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**Datasheet for the decision  
of 12 January 2026**

**Case Number:** T 2128/22 - 3.4.01

**Application Number:** 12732193.3

**Publication Number:** 2636286

**IPC:** H05B37/02, H04B7/24

**Language of the proceedings:** EN

**Title of invention:**

POWER FAILURE REPORTING IN A NETWORKED LIGHT

**Patent Proprietor:**

Signify Holding B.V.

**Opponent:**

Schöpf, Patrick

**Headword:**

Power Failure Reporting in a Networked Light / Signify Holding

**Relevant legal provisions:**

EPC R. 81(1) sentence 1, 103(1) (a), 111(2), 124(1)

EPC Art. 101(3), 113(1)

RPBA 2020 Art. 11, 12(8)

**Keyword:**

Appealed decision - sufficiently reasoned (no) - substantial procedural violation (yes)

Reimbursement of appeal fee - substantial procedural violation (yes)

Remittal - fundamental deficiency in first-instance proceedings (yes)

**Decisions cited:**

G 0001/88, T 0094/84, T 0798/93, T 0142/95, T 0274/95,  
T 1536/08, T 0388/12



**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

Case Number: T 2128/22 - 3.4.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.4.01**  
**of 12 January 2026**

**Appellant:** Schöpf, Patrick  
(Opponent) Daiserstr. 27  
81371 München (DE)

**Representative:** Samson & Partner Patentanwälte mbB  
Widenmayerstraße 6  
80538 München (DE)

**Respondent:** Signify Holding B.V.  
(Patent Proprietor) High Tech Campus 48  
5656 AE Eindhoven (NL)

**Representative:** Verweij, Petronella Daniëlle  
Signify Netherlands B.V.  
Intellectual Property  
High Tech Campus 7  
5656 AE Eindhoven (NL)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
21 June 2022 concerning maintenance of the  
European Patent No. 2636286 in amended form.**

**Composition of the Board:**

**Chairman** P. Scriven  
**Members:** T. Zinke  
L. Bühler

## **Summary of Facts and Submissions**

- I. With an interlocutory decision, the Opposition Division held that the patent could be maintained in amended form according to an auxiliary request 2, filed during oral proceedings before them (there, referred to as "auxiliary request 1a").
  
- II. The opponent appealed and requested that the decision be set aside and the patent revoked; alternatively, that the case be remitted to the Opposition Division. They also requested, if the requests that the patent be revoked could not be followed, that oral proceedings be arranged (statement of grounds, page 1, item 5) under "Requests").
  
- III. The opponent requested remittal of the case, because the decision ought to have dealt with lack of novelty in respect of D2, which was raised as a ground of opposition (statement of grounds, section 38), but did not.
  
- IV. In their reply, the proprietor requested that the appeal be dismissed, so that the patent would be maintained in amended form, in accordance with the interlocutory decision of the Opposition Division. In the alternative, they requested that the patent be maintained according to an "auxiliary request 2", as submitted before the Opposition Division, on February 4, 2022, and refiled with the reply. They also requested oral proceedings, if the Board was not minded

to dismiss the appeal (reply, section 1). The proprietor did not comment on the issue of remittal.

V. In a further submission, the opponent confirmed their request for remittal and provided further arguments in response to the proprietor's reply.

VI. Independent claims 1 and 5 of the patent in amended form, as found allowable by the Opposition Division, read:

*1. A method for reporting a state of a networked lighting apparatus (100), wherein the networked lighting apparatus comprises at least one light emitting element (101), a networked controller (110), power detection circuitry (140) and an energy storage device (130), the method comprising:*

*storing energy, which is provided by an external power source (90), in the energy storage device (130) of the networked lighting apparatus (100);*

*detecting a discontinuation of energy supply from the external power source (90) (100) [sic] with the power detection circuitry (140);*

*and powering at least a portion of the networked lighting apparatus for a period of time long enough to send a network message by using the energy stored in the energy storage device (130);*

*characterized in that the method comprises further: sending a network message from the networked controller*

(110) in response to the detection that the supply of power from the external power source (90) has been discontinued to the networked lighting apparatus (100), the network message comprising data indicating that the networked lighting apparatus (100) is entering an off state, wherein the network message is sent more than once.

5. A networked lighting apparatus (100) comprising:

at least one light emitting element (101);  
a networked controller (110) configured to communicate over a network and to control an on/off state of the at least one light emitting element (101);  
power detection circuitry (140) configured to detect a discontinuation of energy supplied from an external power source (90) and to communicate the discontinuation to the networked controller (110); and  
an energy storage device (130) configured to store energy from the external power source (90) and to provide power to the networked controller (110);  
characterized in that the networked controller (110) is further configured to send a network message, over the network, indicating that the networked lighting apparatus (100) is entering an off state, in response to a detected discontinuation of the energy supplied from the external power source (90),

*wherein the network message is sent more than once.*

VII. In a communication sent with a summons to attend oral proceedings, the Board expressed the preliminary opinion (Articles 15(1) and 17(2) RPBA) that the reasons in the decision of the Opposition Division were deficient (Rule 111(2) EPC), and that that was a fundamental deficiency so that the case should be remitted to the Opposition Division (Article 11 RPBA) and the appeal fee reimbursed in full (Rule 103(1) (a) EPC).

VIII. The relevant sections of the preliminary opinion read:

...

Outline of opponent's allegation that the decision is incomplete

*3. In the Board's view, the opponent's allegation that the decision is incomplete amounts to a claim that the Opposition Division committed as procedural violation.*

*4. The opponent requests remittal to the Opposition Division, since in the decision under appeal the Opposition Division did not deal with the objection of lack of novelty.*

*5. The opponent stated (statement of grounds, under the sub-title: "Lack of novelty of the Main Request (patent as granted) over D2", section 38):*

First, it is noted that lack of novelty of claims 1 and 6 of the Main Request is not discussed in the reasons for the Decision, although this ground was raised by the Opponent. More in particular, the Opponent submitted that claims 1 and 6 lack novelty over either D1, D2 or D3. Thus, the reasons for the Decision should have discussed those objections, especially since the interpretation of D2 may also become relevant for the discussion of the maintained Auxiliary Request. Note also that the Maintained Auxiliary Request is based on a combination of claims 1 and 3 as granted, and that the grounds for opposition contained both lack of novelty arguments based on D1 and D2 for claim 3, as well as lack of inventive step arguments based on D3 or D4 or D6 in combination with D5 or D15. For this reason, the Decision should have discussed novelty, and it is requested to remit the case to first instance.

*6. They also state (statement of grounds, section 45):*

... Although the Main Request was considered by the Division to be unallowable for other reasons, the correct interpretation of D2 is also relevant for the discussion of inventive step of the claims as maintained justifying the discussion above.

Summary of the proceedings before the  
Opposition Division

7. *With the notice of opposition, the opponent invoked grounds for opposition under Articles 100(a), (b), and (c) EPC (see EPO Form 2300 E under section VI (b)) and substantiated each of them in detail. The grounds for opposition under Article 100(a) EPC to independent claims 1 and 6 were based on lack of novelty (Articles 52(1), 54 EPC) with regard to documents D1, D2, and D3 (notice of opposition, page 6 line 35 to page 10, line 26); and lack of inventive step (Articles 52(1), 56 EPC) with regard to document D4 combined with common general knowledge, illustrated by D5 or D15, or with regard to document D6 combined with common general knowledge, illustrated by D3, D5 or D15 (notice of opposition, page 10, line 28 to page 13, line 38). Lack of novelty and lack of inventive step objections were raised to the dependent claims 3 to 5 and 7 to 15, as well (notice of opposition, page 13, line 40 to page 19, line 16).*

8. *In reply to the notice of opposition, the proprietor argued against these objections.*

9. *In a communication sent with a summons to oral proceedings, the Opposition Division discussed these objections and was of the preliminary and non-binding opinion that claims 1 and 6 did lack novelty over D2. They discussed the other grounds for opposition in detail, but did not see any*

that prejudiced maintenance of the patent (summons, point 16.1).

10. In reply to the summons, the opponent provided counter-arguments to the Opposition Division's preliminary opinion.

11. With its reply to the summons, the proprietor filed amended claims for auxiliary requests 1 and 2. In auxiliary request 1, the additional features of claim 3 had been added to claims 1 and 6 of the patent. They also argued against the objection of lack of novelty as compared to D2.

12. During oral proceedings before the Opposition Division, with regard to the main request (patent as granted), the grounds under Article 100(b) and (c) EPC were discussed (minutes, sections 3 and 4). Novelty in view of D2 (minutes, section 5) and in view of D1 and D3 (minutes, section 6) was discussed, as well as inventive step in view of D2 together with D6 (minutes, section 7), in view of D6 together with D2 (minutes, section 8), and in view of D6 together with D3 (minutes, section 9).

13. According to the minutes, the Opposition Division found the grounds for opposition under Article 100(b) and (c) EPC not to prejudice the maintenance of the patent (minutes, points 3.4 and 4.4, despite the formulations "the requirements of Article 100(c) EPC are met" and "the requirements of Article 100(b) EPC are met" it is clear from

*the further statements in these points that they did not agree with these grounds of opposition).*

*14. According to the minutes, the Opposition Division also did not see a lack of novelty over any of D1, D2, and D3 (minutes, points 5.8 and 6.8). Nor did they see a lack of inventive step in view of D2 together with D6 or, vice-versa, in view of D6 together with D2 (minutes, points 7.12 and 8.17). They found, however, that claims 1 and 6 lacked inventive step in view of D6 together with D3 (minutes, point 9.5).*

*15. Then, inventive step of auxiliary request 1 was discussed (minutes, section 10). The statements of the opponent in that regard are reflected in points 10.2, 10.4, and 10.7, which read:*

10.2 On request of the chairman, OPPO stated that claims 1 and 6 are not inventive in view of D6 as the closest prior art together with D3. OPPO stated that there was no technical effect of sending messages more than once.

...

10.4 Both parties provided further arguments concerning the problem to be solved.

...

10.7 On request of the chairman, OPPO confirmed that they had no further objections.

*16. The Opposition Division found an inventive step of claims 1 and 6 of the auxiliary request 1 (minutes, section 10.6).*

*17. When discussing an adaptation of the description to be in line with auxiliary request 1, the opponent, however, raised another objection under Article 123(2) EPC to claim 12. The Opposition Division agreed (minutes, sections 11 and 12).*

*8. The proprietor filed an auxiliary request 1a, in which claims 12 to 14 had been cancelled, to overcome the objection under Article 123(2) EPC. The minutes further state (section 13.2):*

OPPO confirmed that they had no further objections concerning auxiliary request 1a.

*19. In the minutes under section 14 "Confirmation of Requests" it is stated (section 14.2):*

OPPO requested the revocation of the patent in its entirety under Articles 100(a), 100(b) and 100(c) EPC.

*20. Then the chair announced the decision of the Opposition Division, that in view of the amendments made during oral proceedings, the*

*auxiliary request 1a met the requirements of the EPC, so that the patent could be maintained in amended form according to this request.*

*21. With regard to the main request, in the decision, the Opposition Division provided reasons with regard to Article 100(c) and 100(b) EPC (sections 12 and 13). With regard to Article 100(a) EPC, the reasons only address the issue of inventive step in view of D6 in combination with D3 (points 14 to 14.6). No reasons with regard to novelty or with regard to inventive step in regard to other document combinations were given. With regard to auxiliary request 1, reasons were given with regard to the requirements of Article 123(2) EPC (section 15 ). With regard to auxiliary request 1a (referred to in the decision as "auxiliary request 2"), reasons were given regarding inventive step in view of D6 with D3 (section 16).*

*Preliminary opinion of the Board*

*22. The obligation to provide reasons for a decision, in accordance with Rule 111(2) EPC, is closely linked to the principle of the right to be heard (Article 113(1) EPC). A failure to provide reasons is a substantial procedural violation, justifying the reimbursement of the fee for appeal (cf. Case Law of the Boards of Appeal (CLBA), 11th edition, section V.A.11.6.9, in particular T 142/95). Substantial procedural*

*violations are fundamental deficiencies which, as a rule, are special reasons for remitting the case to the Opposition Division.*

*23. When only giving a reasoning, in the decision under appeal, with regard to the question of inventive step in view of document D6 in combination with document D3 (decision, points 16 to 16.5) for the auxiliary request 2 (referred to as auxiliary request 1a during oral proceedings), the Opposition Division committed a substantial procedural violation, because they did not provide reasons with regard to other objections raised or decided upon during the opposition proceedings.*

*24. In notice of opposition, the opponent raised grounds for opposition under Articles 100(a), (b), and (c) EPC. In particular, they raised objections of lack of novelty in view of D1 and D2 to a combination of claims 1 and 3 of the patent. Claim 3 is claim 1 of auxiliary request 1a, which is the basis for maintaining the patent in amended form. The opponent also raised objections of lack of inventive step in view of any one of documents D3 or D4 or D6, optionally in combination with D5 or D15 (notice of opposition, page 14, lines 24 to 41).*

*25. According to the minutes of the oral proceedings (points 5 to 6.5), the Opposition Division concluded that claims 1*

and 6 of the patent were novel in view of documents D1, D2, and D3. Also according to the minutes (sections 7 to 8), they concluded that claims 1 and 6 were inventive in view of document D2 together with D6 and in view of document D6 together with D2.

26. The decision, however, only provides reasoning as to why the subject-matter of claim 1 of auxiliary request 1 (which is identical to the subject-matter of claim 1 of auxiliary request 1a during oral proceedings and auxiliary request 2 in the decision) is inventive in view of D6 together with D3 (decision, section 10). No reasoning with regard to the other objections is given.

27. During oral proceedings, the Opposition Division already decided ("concluded") upon novelty in view of D1, D2, and D3 and upon inventive step in view of D2 combined with D6 and in view of D6 combined with D2. It would have been appropriate to include reasoning for these conclusions in the discussion of the main request, which, however, was not done. Since claims 1 of auxiliary requests 1 and 1a are more restricted, it would have been possible to refer back to this reasoning, when dealing with these auxiliary requests in the decision, in order to provide sufficient reasoning in that regard. Another possibility would have been to include this reasoning, when dealing with auxiliary requests 1 and 1a. The lack of any reasoning

*for these conclusions amounts to a substantial procedural violation.*

*28. Besides these objections, which were discussed and decided upon during oral proceedings (with regard to the main request), there were further grounds of opposition that were not even considered at all, i.e. that claim 3 of the patent was not inventive in view of D3, D4, or D6 combined with D5 or D15. Not considering these objections also amounts to a substantial procedural violation (Rule 81(1), first sentence, EPC and Article 101(3) EPC).*

*29. Conceivably, the Opposition Division interpreted the discussion during oral proceedings about a possible lack of inventive step in respect of auxiliary request 1 such that the opponent had withdrawn their other grounds of opposition.*

*30. According to the documents on file, the opponent never withdrew any of their grounds for opposition, during opposition proceedings.*

*31. It is established jurisprudence of the Boards of Appeal that, in the case of a decision to reject an opposition both the grounds for opposition and the facts and evidence put forward in support of these grounds must be fully taken into account by the Opposition Division (see T 94/84, point 10.3, cited with approval in T 1536/08,*

section 2.1, and CLBA, 11th edition, section III.B.2.5.5).

32. In T 274/95 (headnote 1., section 1. (a)), it was held that if a properly substantiated ground of opposition was not maintained by the opponent (there: by a statement to that effect was made by the opponent during oral proceedings), the Opposition Division was under no obligation to consider it further. In that case, it was undisputed that the opponent had withdrawn the ground of opposition under Article 100(c) EPC, during the oral proceedings (T 274/95, section 1.(a)).

33. In the Board's view, any withdrawal of a ground of opposition has to be made unambiguously, either by an explicit withdrawal, or by a party's behaviour or procedural step during the proceedings that made its intention unequivocal, as has been decided with regard to withdrawals of requests (G 1/88, section 2.4; T 388/12, section 4.2; cf. CLBA, 11th edition, section III.I.5.1) or withdrawal of an opposition (T 798/93, section 2, CLBA, 11th edition, III.Q.4.1).

34. There is no suggestion of any explicit withdrawal of any of the grounds for opposition.

35. There is also no suggestion of behaviour by the opponent that could unequivocally

lead to the conclusion that any of the grounds for opposition were withdrawn.

36. The opponent does not dispute that they did not discuss any other ground of opposition with regard to the auxiliary requests 1 or 1a during oral proceedings. But - as mentioned above - the Opposition had already concluded that claim 1 as granted was novel in view of D1, D2, and D3, and was inventive in view of D2 combined with D6 and of D6 combined with D2. That a party does not further address an issue that has already been concluded, for each subsequent request, can not be considered as unequivocal behaviour meaning that these grounds for opposition are withdrawn. To the contrary, it seems to be the only reasonable approach. The chair should not allow anything else.

37. If the Opposition Division was not certain, whether any of the grounds of opposition had been withdrawn, they should have asked for clarification and minuted the statement (Rule 124(1) EPC). In particular, when considering that withdrawing a ground for opposition would mean that the opponent could no longer invoke such a ground on appeal, the Opposition Division should not have simply assumed such a far-reaching procedural step. If they thought (with no doubt) that the opponent had withdrawn an objection, the Opposition Division should have minuted it.

38. *Since the reasons in the decision of the Opposition Division are deficient (Rule 111(2) EPC), and this is a fundamental deficiency, the case will be remitted to the Opposition Division (Article 11 RPBA) (cf. CLBA, 11th edition, section V.A.9.4.4 b)).*

Reimbursement of the appeal fee

39. *Since a substantial procedural violation occurred before the Opposition Division, and this is the main reason for the appeal, reimbursement of the appeal fee, in full, is envisaged (Rule 103(1) (a) EPC).*

Conclusion

40. *The decision of the Opposition Division should be set aside.*

41. *The case should be remitted to the Opposition Division for further prosecution.*

42. *The appeal fee should be reimbursed in full (Rule 103(1) (a) EPC).*

Further steps

43. *If both parties, in the light of the aforementioned preliminary conclusion, and the Board's intention to remit the case to the Opposition Division for further prosecution, withdraw their respective*

*auxiliary requests for oral proceedings, a decision concerning the remittal of the case to the Opposition Division for further prosecution and the reimbursement of the appeal fee could be issued in writing, within a short period of time.*

*44. Should the parties wish to withdraw their request for oral proceedings, they are asked to inform the Board accordingly, as soon as possible, to allow the proceedings to be continued without undue delay.*

- IX. After notification of this communication, both parties, i.e. the proprietor and the opponent, withdrew their respective request for oral proceedings.
- X. No substantive submission was made, by either of the parties, subsequent to the Board's communication.
- XI. The oral proceedings were cancelled.

### **Reasons for the Decision**

- 1. The communication, as reproduced above in its relevant parts, expressed and explained the Board's preliminary opinion.

2. Neither party contested or otherwise commented on the preliminary opinion. Both had the opportunity of doing so.
3. The proprietor and the opponent withdrew their requests for oral proceedings. Consequently, there is no need to hold oral proceedings and this decision is handed down after a wholly written procedure (Article 12(8) RPBA).
4. The Board does not see any reason to depart from its preliminary opinion.
5. The Board concludes that the reasons in the Opposition Division's decision are deficient (Rule 111(2) EPC), that this is a fundamental deficiency, that the case is to be remitted to the Opposition Division (Article 11 RPBA), and that the appeal fee is to be reimbursed in full (Rule 103(1)(a) EPC).

## Order

### For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the Opposition Division for further prosecution.
3. The appeal fee is reimbursed in full (Rule 103(1)(a) EPC).

The Registrar:

The Chairman:



D. Meyfarth

P. Scriven

Decision electronically authenticated