cf. Article 116(1) EPC). Therefore, and since the period for replying to the board's communication has expired, the decision is to be handed down in written proceedings (Article 12(8) RPBA 2020).

4. Inventive step

4.1 The board holds that the subject-matter of claim 1 as maintained (claim 1 of "auxiliary request 1") does not involve an inventive step starting from the disclosure of **D11** and in view of **D5**, as argued by the appellant in section 8.4 of its statement setting out the grounds of appeal.

- 4.2 In that respect, document **D11** discloses all the features of claim 1 with the exception of the part of feature 1.5 defining in substance that the network set-up information received from the external device includes an authentication method and an encryption method. The technical effect of this distinguishing feature is that the home appliance receives the additional information required for connecting to the access point of the home network. The objective technical problem can thus be formulated as "how to provide the home appliance with all the necessary information for connecting to the access point of the home network in the system of D11".
- 4.3 The board agrees with the appellant that document **D5** would indeed have been considered by the skilled person. In particular, document D5 relates to a system comprising an electronic device, a terminal and an access point to a home network. Further, D5 relies on near-field communications (NFC), instead of WiFi communications as in claim 1, to convey, from the terminal to the electronic device, the information necessary for the electronic device to connect to the home network, in particular the authentication and encryption methods used by the home network. However, as argued by the appellant, the physical layer via which the information is conveyed is of no concern for the solution to the objective technical problem, as this problem is related to the information content of the transmitted network set-up information. Rather, it is the whole purpose of the OSI-layer model of network communications that the applications that exchange messages (e.g. the message of Figure 7B/7C of D5) do not need to care about the physical layer (NFC or WiFi) over which the message is transported. Since document D5 is concerned with providing all the

information necessary for connecting to an access point from a mobile terminal to an electronic device, the skilled person would have clearly considered document D5 when starting from D11 and would have found the solution to the objective technical problem in the teaching of D5.

5. The sole request on file (i.e. "auxiliary request 1") is thus not allowable under Article 56 EPC.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chair:



B. Brückner

K. Bengi-Akyürek

Decision electronically authenticated