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Aktenzeichen / Case Number / N^o du recours : T 185/85

Anmeldenummer / Filing No / N^o de la demande : 79 850 047.6

Veröffentlichungs-Nr. / Publication No / N^o de la publication : 0 006 079

Bezeichnung der Erfindung: A motor vehicle parking system

Title of invention:

Titre de l'invention :

Klassifikation / Classification / Classement : G 07 C1/30, G 07 F17/24

ENTSCHEIDUNG / DECISION

vom / of / du 31 July 1987

Anmelder / Applicant / Demandeur :

Patentinhaber / Proprietor of the patent /
Titulaire du brevet :

Lövanger Electronic Marketing AB
(respondent)

Einsprechender / Opponent / Opposant : Siemens Aktiengesellschaft (appellant)

Stichwort / Headword / Référence :

EPO / EPC / CBE Arts. 52, 56

Kennwort / Keyword / Mot clé : "Inventive step" (yes)

Leitsatz / Headnote / Sommaire

Europäisches
Patentamt

Beschwerdekammern

European Patent
Office

Boards of Appeal

Office européen
des brevets

Chambres de recours



Case Number : T 185 /85

D E C I S I O N
of the Technical Board of Appeal 3.4.1
of 31 July 1987

Appellant :
(Opponent)

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Decision under appeal :

Decision of Opposition Division of the European
Patent Office dated 10 May 1985 rejecting
the opposition filed against European patent
No. 0 006 079 pursuant to Article 102(2) EPC.

Composition of the Board :

Chairman : K. Lederer
Members : J. Roscoe
R. Schulte

Summary of Facts and Submissions

I. European patent No. 6079 incorporating six claims, was granted on 25 May 1983 on the basis of European patent application No. 79 850 047.6 filed on 18 May 1979.

Claim 1, the only independent claim, reads as follows:

"A motor vehicle parking system comprising:

- (a) a sign means (A) for displaying coded parking information (10) relating to the conditions concerning
 - (a¹) parking time,
 - (a²) cost,
 - (a³) payment and, optionally,
 - (a⁴) permission to park, for a vehicle using a parking space associated with said sign means (A),
- (b) parking meter means (B) and
- (c) terminal means (C), having means for connecting said parking meter means (B) thereto for receiving and processing stored parking information,

characterised in that the parking meter means (B) has data entry means (11) for entering the parking information displayed on said sign means (A),
cipher indicator means (12), in the form of a display, displaying the information entered on said data entry means (11)

a main memory means (14) for receiving and storing a predetermined number of information bits,
accounting memory means (15, 15a, 15b) comprising at least one accounting memory (15) connected to selectivity receive at least some of the information bits from said main memory means (14) for storing said information bits so received,

a time meter (16) and a microprocessor or electronic circuit for selectively transferring at least some of the information bits from said main memory means (14) to said accounting memory means (15, 15a, 15b) during the time period in which the vehicle is parked in said parking space in accordance with said displayed information, and debit indicator means (13) for indicating that said parking meter means (B) is operating in accordance with the information displayed on said cipher indicator."

- II. The appellants filed notice of opposition against the European patent and requested revocation of the patent in its entirety on the grounds of non-patentability because of lack of inventive step and because the claims related to a non-patentable invention (Article 52(3) EPC).
- III. The Opposition Division rejected the opposition in a decision dated 10 May 1985. The reasons for the rejection were as follows:

No proper equivalents could be found in US-A-3 959 632 (doc. 1), the only document cited, of the data entry means, cipher indicator means and memory means as defined in Claim 1 of the patent. In addition there was in this document no hint that the disclosed parking meter contained accounting memories or a microprocessor for selectively transferring bits from the main memory to accounting memories, or debit indicator means.

Because of the differences between what was claimed and the parking meter of this document it would not be possible when starting from the latter to arrive at the subject-matter of the claims without the use of hindsight.

The attack under Article 52(3) was rejected on the basis that since both the preamble and the characterising part of Claim 1 contained technical features that claim did not fall under the exclusions set out in Article 52(2)(c). Also as the claim was not solely concerned with the presentation of information Article 52(2)(d) was inapplicable.

- IV. An appeal against the decision was lodged by the Opponents on 15 July 1985 and the appeal fee paid at the same time. The Statement of Grounds was filed on 23 August 1985.

In the statement no reference is made to the findings of the Opposition Division on the allegation that the claims relate to non-patentable matter in the sense of Article 52(2) EPC.

In respect of the allegation of lack of inventive step based on doc. (1) it is stated that the appellants rely entirely on submissions made during the opposition proceedings, but attention is also drawn to a new document US-A-3 917 934 (doc. 2) which in the view of the appellants also discloses the essential features of the claimed parking meter means.

- V. The appellants are requesting that the decision under appeal be set aside and the patent revoked.

- VI. The respondents (patentees) contend that the appellant has presented no basically new argument and request a decision from the Board based on previously filed documents.

Reasons for the Decision

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is therefore admissible.

2. Since the appellants have not challenged the decision of the Opposition Division relating to the objection raised under Article 52(3) EPC that Claim 1 relates to subject-matter excluded from patentability, the Board deems it unnecessary to go into this matter in detail here and confines itself to endorsing the reasons given by the Opposition Division for rejecting that objection.

3. Novelty.

3.1 Doc. 1, the sole document relied on by the appellant before the Opposition Division, relates to a system for purchasing parking space, i.e. a motor vehicle parking system, comprising a storage device (parking meter) (1) detachably mounted on a magnetic plate on the vehicle windscreen so as to be readable from outside, for storing information representing a paid fee. When required the storage device can be plugged (at 25) into an information feed device (20) (terminal means) outside the control of the person to whom the meter is assigned, to receive information representing the magnitude of a purchase.

Incorporated in the storage device is a timing-circuit-controlled electromechanical count down mechanism (2,14) which is operative during parking. On parking the purchaser, presumably in response to information on a fixed sign, moves a switch (3) on the storage device to one of a number of colour-identified positions to select, by adjustment of the timing circuit (Fig. 2), the countdown rate appropriate to the zone in which the vehicle is parked. The timing circuit is automatically energised in response to mounting the device on the magnetic plate, to initiate stepdown of the counter (2), the initial count of which represents the unused amount of the paid fee, and a visual indication (2a) and a red blinker are provided to

show when the count has reached zero, when stepdown automatically stops. Blinkers may be incorporated, see Col 5, lines 63-64, which are energised while the device is functioning.

There is however no reference in doc. 1 to a sign displaying coded parking information identified as a1 to a3 in Claim 1 and the sole means for entering information into the storage device on parking are the countdown rate selection and magnetically operated starting switch.

Though the device bears cipher indications these are not settable in accordance with entered data.

Even if the counter can be regarded as a main memory means for receiving a predetermined number of information bits, as contended by the appellant, there are no accounting memories for selective reception and storage of information from that memory, nor is there a microprocessor or electronic circuit for selectively transferring such bits between memories in accordance with the displayed information.

3.2 After careful consideration of late-filed document 2, in accordance with Article 114(1) EPC, the Board concluded that, even if it were to take this prior art into account, it would not come to a different decision. Thus this document may be disregarded in accordance with Article 114(2) EPC, which empowers the EPO to disregard facts or evidence which are not submitted in due time by the parties concerned. It need not therefore be discussed further.

- 3.3 The two further documents mentioned in the search report DE-A-2 429 332 and DE-A-2 613 931, to which the patent makes reference but on which the appellant has not relied, are more remote from the subject-matter of Claim 1 and therefore do not warrant detailed consideration here.
- 3.4 For the reasons given above the subject-matter of Claim 1 is deemed to be novel within the meaning of Article 54 EPC.
4. It has now therefore to be considered whether the subject-matter of Claim 1 involves an inventive step.
- 4.1 For this purpose it is first necessary to objectively determine the problem to be solved by this subject-matter by identifying the nearest prior art and then establishing what results are achieved by the system claimed but not by that prior art system. In the Board's opinion the closest prior art is the system disclosed in doc. 1, which is acknowledged in the specification of the patent-in-suit, and the main features of which have been discussed in point 2.1 above.
- 4.2 From a comparison of the claimed and prior art systems it emerges that the main difference resides in the arrangements for handling the information or data relating to payment. In the system of doc. (1) this data is represented by the count on the counter and debiting in accordance with the rules applicable to a particular parking lot simply amounts to reducing this count at a rate determined by the setting of switch 3 and does not result in the generation of separate data representative of the cumulative cost of parking.

Thus, although the counter could be set initially on a value representing a predetermined amount of credit rather than an amount already paid, neither the information feed device nor the storage device is provided with means for memorising the amount of credit or for subtracting the credit remaining (represented by the counter reading) from this when the storage device is next connected to the information feed device. Even if provision were to be made for this the system could still not take into account changes in the cost of parking during the period between successive connections to the feed device. Apart from this the scope for variation in parking costs is restricted to what can be achieved using switch 3. Thus, changes in the relative cost of parking in various zones can be achieved only by altering the values of resistors 9 to 11 in each storage device. The system also has no means of distinguishing between parking costs incurred in different lots or groups of lots in different ownership and could not be adapted to do this without radical redesign.

On the other hand the system of Claim 1 can be used unchanged without advanced payment simply by initially supplying a number of information bits corresponding to an allowed amount of credit rather than a prepaid amount to the main memory (see col. 2, lines 43-45 and col. 7, lines 8-20 of the specification of the patent in suit). A change in parking rate can be implemented by simply changing the relevant information entered into the parking meter means and the system is not inherently limited to use of a rate which is constant over an entire period of parking or an exclusively time-proportional regime of charging.

By its use of a microprocessor or electronic circuit capable of selectively transferring bits of information from the main to the accounting memory means during the period in which the vehicle is parked in accordance with displayed information as to parking time, cost and payment the system can be adapted, simply by provision of additional memories, according to the option represented by the words "at least one" in Claim 1, and reprogramming in accordance with relevant parking information to provide in the different accounting memories information representing the cost of parking due to individual lot owners.

Thus, the claimed system inherently provides greater flexibility both for the motorist and for the payment receiver(s) than the system of doc. (1), which flexibility can be increased by the simple provision of additional memory and programming information.

Therefore the problem is to be seen as the provision of a parking system providing improved, more flexible, accounting facilities than that disclosed in doc. 1.

4.3 Doc. 1 gives no indication as to how the system described there could be modified to accommodate parking without advanced payment, nor does it propose how the parking meter itself could be adapted to assist in allotting different portions of the advance-paid fee to owners of different lots on which it is used. Still less does it suggest the accumulation of the information required for this purpose, by use of selectively fed accounting memories. It could not therefore lead the skilled man to the system claimed in Claim 1.

4.4 It has not be suggested by the appellant that the disclosure in either of the other two documents referred to at 2.3 above, considered either alone or in combination

with that of document 1 would enable the skilled man to devise a system within the scope of Claim 1 without taking an inventive step and the Board, having examined these documents itself, is satisfied that it could not do so.

- 4.5 For the foregoing reasons the Board finds that the subject-matter of Claim 1 involves an inventive step within the meaning of Article 56 EPC.
5. A consideration of the wording of Claim 1 and the foregoing discussion of the prior art raises doubts as to whether the present two-part formulation of the claim is in accordance with the requirements of Rule 29(1) EPC. The Board has not, however, investigated this matter in detail since it can see no reason to insist, of its own motion, on a reformulation of the already granted claim the subject-matter of which it finds to be patentable within the terms of Articles 52 to 57 EPC. The Board takes the view that Rule 29(1), like Article 84 EPC, is of primary significance during the granting procedure and that it is for this reason that failure to comply with either the Rule or the Article does not constitute a ground for opposition (see also decision T 99/85, to be published).
6. For these reasons Claim 1 can be maintained.
7. Since Claims 2 to 6 relate to preferred embodiments of the parking system according to Claim 1 their allowability follows from that of Claim 1. They can therefore also be maintained.

Order

For these reasons it is decided that:

the appeal is dismissed.

The Registrar:

Rückerl

The Chairman:

Lederer