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**Datasheet for the decision
of 15 September 2025**

Case Number: T 1645/22 - 3.4.03

Application Number: 11767396.2

Publication Number: 2617045

IPC: H01F38/18

Language of the proceedings: EN

Title of invention:
ROTATIVE POWER TRANSFORMER

Patent Proprietor:
Schleifring GmbH

Opponent:
Siemens Healthcare GmbH

Relevant legal provisions:
EPC Art. 52(1), 54, 100(a), 101(2), 101(3)(b)
RPBA 2020 Art. 13(2)

Keyword:
Novelty - (no) - main request (no) - auxiliary request 1 (no)
Amendment after summons - exceptional circumstances (no) -
taken into account (no)

Decisions cited:

G 0001/24, T 1232/23, T 1465/23, T 1846/23



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Case Number: T 1645/22 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 15 September 2025

Appellant: Siemens Healthcare GmbH
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Respondent: Schleifring GmbH
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 6 May 2022
rejecting the opposition filed against European
patent No. 2617045 pursuant to Article 101(2)
EPC.**

Composition of the Board:

Chairman T. Häusser
Members: J. Thomas
G. Decker

Summary of Facts and Submissions

- I. This decision concerns an appeal by the appellant - opponent (hereinafter, "the opponent") against the decision of the opposition division rejecting the opposition against the European patent EP 2 617 045 B1. In the opposition division's view the invoked grounds for opposition did not prejudice the maintenance of the patent as granted.
- II. The opposition was filed against the patent as a whole on the grounds that the subject-matter of the claims is not new and does not involve an inventive step (Articles 100(a), 52(1), 54, and 56 EPC), that the opposed patent does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art (Article 100(b) EPC), and that the subject-matter of the claims extended beyond the content of the application as filed (Article 100(c) EPC).
- III. At the end of the oral proceedings before the board the opponent requested that the decision under appeal be set aside and that the patent be revoked.
- IV. The respondent - patent proprietor (hereinafter "the patent proprietor") requested at the end of the oral proceedings before the board as a main request that the appeal be dismissed, i.e. that the opposition be rejected. Alternatively, it requested that the decision under appeal be set aside and that a patent be maintained on the basis of the claims according to auxiliary request 1 filed with the reply to the statement setting out the grounds of appeal or

according to one of auxiliary requests 2 to 5 filed with a letter of 15 May 2025.

V. The following documents are referred to in this decision:

D1: WO 2010/102987 A1
D4: US 2010/0148505 A1
D5: US 2009/0116618 A1
D8: US 7,197,113 B1

VI. Independent claim 5 of the patent as granted has the following wording (feature numbering in square brackets has been added by the board; the wording in curly brackets has been added to improve readability):

" [M5.1] Rotating power transformer having a stationary and a rotating part, at least one of the parts comprising:

- [M5.2a] a body (101) of metal or [M5.2b] a {body of} plastic material,*
- [M5.3] the body having the shape of a disk and [M5.4] having a circular groove (102),*
- [M5.5a] rectangular cross sectioned E-
{soft magnetic cores (160a-160n) within the groove} or [M5.5b] {rectangular cross sectioned} U soft magnetic cores (160a-160n) within the groove,*
- [M5.6] wedge shaped spacers (111) between the soft magnetic cores,*
- [M5.7] at least one winding (141, 142, 143, 144) in the soft magnetic cores configured to generate a magnetic field for inductive coupling the stationary and the rotating part,*
- [M5.8] a termination module (112) for terminating the at least one winding."*

VII. The opponent's arguments, insofar as they are relevant to the present decision, are summarised as follows:

The subject-matter of claim 5 of the patent as granted and of auxiliary request 1 was anticipated by document D4. Auxiliary requests 2 to 5 should not be taken into account in the proceedings under Article 13(2) RPBA, since no exceptional circumstances justified by cogent reasons were put forward by the patent proprietor.

VIII. The patent proprietor's arguments, insofar as they are relevant to the present decision, are summarised as follows:

The subject-matter of claim 5 of the patent as granted and of auxiliary request 1 was new and inventive in view of document D4. Auxiliary requests 2 to 5 should be taken into account in the proceedings since the amendments were straightforward and not complex and an immediate response to the board's opinion. Auxiliary requests 2 to 5 were filed in response to the board's preliminary opinion which differed from the opposition division's conclusions.

Reasons for the Decision

1. Novelty of claim 5 of the patent as granted in view of document D4
 - 1.1 There is agreement between the parties that features M5.1 to M5.5 and M5.7 are disclosed in document D4.
 - 1.2 The dispute concerns features M5.6 and M5.8 which the opponent considers to be disclosed in document D4 contrary to the patent proprietor's view.

- 1.3 Feature M5.6 defines "*wedge shaped spacers (111) between the soft magnetic cores*".
 - 1.3.1 Document D4 discloses rectangular or block-shaped ferrite ingots, i.e. soft magnetic cores, which are arranged along annular channels of the stator thereby forming interstices in a wedge shaped form between the neighbouring ingots (D4: Figure 2b, Reference signs 29). The interstices are filled with epoxy resin in order to rigidly attach the ingots (D4; paragraphs [0042] and [0044]). Thereby, each filled interstice represents a spacer between two ingots. Hence, document D4 discloses a plurality of spacers in a wedge shaped form between the soft magnetic cores according to feature M5.6.
 - 1.3.2 Contrary to the patent proprietor's view, the wording of claim 5 does not require the spacers to be separate entities. Nothing in this regard is defined in the wording of claim 5. It cannot be concluded, either, that this is necessarily implied by the fact that the word "*spacers*" is used in its plural form. A plurality of spacers can be formed e.g. on a common basis. Also the fact that the detailed description of the patent presents the spacers in a specific embodiment as individual separate entities (Figures 9 and 10; paragraphs [0024] and [0025]) is not sufficient to conclude from this specific embodiment the general limitation that the wedge shaped spacers must be individual separate entities. If this was intended, it should and could have been more precisely defined in the wording of claim 5. The board also fails to see any technical reasons why the spacers must be separate individual entities. They fulfil their technical function in the same way when they are connected to

each other as in document D4 as when they form separate units.

- 1.3.3 The patent proprietor's reasoning concerning the different manufacturing method of the "*wedge shaped spacers*" in the impugned patent, as compared to document D4, is also unconvincing. In document D4 the "*wedge shaped spacers*" are manufactured by the epoxy resin poured in the channel so that the plurality of spacers are realised within one single structural unit (but having a plurality of integrated spacers), in contrast to the embodiment of the impugned patent wherein individual "*wedge shaped spacers*" are manually placed in between neighbouring cores, as argued by the patent proprietor (see also impugned patent, paragraph [0026]). However, this difference in the manufacturing method is not reflected in any feature of claim 5. The wording of claim 5 with regard to the "*wedge shaped spacers*" is so general that both realisations are covered by it.
- 1.3.4 Contrary to the patent proprietor's view it cannot be concluded from G 1/24 that the interpretation of the claims in the light of the description limits the spacers to separate, individual spacers as disclosed in specific embodiments of the patent.

G 1/24 answers the question of whether and when the description should be used to interpret a claim. The Enlarged Board of Appeal concluded that the description should always be consulted, and not only in cases of lack of clarity or ambiguity in the wording of the claims. However, G 1/24 certainly does not teach that interpreting the claims in light of the description should result in a broadly claimed feature being limited to the specific, narrower features disclosed in

a particular embodiment. This cannot have been the intention of G 1/24, as it would open the door to implicitly including very specific limitations of an embodiment in a rather general wording of a claim.

As already concluded in other decisions (e.g. T 1232/23, T 1465/23, T 1846/23), it is not permissible to use specific features of a particular embodiment as an implicit limitation of a much more general wording of the claim on the grounds that this would result solely from the interpretation of the claim in the light of the description. Hence, the variant known from document D4 with several interconnected wedge shaped spacers obtained from pouring epoxy resin in a channel is to be regarded as falling within the wording of claim 5.

1.3.5 Consequently, feature M5.6 is disclosed in document D4.

1.4 Feature M5.8

1.4.1 Feature M5.8 defines "*a termination module (112) for terminating the at least one winding*".

1.4.2 Document D4 discloses in paragraph [0043] that "*[t]he arrangement of the windings is similar to that detailed in U.S. Pat. No. 7,197,113 ... the entirety of which is incorporated herein by reference*". The cited reference "*U.S. Pat. No. 7,197,113*" is document D8. This document teaches in column 2, lines 44 to 49 and column 6, lines 33 to 44 as well as in Figures 4 and 6 that the output leads of the windings are connected to a "*signal conditioning module*". The "*signal conditioning module[s]*", a plurality of which are shown in Figures 4 and 6, are disposed on the rotating member.

1.4.3 The patent proprietor argued that the reference in paragraph [0043] of document D4 only refers to the "*arrangement of the windings*", thereby being explicitly limited to the arrangement of the windings meaning how the windings are fixed and guided around the magnetic cores. Details about the signal conditioning module are in its view not included in document D4 by the reference to document D8. Moreover, units connected externally to the power transformer, such as the "*signal conditioning modules*", were not covered by the wording of claim 5.

1.4.4 Contrary to the patent proprietor's view, the arrangement of the windings referred to by reference in document D4 includes the way how and where the ends of the windings are guided, as they have to end somewhere. The board does not consider that the particular "*signal conditioning modules*" need to be identified with the "*termination modules*". However, the reference in document D4, by reference to document D8, includes a "*termination module*" in general, i.e. a module which receives the output leads of the windings. Hence, document D4 teaches in paragraph [0043] by reference to document D8 that the windings are at their ends connected to a further module, i.e. a "*termination module*" in its most general sense as defined in claim 5.

Furthermore, the board cannot identify a convincing reason why an arbitrary module that receives the output leads of the windings should not be considered part of the power transformer in claim 5 as argued by the patent proprietor. Claim 5 does not define anything in this regard, and the skilled reader would not understand it as such either.

- 1.4.5 Hence, feature M5.8 is disclosed in document D4, paragraph [0043] by reference to document D8.
- 1.5 As all the features defined in claim 5 are disclosed in document D4, the subject-matter of claim 5 is not new (Articles 52(1) and 54(1) and (2) EPC) and the ground for opposition according to Article 100(a) EPC prejudices the maintenance of the patent as granted (Article 101(2) EPC).
2. Auxiliary request 1
 - 2.1 Amendments in this request concern only independent claim 1, but not claim 5, which is identical to claim 5 of the main request.
 - 2.2 Therefore, the objections raised against claim 5 under point 1. with sub points above still apply.
 - 2.3 As a consequence, the subject-matter of claim 5 of auxiliary request 1 is not new in view of document D4 (Articles 52(1) and 54(1) and (2) EPC) and the patent cannot be maintained in this amended form (Article 101(3)(b) EPC).
3. Admission of auxiliary requests 2 to 5
 - 3.1 Auxiliary requests 2 to 5 were filed for the first time with the letter dated 15 May 2025, i.e. after the communication under Article 15(1) RPBA dated 24 January 2025.
 - 3.2 Therefore, Article 13(2) RPBA applies according to which any amendment to the *"party's appeal case ... shall, in principle, not be taken into account unless*

there are exceptional circumstances, which have been justified with cogent reasons by the party concerned".

3.3 The parties do not dispute that auxiliary requests 2 to 5 represent an amendment to the patent proprietor's appeal case, the admission of which falls under Article 13(2) RPBA.

3.4 The amendments are as follows:

Auxiliary request 2: The independent claims 1 and 5 are based on the independent claims of the main request whereby claim 1 is unchanged and new claim 5 consists of a combination of granted claims 5 and 6.

Auxiliary request 3: Independent claims 1 and 5 are based on claims 1 and 5 of auxiliary request 2. Claim 1 is limited to the alternatives for which priority was undisputedly valid.

Auxiliary request 4: Independent claim 1 is unchanged compared to claim 1 of the main request and previous claim 5 and its dependent claims are deleted.

Auxiliary request 5: This request is based on auxiliary request 4, with claim 1 amended as in auxiliary request 3 (limited to the alternatives for which the priority is valid).

3.5 The patent proprietor argued that the amendments concern straightforward and non-complex modifications compared to the main request, addressing objections that had previously been raised. The patent proprietor had not filed these auxiliary requests earlier because it considered it not expedient for the efficiency of the proceedings to front-load a high number of auxiliary requests. Furthermore, it trusted in the

correctness of the opposition division's decision. It was therefore only in response to the board's communication under Article 15(1) RPBA that the need to file new requests emerged.

3.6 The patent proprietor's reasoning cannot convince the board to represent exceptional circumstances which could justify the admission of auxiliary requests 2 to 5 into the proceedings for the following reasons.

3.6.1 At any stage during the appeal proceedings, the parties must expect that the board may not agree with the reasoning in the decision under appeal, but instead reach a different conclusion. Therefore, the principle of legitimate expectations does not apply here. If fallback positions have not been created during the opposition proceedings, it is also common practice for the patent proprietor to create fallback positions at the beginning of the appeal proceedings. Furthermore, the amendments set out in auxiliary requests 2 to 5 address objections that were already discussed during the first-instance proceedings and decided in favour of the patent proprietor. Therefore, to address these issues discussed and establish fallback positions, auxiliary requests 2 to 5 could and should have been filed with the reply to the statement setting out the grounds of appeal at the latest. Consequently, the filing of auxiliary requests 2 to 5 cannot be justified by an allegedly unexpected statement from the board in the communication under Article 15(1) RPBA. No exceptional circumstances are apparent.

3.6.2 Furthermore, the amendments do not obviously result in *prima facie* allowable requests.

Claim 1 of the main request and auxiliary request 1, as well as the combination of granted claims 5 and 6 (which became claim 5 in auxiliary requests 2 and 3) were objected to by the opponent (statement setting out the grounds of appeal, point 3 with sub points and point 6). Although the amendments may appear straightforward and not overly complex, they define subject-matter that is *prima facie* not allowable without further discussion. In order to decide on the patentability of claim 1 of auxiliary requests 3 and 5 in particular, both the opponent and the board would have had to consider the relevant facts for the first time during the oral proceedings before the board. However, had the patent proprietor submitted auxiliary requests 2 to 5 already with its reply to the statement setting out the grounds of appeal, the opponent and the board would have been able to deal with the facts earlier so that it would have been avoided that a first discussion on this matter takes place only at the oral proceedings before the board.

- 3.6.3 The board agrees with the patent proprietor that the subject-matter of claim 1 of auxiliary request 5, the only independent claim of that request, was considered new over document D5 in the communication under Article 15(1) RPBA, point 16.4.5. In the same communication (*supra*, point 16.5), the board noted that the opponent had not put forward any arguments regarding inventive step. However, this does not mean that claim 1 of auxiliary request 5 should be considered inventive, thereby fulfilling the requirements of the EPC. Although claim 1 of auxiliary request 5 overcomes all the previous objections, this does not mean that no new objections would be raised or that no further discussion would be necessary to decide on its allowability.

In the statement setting out the grounds of appeal in which the opponent brought forward its objections against the alternatives defined now in claim 1 of auxiliary request 5 (statement setting out the grounds of appeal, points 3.9 and 3.10), the opponent was not obliged to present all its attacks with regard to amended claim 1 of auxiliary request 5. The opponent might have been convinced at that time that its reasoning with respect to claim 5 (claim 5 of the main request and auxiliary request 1) was already sufficient and convincing, rendering any detailed objections against claim 1, especially regarding lack of inventive step, superfluous.

Had the board admitted auxiliary request 5 to the proceedings, it would at least have had to allow a discussion of the question of inventive step with regard to claim 1 of auxiliary request 5. In this new discussion, the board would also have had to admit new arguments from the opponent concerning lack of inventive step of claim 1. The admission of at least auxiliary request 5 would therefore require new discussions and is therefore not appropriate for reasons of procedural economy.

3.7 Since no new discussions should be initiated at the oral proceedings before the board without exceptional circumstances, the board does not take auxiliary requests 2 to 5 into account in the proceedings (Article 13(2) RPBA).

4. Conclusion

In view of document D4, the subject matter of claim 5 of the main request and auxiliary request 1 is not new,

which prejudices the maintenance of the patent either as granted or in amended form according to auxiliary request 1 (Article 101(2) and (3)(b) EPC in conjunction with Article 100(a) EPC). Moreover, since auxiliary requests 2 to 5 are not taken into account in the proceedings (Article 13(2) RPBA), the appeal succeeds and the patent must be revoked.

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:



S. Sánchez Chiquero

T. Häusser

Decision electronically authenticated