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# Datasheet for the decision of 8 May 2025

**Case Number:** T 1447/22 - 3.4.01

**Application Number:** 14786281.7

**Publication Number:** 3036976

**IPC:** H05B37/02

**Language of the proceedings:** EN

**Title of invention:**
PROGRAMMABLE LIGHTING DEVICE AND METHOD AND SYSTEM FOR PROGRAMMING LIGHTING DEVICE

**Patent Proprietor:**
Signify Holding B.V.

**Opponents:**
Helvar Oy Ab
Vossius & Partner
Patentanwälte Rechtsanwälte mbB

**Headword:**
Programmable lighting driver / Signify

**Relevant legal provisions:**
EPC Art. 54(2)
RPBA 2020 Art. 12(4)

**Keyword:**
Main Request - allegation of a new difference into proceedings (yes) - novelty (no)
Auxiliary request - admitted into proceedings (yes) - novelty (no)

Europäisches Patentamt
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Office européen des brevets

**Beschwerdekammern**

**Boards of Appeal**

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**Case Number: T 1447/22 - 3.4.01**

# D E C I S I O N
# of Technical Board of Appeal 3.4.01
# of 8 May 2025

| | |
|---|---|
| **Appellant:**<br>(Patent Proprietor) | Signify Holding B.V.<br>High Tech Campus 48<br>5656 AE Eindhoven (NL) |
| **Representative:** | van Eeuwijk, Alexander Henricus Waltherus<br>Signify Netherlands B.V.<br>Intellectual Property<br>High Tech Campus 7<br>5656 AE Eindhoven (NL) |
| **Respondent:**<br>(Opponent 1) | Helvar Oy Ab<br>Keilaranta 5<br>02150 Espoo (FI) |
| **Representative:** | Papula Oy<br>P.O. Box 981<br>00101 Helsinki (FI) |
| **Respondent:**<br>(Opponent 2) | Vossius & Partner<br>Patentanwälte Rechtsanwälte mbB<br>Siebertstrasse 3<br>81675 München (DE) |
| **Decision under appeal:** | **Decision of the Opposition Division of the European Patent Office posted on 22 March 2022 revoking European patent No. 3036976 pursuant to Article 101(3)(b) EPC.** |

**Composition of the Board:**

| | |
|---|---|
| **Chairman** | P. Scriven |
| **Members:** | A. Medeiros Gaspar |
| | L. Bühler |

## Summary of Facts and Submissions

I. Two notices of opposition were filed, by Helvar Oy Ab (opponent 1) and by Vossius & Partner (opponent 2).

II. Grounds of opposition under Articles 100(a), (b), and (c) EPC were invoked.

III. Among the evidence submitted in support of the grounds invoked under Article 100(a) EPC were:

D3: US 8 143 803 B2; and

D4: ROAL living energy, Ozone LED Drivers with Universal Input and Output, 70W Total Output Power, Single Channel

IV. At a later point in opposition proceedings, the following document was also submitted:

D4a: ROAL living energy, Ozone "Toolset" PC Software User Manual

V. The Opposition Division decided to revoke the patent.

VI. The proprietor appealed this decision. They request that it be set aside and the patent maintained in amended form, on the basis of a main request or an auxiliary request, both submitted with the statement of grounds of appeal.

VII. The main request is identical to auxiliary request 1, underlying the contested decision. The auxiliary request was new on appeal, but is based on auxiliary request 4 underlying the decision.

VIII. The Opposition Division came (inter alia) to the conclusions:

(a) that claim 1 of auxiliary request 1 lacked inventive step in view of the combined teaching of D3 and D4; and

(b) that claim 1 of auxiliary request 4 contravened Article 123(2) EPC.

IX. The proprietor seeks to rebut conclusion (a) and argues, for the first time on appeal, that a further difference exists between claim 1 and D3. Additionally, the proprietor seeks to solve the issue of added-matter identified under (b), by amendment.

X. Both opponents request dismissal of the appeal.

XI. Opponent 2 objects to the consideration of the proprietor's new allegation that there is a further difference between claim 1 of the main request and the disclosure of D3. On substance, neither opponent recognises the newly-alleged difference. In this context, all parties refer to the standards mentioned in paragraphs [0063], [0064], and [0067] of the patent. In support of their views, they also refer to, or submit as evidence, further information concerning those standards, the consideration of which is also disputed.

XII. Opponent 2 also objects to the consideration of the auxiliary request. Both opponents object to this request under Article 56, 83, and 84 EPC.

XIII. Claim 1 of the main request reads (reference signs omitted):

A *programmable lighting driver, comprising:*

*a power stage configured to receive power from an external supply and to supply power to at least one light source;*

*a controller configured to control an operation of the power stage according to at least one operating parameter and at least one configuration setting for the programmable lighting driver;*

*a nonvolatile memory configured to store operating parameters and configuration settings for the programmable lighting driver; and*

*a near field communication device configured to receive radio frequency (RE [sic]) signals which are adapted to communicate operating parameters and configuration settings for the programmable lighting driver*

*and in operation said near field communication device is configured to receive a radio frequency signal*

*which communicates the at least one of an operating parameter and a configuration setting for the programmable lighting driver,*

*and in response thereto to store the at least one of an operating parameter and a configuration setting for the programmable lighting driver in the nonvolatile memory,*

*wherein the near field communication device is configured to generate from the RF signal a supply voltage for powering the nonvolatile memory while the near field communication device stores in the nonvolatile memory the at least one of an operating parameter and a configuration setting for the programmable lighting driver*

*wherein the at least one configuration setting identifies an active dimming interface for the programmable lighting driver among a plurality of dimming interfaces available for the programmable lighting driver, and*

*wherein the at least one operating parameter for the programmable lighting driver includes at least one of: an output current to be supplied by the power stage to the at least one light source; a variable startup time parameter for the at least one light source; an operating time period after which the lighting driver should increase the output current; at least one temperature threshold for reducing the output current; an operating time period after which the lighting driver should trigger an end of life signal; and at least one*

*time setting for automatically dimming the at least one light source.*

XIV. Claim 1 of the auxiliary request amends the definition of the *at least one configuration setting*, so that it reads:

...

*wherein ~~the at least one~~ a first configuration setting identifies an active dimming interface for the programmable lighting driver among a plurality of dimming interfaces available for the programmable lighting driver, and a second configuration setting includes a [sic] firmware for the controller, and*

...

## Reasons for the Decision

*Main Request - consideration of the proprietor's new submission*

1. Claim 1 defines a *programmable lighting driver* comprising a *near field communication device*.

2. Document D3 discloses a programmable lighting driver comprising a communication device provided with an RFID-transponder.

3. In opposition proceedings, the dispute with regards to the communication devices of the programmable lighting drivers of claim 1 and of D3 turned on the question of whether or not the communication device of D3 was configured as the communication device of the claim.

4. Not until appeal proceedings did the proprietor argue that the communication device of D3 was not a *near field communication device,* as defined in the claim.

5. This new submission is "to be regarded an amendment" under Article 12(4) RPBA, first sentence. It may be admitted only at the Board's discretion under Article 12(4) RPBA, second sentence.

6. The proprietor and opponent 2 disagree on whether or not this amendment should be considered.

7. The proprietor argues, by reference to Article 114(2) EPC, that it should and must, as the new submission is merely a new argument, made within the framework of an objection upon which the contested decision was based.

8. Opponent 2 argues, by reference to Article 12(6) RPBA, that it should not, as it is more than merely a new argument, and it was not submitted before the Opposition Division, as it should have been.

9. The Board agrees with opponent 2 in that the issue raised by the proprietor is more than just a new argument. It also entails a new allegation of fact, namely the allegation that there is a new difference between claim 1 and the disclosure of D3. The Board, furthermore, agrees that this issue should have been raised before the Opposition Division.

10. However, it is also true that, as argued by the proprietor, the specific question of whether or not the communication device of D3 is a *near field communication device* falls within the framework of a ground of opposition invoked with the notices of opposition, and that the question of the patentability of claim 1 of the main request in view of D3 forms part of the basis of the contested decision.

11. The submission, though late, may thus be regarded as a reasonable attempt to challenge the decision.

12. It is, furthermore one that is straightforward, and which does not impose an undue additional burden on the Board or the other parties.

13. When reviewing the decision, and determining whether, and to what extent, claim 1 of the main request differs from the disclosure of D3, the Board needs to determine the meaning given by the skilled person to the different terms employed in the claim, and, in doing so, to consider any submissions of relevance for those determinations.

14. Therefore, consideration of the parties submissions on the meaning of the term *near field communication device* in claim 1 of the main request and on whether or not the communication device of D3 was a near field communication device is justified (Article 12(4) RPBA).

15. The evidence submitted by the parties, in the context of this dispute, is, on the contrary, not relevant for the decision to be taken.

16. That evidence relates to some of the different standards mentioned in paragraphs [0063], [0064], and [0067] of the patent.

17. However, the subject-matter of the claim is not limited to any of those standards, which are, furthermore, mentioned in the description of the patent as mere possibilities, to be used "in some embodiments".

18. Consequently, that evidence is not admitted into proceedings (Article 12(4) RPBA).

*Main request - Claim 1 - Patentability vis-à-vis D3*

19. It is undisputed that D3 discloses a programmable lighting driver comprising structural elements similar to those of the *programmable lighting driver* defined in claim 1 of the main request (D3: figure 3; column 3 lines 11 to column 4 line 13; column 4 lines 30 to 46).

20. Concretely, the programmable light driver of D3 comprises, as the driver of claim 1, *a power stage* (the supply voltage - not shown in figure 3), *a controller* (the lamp control circuit 20 comprising a lamp driving circuit 22), a *nonvolatile memory* (the memory 26), and *a communication device* (the communication circuit 24).

21. Where the parties disagree is on whether or not the controller, the nonvolatile memory, and the communication device of D3 fall within the further definitions of those elements in the claim.

22. Concerning the *controller*, claim 1 defines *a controller configured to control an operation of the power state*

*according to at least one operating parameter and configuration setting*.

23. It also defines that the *at least one operating parameter includes at least one* element from a list comprising *an output current to be supplied by the power stage to the at least one light source;* and that *the at least one configuration setting identifies an active dimming interface for the programmable lighting driver among a plurality of dimming interfaces available for the programmable lighting driver.*

24. The proprietor argued that the controller of D3 was not configured to control the operation of the power stage according to a configuration setting identifying an active dimming interface, as defined in the claim.

25. According to the proprietor, the term *dimming interface* had a well known meaning in the art. It defined an interface between a human- or sensor-controlled dimmer and a light source. Such an interface received an input signal from the dimmer and translated that input signal into an output signal, for dimming the light accordingly.

26. Examples of such dimming interfaces were those mentioned in paragraph [0004] of the patent, or mentioned in D4 (page 3). The "adjustable dimmer function" mentioned in D4a (page 7), whereby the amount of dimming of the light depended on the time of the day, would, to the contrary, not be understood as constituting a *dimming interface*, in the sense of the claim.

27. As D3 did not disclose any dimmer or that a sensor input signal was fed to the controller of D3, it did

not disclose its controller as being configured to operate according to a *dimming interface.* Instead, it merely disclosed the control of the output of the lamp according to the location of the lamp pole (column 3 lines 31 to 37).

28. The Board agrees with the proprietor in that a dimming interface converts an input signal into an output signal for dimming the light source accordingly.

29. However, the Board disagrees that the term *dimming interface* implies any particular type of input signal, or that D3 does not disclose an input signal on the basis of which the output of the light source is controlled.

30. In fact, D3 discloses its lamp control circuit as being provided with "predetermined settings", configuring it to control the lamp to output "more or less light" according to "one or more external conditions, such as amount of traffic, weather conditions, dusk and dawn hours, etc." (column 3, lines 23 to 37).

31. D3 further explains that the settings include "at least a lamp current, a lamp voltage or a lamp power" possibly "as a function of time or depending on a light condition of the environment or the like" (column 3, lines 38 to 41), and that the "settings" are to be supplied to the lamp control circuit so as to enable it to control the lamp accordingly (column 3, lines 41 to 44).

32. These "settings" (in the wording of D3), then, constitute a *configuration setting that identifies an active dimming interface* (in the wording of the claim), in the sense that they configure the lamp

control circuit of D3 to receive an input signal, be it the time or the light condition of the environment, and convert it into an output signal on the basis of which the output of the light source is controlled.

33. The further disclosure, in D3, that "the settings may be dependent on the location of the light pole" (D3: column 3, lines 31 to 37), rather than contradicting the conclusion above, exemplifies the possibility of the controller of D3 being configured to operate in accordance with to different settings, i.e. to implement different dimming interfaces, depending on the location of the light pole.

34. The proprietor also seems to read, in the definition, in the claim, that *the at least one configuration setting identifies an active dimming interface among a plurality of dimming interfaces available to the programmable lighting driver*, the requirement that the controller of the programmable lighting driver be itself configured to control the light source according to a plurality of dimming interfaces from among which an active one would be chosen.

35. The Board notes, however, that no limitation to the configuration of the controller results from the definition of the at least one configuration setting recited above.

36. In fact, the claim merely requires that the controller be configured to control the operation of the power stage according to one configuration setting that identifies an active dimming interface.

37. The further definition, that the active dimming interface is one *among a plurality of dimming*

*interfaces available to the programmable lighting driver*, does not require that said plurality be in some way part of the driver defined. Instead it refers, at most, to the possibility of implementing in the driver, different dimming interfaces; or, in other words, to the programmability of the lighting driver.

38. As indicated above, D3 discloses the possibility of providing different "settings" to its controller, depending on the circumstances (D3: column 3, lines 34 to 37; column 4, lines 5 to 9 and 47 to 52), and, hence, the possibility of implementing in the driver of D3 a different dimming interface.

39. Therefore, the controller of D3 is configured as defined in the claim.

40. Also, the *nonvolatile memory configured to store operating parameters and configuration settings,* defined in the claim, is no different than the nonvolatile memory disclosed in D3.

41. Indeed, D3 discloses the memory as storing operating parameters and configuration settings (D3: column 4, lines 9-16).

42. Hence, even if the scope of the claim were understood as defining a nonvolatile memory specifically storing the mentioned elements, there would still be no difference between the memory of the driver D3 and that of the driver of claim 1.

43. Concerning the communication device, the parties dispute, as mentioned above, whether or not the communication circuit provided with a RFID-tag of D3,

(D3: column 4 lines 30 to 33) is a *near field communication device*, as defined in the claim.

44. The opponents argue that the expression *near field communication device* required simply that the communication device be suitable for near field communication, which the RFID tags D3 were.

45. The proprietor did not contest that RFID tags were suitable for near field communication, but argued instead that the expression *near field communication device* had more restricted and clear meaning in the art, namely a device that complied with one of a number of standards such as ISO/IEC 15693, mentioned in paragraphs [0064] and [0067] of the patent. Consequently, the communication device provided with a RFID tag of D3 did not fall under this narrower interpretation of the term.

46. Countering those arguments, the opponent also referred to the standards mentioned in paragraphs [0063] and [0064] of the patent, and argued that some of those encompassed RFID tags.

47. The Boards fails to see the relevance of the references to different standards, given that the claim does not refer to any.

48. The Board, nevertheless, recognises the evolution of the meanings given to the term *near field communication device* over time, and, in the present case, considers it conceivable that the skilled person, reading the term *near field communication device* in the claim, would consider both interpretations. They would, however, see no reason to exclude the broader interpretation advocated by the opponents, since none

of the further definitions present in the claim, concerning the configuration, or the operation, of the communication device, is incompatible with it.

49. Concerning those further definitions, claim 1 defines the communication device as being *configured to receive radio frequency (RF) signals which are adapted to communicate operating parameters and configuration settings for the programmable lighting device.*

50. The Board understands this as requiring that the communication device be configured to receive radio frequency signals, these being capable of transmitting both operational parameters and configuration settings.

51. The proprietor argues that the RFID-tag of D3 would have limited communication capabilities, and hence the RF signal it would be configured to receive would not be *adapted to communicate operating parameters and configuration settings,* as defined in the claim. This would only be possible with an NFC device in the proprietor's narrow sense.

52. The Board is not persuaded by this argument, since D3 explicitly describes its communication device as receiving RF signals communicating data (D3: column 4 lines 30 to 35), and said data as possibly comprising lamp settings and operating parameters (D3: column 4 lines 53-54).

53. It is furthermore noted that, even though the claim defines the communication device as being *configured to receive radio frequency signals adapted to communicate configuration settings*, it also defines that, *in operation*, the communication device *is configured to receive a radio frequency signal which communicates at*

*least one of an operating parameter and a configuration setting, and to store the at least one of an operating parameter and a configuration setting.*

54. Hence, though requiring that the communication device be adapted to receive RF signals capable of communicating operating parameters and configuration settings, the claim does not require that, in operation, the communication device necessarily receives both.

55. The proprietor's understanding, that the claim requires that the configuration setting be wirelessly received by the communication device, finds no support in the wording of the claim.

56. Therefore, also the communication device of the driver of D3 is configured as defined the claim 1.

57. Claim 1 lacks thus novelty in view of D3 (Article 54(2) EPC). Consequently, the main request is not allowable.

*Auxiliary request - Claim 1 - Consideration*

58. The auxiliary request was submitted only on appeal.

59. It is, hence, an amendment in the sense of Article 12(4) RPBA, first sentence, the admittance of which is at the Board's discretion under Article 12(4) RPBA, second sentence.

60. The proprietor and opponent 2 disagree on whether or not this request should be admitted into proceedings.

61. Opponent 2 argues, by reference to Article 12(6) RPBA, that it should not, because it was not submitted before the Opposition Division, as it should have been.

62. The proprietor argues, by reference to Article 12(4) RPBA that it should, as the added definition of a configuration setting comprising firmware was already present in claim 1 of auxiliary request 4, on which the contested decision was based. The additional amendments introduced into claim 1 of this request, when compared to claim 1 of that request, addressed and solved the issue of added matter identified by Opposition Division's, which could only be fully understood, when reading the decision.

63. It is true that, in essence, the feature introduced into claim 1 of this request, namely the definition of a configuration setting as comprising firmware, was already present in a request dealt with in the contested decision.

64. The fact that the Opponents did not further object to claim 1 of this request under Article 123(2) EPC additionally suggests that the additional amendments introduced into claim 1 of this request not only addressed, but also solved, the issue of added matter identified by the Opposition Division with the request before them.

65. Both aspects speak in favour of admitting this request into proceedings.

66. The Board is not convinced that the current formulation of the amendments introduced into claim 1 limit the scope of this claim with regards to claim 1 of the main request. However, such an assessment requires an in

depth discussion and analysis, which is better suited in the context of a discussion on substance.

67. For all these reasons, the Board decided to admit the auxiliary request into proceedings (Article 12(4) RPBA).

*Auxiliary request - Claim 1 - Novelty vis-à-vis D3*

68. Claim 1 of the auxiliary request differs from claim 1 of the main request in that, instead of defining that *the at least one configuration setting identifies an active dimming interface for the programmable lighting driver among a plurality of dimming interfaces available for the programmable lighting driver,* it defines that *a first configuration setting* does this, and that *a second configuration setting includes a [sic] firmware for the controller.*

69. No amendments were, however, introduced into the definition the configuration of the controller, which, is still *a controller configured to control the operation of the power stage according to at least one operating parameter and at least one configuration setting*

70. This means that claim 1 of the auxiliary request, encompasses lighting drivers comprising controllers configured according to only the first configuration setting, according to only the second, or according to both. Claim 1 of the main request was limited to the first of these alternatives.

71. Consequently, the amendments, instead of limiting the scope, broaden it.

72. Thus, the reasoning presented above, as to the lack of novelty of claim 1 of the main request in view of D3, also applies, to claim 1 of this request.

73. Even if the amendments introduced had limited the configuration of the controller, so that it would need be configured to control the light according to both the first and the second configuration settings defined, as seems to have been the intention of the proprietor, the claim would still lack novelty.

74. This is because, as acknowledged by the proprietor, any controller configured to control the power to a light source necessarily comprises firmware.

75. The proprietor's arguments on novelty, as concerns the definition of a configuration setting comprising firmware, were rather based on the understanding that the claim required that firmware be received by the communication device.

76. However, as already explained with regards to the main request, such an understanding is not reflected in the wording of the claim, which encompasses drivers that are not configured to receive any configuration setting.

77. Therefore claim 1 of the auxiliary request is also not new in view of D3. Consequently, also this request it not allowable.

*Conclusion*

78. In view of the above, neither the main request, nor the auxiliary request are allowable.

79. There is, hence, no reason for setting aside the contested decision.

## Order

## For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chair:

S. Sánchez Chiquero P. Scriven

Decision electronically authenticated