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**Datasheet for the decision
of 6 November 2025**

Case Number: T 1214/23 - 3.2.04

Application Number: 17000950.0

Publication Number: 3255274

IPC: F03D1/06, F03D80/30, H02G13/00

Language of the proceedings: EN

Title of invention:

LIGHTNING SYSTEM FOR WIND TURBINE BLADES WITH OPTIMIZED MEANS
FOR INJECTING LIGHTNING CURRENTS IN CONDUCTIVE COMPONENTS OF
THEIR SHELLS

Patent Proprietor:

SIEMENS GAMESA RENEWABLE ENERGY INNOVATION
& TECHNOLOGY, S.L.

Opponent:

LM WP Patent Holding A/S
LM Wind Power A/S

Headword:

Relevant legal provisions:

EPC Art. 100(b), 100(c), 111(1)
RPBA 2020 Art. 11, 12(3), 12(5)

Keyword:

Grounds for opposition - added subject-matter (yes) -
insufficiency of disclosure (no)

Decisions cited:

G 0010/91

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 1214/23 - 3.2.04

D E C I S I O N
of Technical Board of Appeal 3.2.04
of 6 November 2025

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Decision under appeal: **Decision of the Opposition Division of the European Patent Office posted on 16 May 2023 revoking European patent No. 3255274 pursuant to Article 101(3) (b) EPC.**

Composition of the Board:

Chairman A. Pieracci
Members: S. Oechsner de Coninck
M. Millet

Summary of Facts and Submissions

- I. The appellant (patent proprietor) lodged an appeal against the decision of the opposition division revoking European patent No. 3255274 pursuant to Article 101(3) (b) EPC.
- II. The Board issued a communication in preparation for oral proceedings and setting out its provisional view on the relevant issues.
- III. Oral proceedings were held in person on 6 November 2025
- IV. The appellant (patent proprietor) requested that the decision under appeal be set aside and the patent be maintained on the basis of a main request or alternatively on the basis of one of the auxiliary requests 1 to 23.
- V. The respondent (opponent) requested that the appeal be dismissed. The respondent also requested remittal to the opposition division in case the main request or auxiliary request 1 were found to meet the requirements of the EPC.
- VI. The wording of the independent claim 1 of the main request reads as follows (feature references added by the Board):
 - 1.1** *"Lightning protection system of a wind turbine blade (20), whose shells include at least one electrically conductive component (22; 42; 62) embedded into them, comprising*
 - 1.2** *injection means of lightning currents in said electrically component (22; 42; 62) upon receipt*

through an input cable connected directly or indirectly with one or more lightning receptors of the blade, said injection means of lightning currents comprise:

- 1.3** - *a current receptor element (27; 47; 67)*
- 1.3.1** *connected to said input cable and*
- 1.3.2** *arranged over an area of the shells close to the electrically conductive component (22; 42; 62); and characterized in that said injection means of lightning currents further comprise*
- 1.4** *a current injection element (28; 48; 68; 69, 69')*
- 1.4.1** *arranged over the electrically conductive component (22; 42; 62) and*
- 1.4.2** *connected to the current receptor element (27, 47, 67) by at least two distribution cables (31, 32; 51, 52, 53; 71, 72, 73, 74); and in that*
- 1.5** *the electrically conductive component is a "cap" (22) and*
- 1.6** *the injection means comprise a current receptor element (27) and a current injection element (28) that are connected by the at least two distribution cables (31 , 32) and*
- 1.7** *configured to achieve a distribution of currents in said distribution cables (31 , 32) that prevents areas with high current density in the current injection element (28); and*
- 1.8** *the value of the electric field is reduced in the local injection area with the consequent reduction of temperature increase."*

Claim 1 of auxiliary request 1 corresponds to claim 1 of the main request in which the terms "at least" in features 1.4.2 and 1.6 is deleted.

VII. The relevant arguments of the parties are addressed in the following reasons for the decision.

Reasons for the Decision

1. Main request - admission

The admission of the amended main request is contested by the respondent. This request contains the same claim 1 as granted as in the main request underlying the impugned decision but deletes dependent claims 6 to 11 to overcome objections of added subject-matter. As this request does not change the nature of the debates on added subject-matter and sufficiency of disclosure of granted claim 1, the Board decides to exercise its discretion under Article 12(4) RPBA to admit this request.

2. Main request - added subject-matter

2.1 Claim 1 of the main request corresponds to claim 1 as granted and has been amended during examination by adding the following features to claim 1 as originally filed:

- 1.5 "the electrically conductive component is a spar "cap" (2), and"
- 1.6 "the injection means comprise a current receptor element (27) and a current injection element (28) that are connected by the at least two distribution cables (31 , 32) and"
- 1.7 "configured to achieve a distribution of currents in said distribution cables (31 , 32) that prevents areas with high current density in the current injection element (28); and"
- 1.8 "the value of the electric field is reduced in the local injection area with the consequent reduction of temperature increase."

- 2.2 Features 1.5 to 1.7 are added from claim 5 as originally filed with the further addition of the term "at least" in feature 1.6. Feature 1.8 is a verbatim quotation of the sentence in lines 1 to 3, column 4 of the original application as published.
- 2.3 The opposition division finding that the addition of the expression "at least" in feature 1.6 adds subject-matter is contested by the patent proprietor both in substance and because it was brought forward by the opposition division on its own motion, item 4.1 on page 11 of the proprietor grounds of appeal.
- 2.4 However unfortunate that an amendment proposed by an examining division is thereafter found by another instance of the EPO as unallowable under Article 123(2) EPC, the proprietor nevertheless remains responsible for their drafting of the scope of protection during grant procedure pursuant Article 113(2) EPC. In the opposition procedure the opposition division may also perform an ex officio examination pursuant Article 114(1) EPC, however more restricted with respect to the grounds for opposition (see also Case Law of the Boards of Appeal (CLBA), 11th edition, 2025, IV.C.3.3).
- 2.5 On its merit the Board considers, as the opposition division, that claim 5 now incorporated in claim 1 concerned only the embodiment of the blade with a spar cap 22 but was amended to "at least" two instead of - only- two distribution cables for that embodiment. As accepted by the patent proprietor, the scope of claim 5 has thus been extended to electrically conductive spar caps that explicitly comprise current injection elements connected by more than two distribution cables.

- 2.5.1 The patent proprietor does not dispute that the first embodiment with a spar cap disclosed in paragraphs 015 to 018 only discloses two distribution cables 31,32 but considers instead that the amendment results in an allowable intermediate generalisation because the number of cables is not inextricably related to the type of electrically conductive component of the blade. The only structural difference between the embodiment with the cap of fig. 2a and the structural shell of fig.3a, so the patent proprietor, is the width, reason for providing a third distribution cable in this latter embodiment. Furthermore the skilled person would be aware that larger blades would have larger caps and may thus require more than two distribution cables.
- 2.5.2 This reasoning is however based on technical considerations of what would be obvious for the skilled person rather than providing direct and unambiguous disclosure basis for deriving that the application as filed comprises conductive spar caps with current injections connected with more than two cables. On the appellant's own submission the first embodiment with a spar cap 22 only discloses two distribution cables 31,32 with no disclosure basis for any additional cable.
- 2.5.3 Absent any such at least implicit disclosure as a basis for further cables, the question whether the number of cables may be inextricably related to the type of electrically conductive component in this embodiment is considered irrelevant because the amendment does not add and isolate the number of cables from further features within the same embodiment with a spar, paragraph 16 in relation with figures 2a-2c of the application as published, but rather extend the scope

of original claim 5 to further undisclosed embodiments with more than two cables. The criteria for assessing the allowability of an intermediate generalisation thus does not apply for this amendment.

- 2.5.4 It follows that the negative conclusion on added subject-matter for feature F1.6 has been correctly assessed in item 14.1.4 of the impugned decision.

- 2.6 The opponent furthermore considers feature 1.8 which is derived from the passage in paragraph 017 of the published application (page 5, lines 4-5 of the application as filed) to be based on an unallowable intermediate generalisation since features shown therein in combination have not been introduced in the claim. The passage in paragraph 017 is the only mentioning of the local injection area, so that the features mentioned therein should have been introduced in the claim, and is furthermore intended to compare the value of electric field with the prior art disclosed in D5 which however has not been introduced in the claim.
 - 2.6.1 The Board rather concurs with the opposition division that feature 1.8 rather than disclosing further technical effects only with respect to the specific prior art taken as reference contains further functional limitation obtained locally, i.e. in the local injection area, as a consequence of the configuration used to achieve a distribution of currents according to feature 1.7 and further supported generally by paragraph 027 of the application, last two bullet points. As correctly referred to by the patent proprietor paragraphs 020 and 024 further provide explicit statements that the same effects are achieved by the second and third embodiments, thereby clearly

disclosing that the feature 1.8 is of general application for all embodiments of the invention. Therefore the Board confirms the opposition division finding in item 14.3.2 that the addition of feature 1.8 in claim 1 does not constitute an unallowable intermediate generalization under Article 123(2) EPC.

2.7 The respondent has also argued that the drafting of claim 1 with indefinite articles would cover embodiments with two pairs of current receptor elements and current injection elements for which the application as filed contains no basis. The Board disagrees. Even if the opponent were correct in considering that the person skilled in the art would interpret claim 1 as also covering an embodiment with two pairs of receptor and injection elements then this is already encompassed by the scope of claims 1 and 5 as originally filed that contain the same indefinite articles. For these reasons the Board also confirms the decision finding expressed in item 14.4 that features 1.3, 1.4 and 1.6 do not add subject-matter.

2.8 The opponent also argued that feature 1.8 adds subject-matter in combination with feature 1.1, since the latter feature mentions that the electrical conductive component is embedded in the shells and this does not corresponds to the embodiment disclosed in paragraph 016 to which feature 1.8 relates. On the opponent's own submission embedded is understood "as integral with". With this understanding a spar cap tightly bonded to the shell in a lamination process is also understood as "embedded", i.e. also the spar cap of paragraph 016. In any case as explained here above, feature 1.8 is considered to be understood by the person skilled in the art to relate to the general teaching, i.e. to all embodiments, of the invention,

and since an embedded spar cap is also within the scope of claims 1 and 5 as originally filed no subject-matter has been added.

3. Auxiliary request 1

3.1 Admission

As correctly submitted by the patent proprietor auxiliary request 1 corresponds to auxiliary request 0 filed during opposition. This request is dealt with in items 15 to 18 of the impugned decision. This request is thus clearly a request on which the decision is based pursuant Article 12(2) RPBA and there is no legal basis for retroactively not admitting such a request on which the decision under appeal is based (CLBA, V.A. 3.4.3) as requested by the opponent.

4. Added subject-matter

4.1 Claim 1 according to this request deletes the expression "at least". Claim 1 thus comprises the features of in claim 1 and 5 as originally filed, thereby overcoming the sole valid objection under Article 123(2) EPC. Otherwise the same reason for allowing the amended features 1.3,1.4,1.6 and 1.8 as explained here above also apply for claim 1 of this request.

5. Sufficiency - auxiliary request 1

5.1 The opposition division decided that the skilled person was unable to put feature 1.7 into practice, that is to achieve a distribution of currents in said distribution cables that prevents areas with high current density. In item 18.1.1 and 18.1.3 of the appealed decision the opposition division explained that while due to the

addition of further current injection points the current density was effectively reduced as explained in the patent, to literally prevent such occurrence was not sufficiently disclosed.

5.2 While the opposition division considered that in the context of lightning protection occurrence of high current was almost impossible to achieve, the patent proprietor considers that the verb "prevent" should be interpreted in relation to the term "high current density", this being a relative term. In particular, the skilled person would recognise that the prevention of "high current density" relates to the current levels disclosed in relation to the prior art in paragraphs 005 and 015 of the patent. Once the current density is reduced by the invention, it does not become "high" as it would be without applying the invention and therefore "high current density" is thus prevented.

5.3 The opponent argues that the expression "prevents areas with high current density in the current injection element" is clear and unambiguous and referring to T1691/11, (see CLBA, II.C.8.1), argued that the clear linguistic structure of the claim does not allow for any different interpretation. This implies that the claimed invention cannot be carried out without undue burden since areas of high current densities cannot be prevented "in toto" as found by the opposition division.

5.4 The Board disagrees and rather considers that in the present case the skilled person would take the whole disclosure of the patent into account to arrive at an interpretation of the claim which is technically sensible (see CLBA, 11th edition 2025, II.A.6.1). In paragraph 015, the patent explains in respect to the

prior art shown in figure 1b, that in this known configuration with a single connection cable the grey circumference of thick line represents an area of high current density. Paragraph 017 explains the advantages provided by the invention in improving the current distribution in the injection zones represented by the thickness of the grey circumferences. It is indicated that the peak current may thus be halved, so that the value of the electric field is reduced in the local injection area with corresponding reduction of temperature increase as also recognised by the opposition division.

- 5.5 In the Board's view carrying out the claimed invention disclosed in the patent, the skilled person would have provided the configuration defined in claim 1 and disclosed in more details in the patent without having any technical difficulty. The patent explains the structural relationship between components of the lightning protection system of a blade with embedded electrically conductive components in various forms and which comprises inter alia current receptors and current injection elements connected by a redundant number of cables (more than a single one). With such plurality of conduction cables the skilled person would have understood that the occurrence of high peak currents are avoided as a consequence of providing two cables as defined in feature 1.6. Thus in the context of claim 1 the qualification "high current density" in feature 1.7 relates to the magnitude of "peak current" expressed in paragraph 017 in relation with a single cable which is thus halved and become no more "high" in the context of the patent.

5.6 Furthermore the Board disagrees with the respondent that the claim should define a reference to the prior art or D5 to be sufficiently disclosed. Indeed the claim defines two distribution cables to feed current from the receptor to the injection element where a skilled person in electrical engineering knows that a single cable would appropriately transmit electric current. The sole definition of two distribution cables is enough to directly hint the skilled person that they are in overnumber as exposed here above.

5.7 Further objections of sufficiency - no complete case

5.7.1 In items F.1 to F1.4 the opponent repeats their additional objections on sufficiency addressing the patent proprietor's counter arguments presented in their letter of 10 December 2021 during opposition proceedings and found not convincing in items 18.2,18.3,18.4,18.5 and 18.6 of the appealed decision.

The general allegation on page 12 of the respondent's reply that the opposition division erred in not recognising these deficiencies fail to present substantive arguments on why this would be the case, whereas the explanations in item 5. on page 15 only relate to feature F1.7 discussed here above.

In point 5 of their letter dated 14 August 2025 and at the oral proceedings before the Board the opponent argued that the fact that the opposition division did not follow their arguments would not prevent the Board from having a different opinion. This however does not correspond to a substantiated argument as to why this should be the case.

5.7.2 The Board concludes that the above objections therefore were not properly substantiated and thus that no complete case was made in this respect as required by Article 12(3) RPBA. Using its discretion under Article 12(5) RPBA the Board decided then not to admit these objections into the proceedings.

5.8 It follows from the above that the opposed patent sufficiently discloses the invention and complies with the requirements of Article 83 EPC, contrary to the findings of the opposition division.

6. Remittal to the opposition division

6.1 While the notice of opposition takes issue with added subject-matter, sufficiency, novelty and inventive step in view of numerous documents such as D1 to D15, the matter of added subject-matter for the main request and the question of sufficiency for the auxiliary requests are the sole issues addressed in the impugned decision.

6.2 The absence of any decision on the issues of novelty and inventive step means that, were the Board to deal with them, it would need to examine them in their entirety. To do so would involve considerable investigative effort and require giving a first ruling on these issues. The Board sees this as running counter to the judicial review character of an inter partes appeal proceedings (cf. Article 12(2) RPBA 2020, **G 10/91**, reasons, point 18). In the present case, the question of remittal is all the more pertinent since the respondent has requested remittal in order for the opposition division to decide on these issues. In the Board's view the above constitutes special reasons which would justify a remittal.

6.3 The Board therefore considers it is faced with special reasons pursuant Article 11 RPBA 2020 and decides to exercise its discretion under Article 111(1) EPC to remit the case to the opposition division, so that it may examine these remaining opposition grounds. This is particularly so as the appellant and the respondents agree with this course of procedure.

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.

The Registrar:

The Chairman:



G. Magouliotis

A. Pieracci

Decision electronically authenticated