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**Datasheet for the decision
of 30 October 2025**

Case Number: T 0293/24 - 3.4.02

Application Number: 13824377.9

Publication Number: 2932486

IPC: G08C17/02

Language of the proceedings: EN

Title of invention:

Electronic System with Facilitated Access for Managing the
Movement of at Least One Mobile Barrier

Patent Proprietor:

FAAC S.p.A.

Opponent:

SOMFY ACTIVITES SA

Headword:

Mobile Barrier with Web Interface/FAAC

Relevant legal provisions:

EPC Art. 54, 56

Keyword:

Novelty - (no) - main request - (no) - second auxiliary
request

Inventive step - (no) - first auxiliary request



Beschwerdekammern

Boards of Appeal

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Case Number: T 0293/24 - 3.4.02

D E C I S I O N
of Technical Board of Appeal 3.4.02
of 30 October 2025

Appellant: FAAC S.p.A.
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on
20 December 2023 revoking European patent
No. 2932486 pursuant to Article 101(3) (b) EPC.**

Composition of the Board:

Chairman R. Bekkering
Members: F. Giesen
G. Decker

Summary of Facts and Submissions

- I. The appeal by the patent proprietor is against the decision of the opposition division revoking European patent EP 2 932 486.

The following document was relevant and will also be referred to in the appeal proceedings:

D4: US 2002/0183008 A1

- II. Oral proceedings before the board took place on 30 October 2025 in the form of a videoconference.

The final requests of the parties were as follows:

The patent proprietor (appellant) requested that

the decision under appeal be set aside and that the patent be maintained in amended form on the basis of the claims according to the main request, or alternatively to one of auxiliary requests 1 and 2, all requests filed with the statement of grounds of appeal dated 18 April 2024.

The opponent (respondent) requested that

the appeal be dismissed (which corresponds to a confirmation of the decision under appeal to revoke the patent).

- III. Claim 1 of the main request is almost identical to claim 1 as granted with a slight editorial modification. It reads as follows:

- M1 *"An electronic system (10) for managing the movement of at least one mobile barrier*
- M2 *comprising a central unit (11) suitable for controlling the activation of at least one actuator (12) for moving at least one movable element of said mobile barrier,*
- M3 *said central unit (11) being connected to at least a plurality of peripheral units (13, 14) for collecting opening/closing commands of the mobile barrier and information relating to the presence of obstacles in the movement area of said mobile barrier,*
- M4 *said central unit (11) comprising software means (16) for managing the movement of said mobile barrier,*
- M5 *wherein said central unit (11) comprises at least one interface (15) for providing at least one wireless network access to said software means (16) from the external of the control system,*
- M6 *said at least one interface (15) for providing wireless network access is of the type operating according to IEEE 802.11 transmission protocols for wireless access to a local network and*
- M7 *said software means (16) are such as to form a Web server,*
- M8 *the system further comprising an electronic processing device (20) having a wireless access interface (21) and*
- M9 *software means provided with interfacing program to the Web server, enabling to access the data made available by the software means (16) residing in said central unit (11),*

M10a *said interfacing program comprising a Web browser interfacing said Web server residing in said central unit (11)*

M10b *or said interfacing program to said Web server is a proprietary application for multimedia cell phones or PC tablets characterized in that*

M11 *by means of said interfacing program*

M12a *a [sic] remotely updating said software means (16) is enabled or*

M12b1 *carrying out diagnostic or*

M12b2 *ordinary maintenance operations is enabled."*

IV. In claim 1 of auxiliary request 1 the alternatives M12b1 and M12b2 of claim 1 according to the main request were deleted, leaving only the alternative M12a ("software update").

V. Claim 1 of auxiliary request 2 contains features M1 to M11 and features M12b1 and M12b2 (viz. diagnostic and "ordinary" maintenance), wherein the "or" in feature M12b1 was replaced by "and". Feature M12a was deleted.

Reasons for the Decision

1. Admissibility

The appeal meets the requirements of Articles 106 to 108 EPC as well as Rule 99 EPC. It is therefore admissible.

2. Main request - Lack of novelty

2.1 The subject-matter of claim 1 according to the main request is not new within the meaning of Article 54 EPC in view of document D4.

2.2 In the decision under appeal and in the appeal proceedings up to the oral proceedings it had only been contentious whether D4 discloses feature M12b2. Features M1 to M10a of claim 1 had not been contentious. During the oral proceedings, the patent proprietor argued for the first time in the appeal proceedings that feature M5 together with M6 defined a local area network involving three elements, namely interface 15, software means 16 and electronic processing device 20. By contrast, figure 7 of D4 only disclosed two elements connected by a point-to-point connection and therefore did not disclose feature M5.

2.3 The latter submission was presented for the first time only after receipt of the board's communication under Article 15(1) RPBA. While its admission normally requires exceptional circumstances justified with cogent reasons, the board nevertheless dealt with the late submission in substance. Clarifying the patent

proprietor's argument turned out to be so extensive that it amounted to a full examination.

- 2.4 The board is not persuaded by the patent proprietor's argument according to which feature M5 was not disclosed in D4. A skilled person would understand this feature in such a manner that software 16 can run on a processor in the central unit 11. Taking into account the description corroborates this understanding. According to paragraph [0025] of the opposed patent it is possible to interface with the software means 16 residing in the central unit 11 through any processing device 20 equipped with a wireless access interface 21. The opposed patent discloses in paragraphs [0019] and [0020] a central unit which "comprises" software means 16 and at least one interface 15 "for providing at least one wireless network access to the software means 16 of the central unit".

A skilled person would understand this disclosure to mean that the central unit 11 can run software 16 and that it can communicate with the electronic processing device 20, which itself also runs software, through their respective interfaces 15 and 21. This allows to access software 16 through the electronic processing device 20. By contrast, a skilled person would not understand the above disclosure in such a manner that the software means 16 itself could be a physical device which participates in a local area network and communicates itself via the IEEE 802.11 standard with other participants, as the patent proprietor argued.

The above understanding of the skilled person is also what is disclosed in document D4, which discloses a system unit 100 with a processor 120 (in figure 2; paragraph [0021]), viz. a central unit, and a

transceiver 130 (figure 2; paragraph [0026]), viz. an interface. Programming 150 (figures 2 and 7; paragraph [0025]) runs on the processor 120 in the system unit and can be accessed by an electronic processing device, namely, according to paragraph [0029], e.g. a cellular telephone or a computer. According to paragraph [0026] of D4, the transceiver 130 is capable of long and short range communication, and according to paragraph [0028] one particular form of short-range communication could be communication according to the IEEE 802.11 WAN standard. According to paragraph [0058] and [0059], together with figure 7, programming 120, viz. the software, can include web server programming 240, which allows a user to operate, program and monitor the system 100. Feature M5 is therefore disclosed in D4.

2.5 The patent proprietor argued that feature M12b1 was not disclosed in D4 since in the context of the opposed patent programming was to be distinguished from ordinary maintenance. By contrast, setting movement parameters as disclosed in D4 belonged to the process of programming and did not represent maintenance.

2.6 The board is not persuaded by this argument and shares the view of the opposition division and the opponent.

The opposition division held in the decision under appeal that the alternative M12b2 "ordinary maintenance operations is enabled" according to claim 1 of the main request was anticipated by the disclosure of paragraphs [0008], [0059] and [0061] of D4, according to which movement parameters of the door could be programmed by means of the internet browser.

Additionally, the opponent argued that the opposed patent did not disclose any example of an "ordinary

maintenance" beyond that in paragraph [0005], which merely concerns modifying movement parameters. Such modification of movement parameters, however, was disclosed in D4, in the above cited passages.

The board agrees for the following reasons. The word "ordinary" does not have any objectively recognised technical meaning limiting the claim. The word "maintenance" denotes the process of preserving a condition or situation. According to paragraphs [0004] and [0005] of the opposed patent subsequently modifying movement parameters of a barrier can be done during maintenance or repairing operations. This is in line with the objective meaning of the expression maintenance, e.g. when movement parameters shift and have to be restored.

Setting movement parameters initially (configuring or programming) or setting them at a later point in time when a barrier is already in operation to preserve its state (maintenance) are identical as far as the process of exchanging data via the wireless interface are concerned, and also in so far as the type of data is concerned. The claim relates to a system, not to a method. Whether wireless data exchange of movement parameters is initiated by a skilled worker or by a user, whether it is initiated in the factory before delivery or during maintenance when already in use does not imply any structural difference between the system according to D4 and that according to claim 1.

It follows that the wording of feature M12b2 does not imply any structural difference of the claimed device over that disclosed in D4.

2.7 Moreover, the opposition division had relied on paragraph [0005] of the opposed patent to support the conclusion that D4 disclosed feature M12b2. According to paragraph [0005], in known electronic systems, "the movement parameters can be subsequently modified during maintenance or repairing operations through the intervention of trained experts provided with equipment that is suitable for establishing a cabled connection or in any case provided with software means that are specifically programmed so as to interface with the central unit".

The patent proprietor counter-argued that the above passage did not support the opposition division's conclusion since it only concerned prior art mobile barriers (statement of grounds of appeal, page 4, third and fourth paragraphs).

However, the board considers this observation to be irrelevant, since the paragraph was cited to correctly determine the meaning of the term "maintenance" in claim 1. The meaning of this word does not depend on the context of use in a prior art system or in a system according to the invention.

The argument is also irrelevant for the question as to whether modifying motion parameters according to D4 represents a maintenance operation in the sense of claim 1, whether this operation is carried out by a specialist or a user or whether it is carried out using the same device.

2.8 The patent proprietor also argued that feature M10b was not disclosed in D4 since this document did not disclose a proprietary application. Rather, in

paragraph [0059] of D4 a conventional internet browser was disclosed.

- 2.9 This argument does not persuade the board. Claim 1 contains features M10a and M10b as alternatives. Document D4 discloses alternative M10a, i.e. a web server programming (see figure 7; paragraph [0058] and [0059]). It is therefore irrelevant to the conclusion that claim 1 lacks novelty whether or not D4 also anticipates the alternative M10b.
- 2.10 Therefore the subject-matter of claim 1 of the main request is not new over the electronic system of D4.
- 3. Auxiliary request 1 - Lack of inventive step
 - 3.1 The subject-matter of claim 1 of auxiliary request 1 does not involve an inventive step within the meaning of Article 56 EPC in view of D4 and the common general knowledge.
 - 3.2 In claim 1 of auxiliary request 1 the alternatives M12b1 and M12b2 of claim 1 according to the main request were deleted, leaving only the alternative M10a ("software update").
 - 3.3 The patent proprietor argued that the skilled person in document D4 was a "user having knowledge in the area of wireless devices and browsers for browsing parameter [sic]". Such a user would not be given the task of performing a software update. The skilled person for the device according to claim 1 of auxiliary request 1 was not "a simple user" but rather a specialised gate maintenance technician.

3.4 The board does not find this argument persuasive.

Firstly, the skilled person when starting from D4 is presumed to be a person having technical skill in the field of electronic systems controlling mobile barriers and not a mere notional user of a garage door opener. A mere user is by definition not a "skilled" person.

Secondly, the opponent correctly pointed out that the patent proprietor's position according to which, on the one hand, the skilled person in the context of claim 1 of auxiliary request 1 was a specialised gate maintenance technician (see page 7, third paragraph of the statement of grounds of appeal) and, on the other hand, in the context of the main request the skilled person did not have to be a specialised technician was needed (see paragraphs [0011] and [0035] of the opposed patent and page 5 of the statement of grounds of appeal, last sentence of point 2.2) is contradictory.

3.5 A skilled person starting from D4 is already prompted to use the wireless interface according to D4 for various tasks, such as programming movement parameters. The opponent correctly pointed out that feature M12a does not contain any technical detail beyond the generic mention of a software update via the wireless interface. It was obvious to use the wireless interface of D4 also for software updates, the generic possibility of which was common at the priority date of the present application in a wide range of applications, such as mobile phones.

4. Auxiliary request 2 - Lack of novelty
 - 4.1 The subject-matter of claim 1 according to auxiliary request 2 lacks novelty within the meaning of Article 54 EPC.
 - 4.2 Claim 1 of auxiliary request 2 contains features M1 to M11 and features M12b1 and M12b2 (viz. diagnostic and "ordinary" maintenance), wherein the "or" in feature M12b1 was replaced by "and". Feature M12a was deleted.
 - 4.3 The patent proprietor argued at the oral proceedings before the board that the novelty lay in the combination of diagnostic and maintenance.
 - 4.4 The board is not persuaded by the patent proprietor's argument. Claim 1 of auxiliary request 2 merely requires that the interfacing program "enables" diagnostic and maintenance, not that diagnostic and maintenance are actually carried out, let alone by the software itself. The opponent argued (reply dated 6 August 2024, point I.2.2, second paragraph) that the disclosure in paragraph [0008] of D4 concerning "feedback indicating status" was a disclosure of feature M12b1 "carrying out diagnostic". In the board's view, at the very least, such feedback indicating status enables diagnostic. The wording of claim 1 of auxiliary request 2 does not contain any limitation going beyond that. Therefore D4 discloses features M12b1 and M12b2 in combination. The subject-matter of claim 1 of auxiliary request 2 is therefore not new.
5. Since there was no allowable request, the appeal had to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



L. Gabor

R. Bekkering

Decision electronically authenticated