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Datasheet for the decision of 16 January 2026

Case Number: T 1731/23 - 3.5.01

Application Number: 13154803.4

Publication Number: 2765668

IPC: H02J3/38

Language of the proceedings: EN

Title of invention:
Simulation of an electrical power distribution network in a wind farm

Patent Proprietor:
Siemens Gamesa Renewable Energy A/S

Opponent:
GE Wind Energy GmbH

Headword:
Testing a wind farm controller using a simulated wind farm/ SIEMENS GAMESA

Relevant legal provisions:
EPC Art. 56, 100(a), 114(1)
EPC R. 116(1), 116(2)
RPBA 2020 Art. 12(4), 12(6)

Keyword:
Inventive step (no)
Late-filed request - admitted in first-instance proceedings (no) - error in use of discretion at first instance (no) - circumstances of appeal case justify admittance (no)

Catchword:
There is no established principle that submissions filed before the date set under Rule 116 EPC are generally admissible, just as there is no principle saying that a submission filed after that date is automatically inadmissible.

It is rather established case law that the opposition division has a discretion (not) to admit amendments filed after the period specified in the communication under Rule 79(1) EPC (see the Case Law Book, 11th edition, IV-C 5.1.4.a) and b)).

(See point 12 of the reasons)

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Case Number: T 1731/23 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 16 January 2026

Appellant: (Patent Proprietor)	Siemens Gamesa Renewable Energy A/S Borupvej 16 7330 Brande (DK)
Representative:	SGRE-Association Siemens Energy Global GmbH & Co. KG SE CD I IP Intellectual Property Siemenspromenade 9 91058 Erlangen (DE)
Respondent: (Opponent)	GE Wind Energy GmbH Holsterfeld 16 48499 Salzbergen (DE)
Representative:	Zimmermann & Partner Patentanwälte mbB Postfach 330 920 80069 München (DE)
Decision under appeal:	**Decision of the Opposition Division of the European Patent Office posted on 1 August 2023 revoking European patent No. 2765668 pursuant to Article 101(3)(b) EPC.**

Composition of the Board:

Chairman	W. Zubrzycki
Members:	A. Wahrenberg
	L. Basterreix

Summary of Facts and Submissions

I. The case concerns the proprietor's appeal against the opposition division's decision to revoke European patent No. 2765668. It concerns the real-time simulation of a wind farm for testing a wind farm controller.

II. The ground for revocation was that claim 1 of the granted patent (main request) did not involve an inventive step in view of document D2 (Article 100(a) EPC).

D2: V. Jalili-Marandi (2010), *Real-Time Simulation of Grid-Connected Wind Farms Using Physical Aggregation*, IEEE Transactions on Industrial Electronics, Vol. 57, No. 9, September 2010.

The same conclusion was reached for auxiliary request 1bis filed on 17 May 2023 and auxiliary request Aux7 filed on 14 June 2023.

Auxiliary request 1 filed on 17 March 2023 was found not to comply with Rule 80 EPC. Auxiliary requests 1, Aux1ter, and Aux2 to Aux6 filed on 14 June 2023, as well as auxiliary requests Aux2pre to Aux6pre filed on 15 June 2023, were not admitted into the opposition proceedings pursuant to Article 114(2) EPC and Rule 116(1) and (2) EPC.

III. In the statement setting out the grounds of appeal, the proprietor requested that the decision under appeal be set aside and that the opposition be rejected (main request), or that the patent be maintained based on one

of the annexed auxiliary requests 1 to 15.

IV. In their reply to the grounds of appeal, the opponent requested that the appeal be dismissed.

V. Both parties requested oral proceedings if their respective (main) request could not be granted.

VI. In the communication accompanying the summons to oral proceedings, the Board indicated its provisional opinion that it agreed with the opposition division that claim 1 of the main request and of auxiliary requests 9 and 15 (corresponding to auxiliary requests 1bis and Aux7 in the decision under appeal) did not involve an inventive step in view of D2. Furthermore, the Board expressed its preliminary view that auxiliary requests 1 to 8 and 10 to 14 would not be admitted into the appeal proceedings.

VII. Oral proceedings were held by videoconference. Both parties maintained their respective requests as set out in the statement of grounds of appeal and in the reply to the appeal.

VIII. Claim 1 of the main request reads:

A simulator for real time simulation of an electrical power distribution network of a wind farm, the wind farm comprising a plurality of interconnected wind turbines, the simulator being adapted for testing the operation of a wind farm controller without connection to a real wind farm, the simulator comprising

an input unit for receiving input data from a wind farm controller,

an output unit, and

a processing unit adapted to calculate output

values based on the input data and a model of the electrical power distribution network, the output values representing calculated electrical parameter values at a predetermined point within the electrical power distribution network, **characterised in that** the output unit is adapted to transmit output data based on the calculated output values to the wind farm controller, so that the wind farm controller operates in the same way as when it is connected to a real wind farm.

IX. Auxiliary request 9 adds, at the end of claim 1 of the main request, the following feature:

wherein said testing comprises verifying that power generation can be regulated as desired or specified and that conditions for grid compliance can be met in accordance with grid codes in an area where the wind farm is or is to be installed.

X. Claim 1 of auxiliary request 15 reads:

A system for real time simulation of a wind farm, the wind farm comprising a plurality of interconnected wind turbines, the system comprising

a simulator (100, 300) for real time simulation of an electrical power distribution network of the wind farm and adapted for testing the operation of a wind farm controller of the wind farm without connection to a real wind farm,

the wind farm controller (120, 121), characterised in that the wind farm controller (120, 121) is adapted to transmit input data to the simulator (100, 300) and to receive output data from the simulator (100, 300), so that the wind farm controller operates in the same way as when it is connected to a real wind farm, and

a turbine virtualization unit (T11, T12, T18, T21, T22, T28; 345) adapted to individually virtualize a respective wind turbine controller for each of the plurality of interconnected wind turbines of the wind farm,

wherein the simulator comprises

an input unit for receiving input data from a wind farm controller,

an output unit (102, 302), and

a processing unit adapted to calculate output values based on the input data and a model of the electrical power distribution network, the output values representing calculated electrical parameter values at a predetermined point (136, 236) within the electrical power distribution network,

wherein the output unit (102, 302) is adapted to transmit output data based on the calculated output values to the wind farm controller, so that the wind farm controller operates in the same way as when it is connected to a real wind farm, and

wherein said testing comprises testing a closed loop power regulation mechanism of the wind farm, and verifying that power generation can be regulated as desired or specified and that conditions for grid compliance can be met in accordance with grid codes in an area where the wind farm is or is to be installed, and

wherein the simulator (100, 300) is further adapted to calculate electrical parameter values for each wind turbine and to transmit the calculated electrical parameter values to the turbine virtualization unit, and

wherein the turbine virtualization unit is adapted to calculate turbine parameter values for each of the wind turbines based on the calculated electrical parameter values received from the simulator (100, 300)

and to transmit the calculated turbine parameter values to the wind farm controller (120, 121), the calculated turbine parameter values comprising grid status values.

XI. Insofar as relevant for the decision, the arguments of the parties are discussed below.

Reasons for the Decision

Main request

1. The invention in claim 1 of the main request concerns a simulator designed to simulate, in real time, the electrical power distribution network of a wind farm made up of multiple connected wind turbines. The simulator is made to test a wind farm controller without the need to connect it to an actual wind farm.

The simulator includes:

an input unit to receive control signals from the wind farm controller;

an output unit; and

a processing unit that calculates what the electrical values would be at a certain point in the wind farm's electrical power distribution network, based on the input signals and a model of the network.

The output unit sends these simulated electrical values back to the controller, so the controller "thinks" it's working with a real wind farm and operates as if it were.

2. Document D2 discloses a real-time simulator for simulating a grid-connected wind farm comprising multiple wind turbines. In particular, D2 is directed

to the analysis of transient events, in particular fault conditions, and to observing the wind farm's response when such events occur, see page 3015, left-hand column. These simulations use a model of the wind farm based on configurable input parameters ("control objective", see page 3012, right-hand column) to compute the wind farm's electrical output values, primarily the delivered active and reactive powers.

3. Thus, the Board considers that D2 discloses, in the words of claim 1, a simulator for real time simulation of an electrical power distribution network of a wind farm, the wind farm comprising a plurality of interconnected wind turbines, the simulator comprising an input unit for receiving input data, an output unit, and a processing unit adapted to calculate output values based on the input data and a model of the electrical power distribution network, the output values representing calculated electrical parameter values at a predetermined point within the electrical power distribution network.

4. D2 further discloses, in the right-hand column on page 3010, that real-time simulators may be used for testing real-world hardware such as digital controllers and protective relays in a "hardware-in-the-loop" (HIL) simulation. This enables such equipment to be designed, tested, and validated under realistic system conditions before deployment in the field.

The proprietor argued that the skilled person would not have understood the "digital controller" to include a wind farm controller. Rather, the skilled person would have interpreted it as a controller forming part of the protective equipment, such as the disclosed "protective relays", or as a controller associated with the grid.

Indeed, the models disclosed in D2 did not include a wind farm controller that provided configurable input parameters and received the output values of the simulated wind farm. In the proprietor's view, this demonstrated that the digital controller mentioned in D2 could not be regarded as a wind farm controller for controlling the operation of the wind farm.

In the Board's view, however, it is apparent from the context of D2 that the mentioned digital controller both influences, and is influenced by, the wind farm; otherwise, testing it in such an environment would not be meaningful. Although D2 does not explicitly disclose a central controller, the skilled person, would nevertheless have understood from its teachings that the controller to be tested would need to perform such a role. Thus, the digital controller in D2 corresponds to a wind farm controller within the meaning of claim 1.

5. The Board agrees with the proprietor and the opposition division that D2 does not define the testing of a wind farm controller in explicit technical terms in relation to the disclosed wind farm model(s). The Board therefore concurs with the conclusion in the decision under appeal that D2 does not disclose a complete simulator adapted for testing the operation of a wind farm controller. As a consequence, D2 likewise fails to disclose a simulator configured to receive input from such a controller and to provide output to the controller.

6. The opponent and the opposition division argued that the subject-matter of claim 1 was obvious in view of the disclosure in D2 on page 3010.

The opposition division's decision did not identify any specific technical problem solved starting from this disclosure. In the oral proceedings before the Board, the opponent defined the problem as "how to test a wind farm controller without connecting it to a real wind farm".

7. The Board agrees with the objective technical problem formulated by the opponent.

Furthermore, faced with this problem - how to test a wind farm controller without connecting it to a real wind farm - the skilled person would have arrived at the subject-matter of claim 1, without inventive skill. D2 discloses testing by means of a HIL simulation, which necessarily requires a closed control loop. Therefore, the skilled person would inevitably have provided input from the wind farm controller to the model i.a. to set its configurable input parameters and would have fed the output values back to the controller.

The subject-matter of claim 1 therefore lacks an inventive step (Article 100(a) EPC).

Auxiliary request 1 (Auxiliary request 1 of 14 June 2023)

8. The opposition division did not admit this request into the procedure under Article 114(1) and Rule 116(1) and (2) EPC.

9. The background is as follows:

A first oral proceedings took place on 17 May 2023 ("the first leg of the oral proceedings"), during which

the proprietor filed auxiliary request 1bis to overcome issues under Article 84 and Rule 80 EPC with auxiliary request 1 of 17 March 2023. As there was not enough time left to discuss the newly filed request, it was agreed that the oral proceedings be adjourned until 15 June 2023 ("the second leg of the oral proceedings"). A new summons was issued to that effect on 24 May 2023, indicating the final date for filing new submissions as 17 March 2023 - the same date as set in the first summons to oral proceedings on 17 May 2023.

On 14 June 2023, i.e. the day before the second leg of the oral proceedings, the proprietor filed the current auxiliary request 1. It differed from auxiliary request 1bis of 17 March 2023 by replacing the "grid code feature" with a feature taken from the description - "the individual WTC feature" ("wherein the wind farm controller is configured for controlling and monitoring the operation of each single wind turbine in the wind farm as well as of the wind farm as a whole").

The opposition division considered that the new auxiliary request 1 was late as it was filed after the final date for making submissions. Moreover, it was not considered to be a reaction to the course of the proceedings, and it involved a feature taken from the description. Therefore, the opposition division used its discretion not to admit it into the opposition proceedings.

10. In the grounds of appeal, the proprietor argued that the opposition division did not exercise its discretion correctly.

According to the proprietor, it was established EPO case law (Case Law Book 10th edition 2022, IV.C.5.1.4d)

that requests filed before the expiry of a Rule 116 EPC time limit were generally admissible, and that this principle also applies for auxiliary requests with features taken from the description.

The proprietor moreover argued that the opposition division did not follow the applicable rules when setting the date for the (adjourned) second oral proceedings. In particular, they did not set a valid final date for making written submissions in accordance with Rule 116(1) EPC. The proprietor argued that, just because both parties had agreed on a notification period shorter than two months for issuing summons, this did not mean that the opposition division did not have set a new date for filing final submissions.

Therefore, it could not be said that auxiliary request 1 was filed after the final date.

The proprietor argued that, for these reasons, the Board should admit auxiliary request 1 into the appeal proceedings.

11. The opponent requested that auxiliary request 1 not be admitted and referred to the Guidelines (version of March 2024), at section E-III, 8.11.2, which stated:

"Continuing oral proceedings on a day other than the one set out in the summons requires a new summons with a notice period of at least two months according to Rule 115(1) unless all parties agree to a shorter period of notice...A new final date for making submissions is not fixed under Rule 116 in the new summons if the subject of the proceedings has not changed (see E-VI, 2.2.2)."

12. In the Board's view, there is no established principle that submissions filed before the date set under Rule 116 EPC are generally admissible, just as there is no principle saying that a submission filed after that date is automatically inadmissible.

It is rather established case law that the opposition division has a discretion (not) to admit amendments filed after the period specified in the communication under Rule 79(1) EPC (see the Case Law Book, 11th edition, IV-C 5.1.4. a) and b)).

13. In exercising its discretion, the opposition division considered, apart from the date of filing one day before the oral proceedings (which must be considered late by any standards), the nature of the amendments including their complexity and whether they were a reaction to the course of the proceedings. A feature taken from the description is naturally more complex to deal with as it might require an additional search. Indeed, the decision describes that the opponent objected that their search did not include the "individual WTC feature". Furthermore, the amendments did not represent a convergent development as the "individual WTC feature" replaced the previous "grid code feature" rather than build onto it. Thus, the opposition division considered that it was not justified to admit this amendment at such a late stage of the proceedings. The Board sees nothing wrong with this. In the Board's view, the opposition division exercised their discretion in a reasonable way.

14. Concerning the alleged failure to set a final date for making submissions under Rule 116 EPC, it is clear that the oral proceedings on 15 June 2023 were a continuation of the oral proceedings on 17 May 2023.

They were not a separate hearing to discuss new issues.

As set out in the Guidelines (E-III 8.11.2), adjournment of oral proceedings requires a new summons. This does not mean, however, that a new date for making submissions needs to be set (see the same section of the Guidelines).

15. Under Article 12(6) RPBA, the Board shall not admit requests which were not admitted in the proceedings leading to the decision under appeal, unless the decision not to admit them suffered from an error in the use of discretion or unless the circumstances of the appeal case justify their admittance. The Board does not see any error in the opposition division's use of discretion or any other reasons justifying the admittance of auxiliary request 1 in the appeal proceedings.

16. Therefore, auxiliary request 1 is not admitted.

Auxiliary requests 2 to 7 (Auxiliary request 1ter and Auxiliary requests 2 to 6 of 14 June 2023)

17. The Board does not admit auxiliary requests 2 to 7 for the same reasons as given for auxiliary request 1. The Board does not see that the opposition division erred in their use of discretion and there are other circumstances justifying their admittance on appeal (Article 12(6) RPBA).

Auxiliary request 8

18. Auxiliary request 8 is a new request filed with the grounds of appeal, i.e. it is an amendment in the sense of Article 12(2) and (4) RPBA. The proprietor did not justify why this request should be admitted into the appeal proceedings, as required by Article 12(4) RPBA. This is a reason for not admitting auxiliary request 8 into the appeal proceedings.

In the grounds of appeal, the proprietor stated that auxiliary request 8 corresponded to auxiliary request 1 as filed on 14 June 2023 in combination with auxiliary request 7 as filed on 14 June 2023. Thus, the independent claims of auxiliary request 8 have the same problematic "individual WTC feature" as the request which the opposition division did not admit. This is another reason for not admitting auxiliary request 8 into the appeal proceedings. Indeed, the submission of this amendment in the appeal proceedings occurred at an even later stage than its submission shortly before the second part of the oral proceedings in the opposition proceedings. The same reasons for not admitting this request therefore apply a fortiori (Article 12(6) RPBA).

In conclusion, auxiliary request 8 is not admitted.

Auxiliary request 9

19. Auxiliary request 9 is identical to auxiliary request 1bis filed on 17 May 2023.

20. Compared to the main request, claim 1 contains the additional "grid code feature":

"wherein said testing comprises verifying that power regulation can be regulated as desired or specified and that conditions for grid compliance can be met in accordance with grid codes in an area where the wind farm is or is to be installed".

Grid codes are a set of rules that dictate how wind farms must connect to and operate within the electrical grid.

21. The opposition division found that claim 1 of this request lacked an inventive step over D2. They considered that D2 disclosed, in the first paragraph in the right-hand column on page 3010, testing a controller under realistic conditions reflecting a real situation, and part of building a real situation consisted in taking into account the regulation requirements in force. Although D2 did not explicitly mention grid codes, the skilled person would have been led to reproduce realistic conditions and aim at testing and validating the controller. In doing so he would have necessarily considered at least some relevant grid requirements because the validation of the power controlling equipment could not be granted without the compliance with some requirements relating to the power in the grid. Claim 1 did not specify which part of the grid codes were considered. Therefore the added feature did not provide an inventive step.

22. Like for the main request, the proprietor argued that D2 did not specifically disclose testing a wind farm controller. It merely suggested testing external equipments such a relay or a digital controller. Thus, since there was no wind farm controller in D2, the skilled person would not be led to test this

controller's grid compliance. Moreover, the simulation in D2 was for observing the effect of transient events, and it did not consider grid compliance or grid codes. Furthermore, the "grid code feature" included an additional verification step in which it was checked whether the results of the simulation met the specified conditions. Such a verification step was not disclosed in D2.

23. The Board, however, agrees with the opposition division that the skilled person would, on the basis of the teaching of D2, have simulated the wind farm under realistic conditions, taking into account requirements such as compliance with applicable grid codes. Indeed, as already indicated by the title of D2, the simulation concerns a grid-connected wind farm that must comply with those requirements. The wind farm controller would therefore have needed to be tested in order to determine whether grid-compliant operation can be achieved, which implies verification that the applicable grid code requirements are met. Moreover, D2 explicitly refers not only to testing but also to validation, such that a step for evaluating the test results is clearly envisaged. Accordingly, in view of the teaching of D2, the skilled person would have arrived at the subject-matter of claim 1. For these reasons, the Board concludes that claim 1 of auxiliary request 9 lacks an inventive step (Article 56 EPC).

Auxiliary requests 10 to 14

24. Auxiliary requests 10 to 14 correspond to auxiliary requests 2pre to 6pre filed on 15 June 2023 during the "second leg of the oral proceedings" before the opposition division. The opposition division did not

admit those requests. The independent claims of these requests do not contain the "individual WTC feature", but rather the "grid code feature" and, in addition, the "closed loop feature" ("wherein said testing comprises testing a closed loop power regulation mechanism of the wind farm").

The opposition division considered that the amendments could have been filed earlier, especially in lieu of auxiliary requests 2 to 6 filed on 14 June 2023 (which contained the "individual WTC feature"). By going back and forth between features taken from the description, the proprietor had not properly reacted to the course of the proceedings and it would have been against procedural efficiency to admit the newly filed requests at such a very late stage of the proceedings. Also, the requests did not meet the "clear allowability criteria".

25. In the grounds of appeal, the proprietor argued that the "closed loop" feature was present already in auxiliary requests 2 to 6 filed on 17 March 2023, and, compared to those requests, the amendments in auxiliary requests 2pre to 6pre were only formal in nature, similar to the amendments in auxiliary request 1bis filed during the oral proceedings on 17 May 2023. Therefore, the opposition erred in not admitting them.

26. The Board does not see any error in the opposition division's use of discretion or any other reason justifying the admittance of auxiliary requests 10 to 14 into the appeal proceedings. As set out in point 12. above, the opposition division had a discretion not to admit the requests filed during the oral proceedings, and, in the Board's view, they considered the appropriate criteria, namely the stage of the

proceedings, the nature of the amendments, the development of the requests during the course of the opposition proceedings, and whether the requests were *prima facie* allowable. The fact that similar requests were filed in good time before the first leg of the oral proceedings does not seem to help the proprietor's case as those requests were replaced before they had been discussed. The Board agrees with the opposition division that some level of discernment is expected from the proprietor when filing requests, and that it is not appropriate to "try one's luck repeatedly".

27. Therefore, auxiliary requests 10 to 14 are not admitted (Article 12(6) RPBA).

Auxiliary request 15

28. Auxiliary request 15 is identical to auxiliary request 7 in the decision under appeal. The opposition division admitted this request, but found that claim 1 did not involve an inventive step in view of D2 and the common general knowledge of the skilled person.

29. Claim 1 of auxiliary request 15 defines a system comprising, in addition to the simulator of claim 9 (including the "grid code feature"), the wind farm controller itself, and a "turbine virtualization unit" adapted to individually virtualise each wind farm controller in the wind farm. This means calculating turbine parameter values for each of the wind turbines based on the calculated electrical parameter values received from the simulator and transmitting the calculated turbine parameter values to the wind farm controller, the calculated turbine parameter values comprising grid status values.

Claim 1 of auxiliary request 15 also includes that the testing of the wind farm controller comprises testing a closed loop power regulation mechanism of the wind farm (the "closed loop feature").

30. The opposition division considered that the turbines in D2 (Figure 1, WG1-WG10) were individually virtualised and aggregated in clusters (Figure 5, cluster nodes 2-4). Therefore, the feature "individually virtualized" could not distinguish the claim from the model in D2.

Regarding the "closed loop" feature, the opposition division considered that the skilled person starting from D2 would have been prompted to operate some testing procedure for the controller. A closed loop regulation was considered to be a trivial feature which did not provide an inventive step. The "grid code" feature was obvious for reasons set out at point 21. above. Therefore the skilled person would have arrived at the claimed subject-matter without the exercise of inventive skill.

31. In the appeal proceedings, the proprietor argued that D2 did not disclose any virtualisation of individual wind turbine controllers. On the contrary, the wind turbines in D2 were aggregated at different levels to represent the collective behaviour of multiple wind turbines. This model did not allow, and thus taught away from, any individual calculations, virtualisations, or simulations at the level of a single wind turbine generator and its controller.

32. In the Board's view, D2 discloses the simulation and virtualisation of individual wind turbines, including their controllers (see Figure 5, in particular Cluster

Node 1, which comprises a single wind turbine (WG10), and Sections III.A, III.B and IV). This is referred to in the paper as the "detailed model". The aggregated models described later in the paper do not teach away from using the detailed model; rather, they are presented merely as a means of reducing the time and computational resources required for real-time simulation. Where computational resources are not so constrained, the skilled person would understand that the simulation and virtualisation of individual wind turbines is possible and provides improved accuracy.

Consequently, in order to improve the accuracy of the simulation, the skilled person would consider applying the detailed model in which individual wind turbines are separately virtualised, thereby arriving at the solution defined in claim 1.

The Board further notes that such individual virtualisation provides no synergy with the distinguishing features discussed previously for the main request and auxiliary request 9 as well as the "closed-loop" feature. The accuracy of the simulation constitutes a separate aspect that can be assessed independently for the purposes of inventive step.

33. As to the other distinguishing features of claim 1 of auxiliary request 15, they are obvious for the reasons as already given. Specifically concerning the "closed-loop" feature, the Board agrees with the opponent that it is not only an obvious option for testing the controller, as set out by the opposition division, but in fact directly results from the decision to use a HIL testing setup, which by its very nature operates as a closed loop, see point 7. above. The proprietor did not

provide any additional arguments on this point.

34. For these reasons, the Board concludes that the skilled person would have arrived at the claimed invention having regard to D2. The subject-matter of claim 1 of auxiliary request 15 therefore lacks an inventive step.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

T. Buschek W. Zubrzycki

Decision electronically authenticated