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Bezeichnung der Erfindung: Energy generation system having higher energy
Title of invention: output than input
Titre de l'invention :

Klassifikation / Classification / Classement : H02N 11/00, H02K 53/00

ENTSCHEIDUNG / DECISION

vom / of / du 18 March 1988

Anmelder / Applicant / Demandeur : NEWMAN, J.W.

Patentinhaber / Proprietor of the patent /
Titulaire du brevet :

Einsprechender / Opponent / Opposant :

Stichwort / Headword / Référence : Newman's energy device

EPO / EPC / CBE Article 83

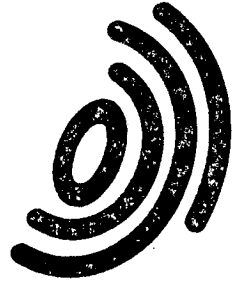
Kennwort / Keyword / Mot clé : Insufficiency of disclosure

Leitsatz / Headnote / Sommaire

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Office européen
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Chambres de recours



Case Number : T 5/86 - 3.5.1

D E C I S I O N
of the Technical Board of Appeal 3.5.1
of 18 March 1988

Appellant : NEWMAN, Joseph W.
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Decision under appeal : Decision of Examining Division 054
of the European Patent Office
dated 15 July 1985 refusing European
patent application No. 81 902 499.3
pursuant to Article 97(1) EPC

Composition of the Board :

Chairman : P.K.J. van den Berg
Members : W.J.L. Wheeler
G.D. Paterson

Summary of Facts and Submissions

- I. European patent application No. 81 902 499.3 (publication Nos. WO 83/00963 and EP-A-0 086 776) was accorded a filing date of 28 August 1981 and was refused by the decision of the Examining Division 054 of the European Patent Office dated 15 July 1985. That decision was based on Claims 1 to 27 filed on 18 May 1983.

- II. The reason given for the refusal was that the application related to so-called "perpetual motion" devices, which contravened the established laws of physics and were consequently excluded from patentability by Articles 52(1) and 57 EPC since they were not susceptible of industrial application. Furthermore, the application did not comply with Article 83 EPC since it did not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art.

- III. The Appellant lodged an appeal against this decision on 10 September 1985. The appeal fee was paid on the same day. The Statement of Grounds was filed on 14 November 1985.

In the Statement of Grounds the Appellant argued essentially that the present invention was not a perpetual motion machine. It released latent energy in accordance with Einstein's equation $E=mc^2$ and would stop when its mass was exhausted. The invention did not contravene any established laws of physics, although its explanation did lie beyond them. A person skilled in the art could build an embodiment of the device from the information in the description. A working device had been built by the Appellant and according to the affidavits on the file this device produced an energy output greater than its input energy.

- IV. In the communication of 6 March 1987 the Board identified for each of the different embodiments described and claimed a problem whose solution had not been disclosed in the application and which a person skilled in the art could not be expected to solve for himself. The provisional opinion was expressed that the application did not appear to meet the requirement of Article 83 EPC.
- V. In a submission dated 4 September 1987, the Appellant referred to various passages in the description which he maintained met the requirement of Article 83 EPC, at least for embodiments of the type shown in Figures 5 and 6. He also requested oral proceedings.
- VI. On 16 March 1988 the Appellant's representative filed an affidavit which was said to provide further evidence that the device could provide greater energy output than input, and copies of documents relating to court proceedings in the United States of America, which had only just been received from the Appellant's U.S. Attorney. The court documents included a "Report of the Special Master" dated 28 September 1984, which was submitted to be "of particular relevance to this case." The documents showed that on 28 September 1984, the question whether the Appellant would be granted a patent in the United States of America had not been finally decided.

A new Claim 28 was filed on 17 March 1988.

- VII. At the oral proceedings, which took place on 18 March 1988, the Appellant's representative did not put forward any arguments in support of the sufficiency of disclosure of the embodiments shown in Figures 1 to 4.

The Appellant's representative resiled from the $E=mc^2$ explanation. The claims did not define any conversion of matter into energy. The invention harnessed latent energy which was present in certain materials and was not a perpetual motion machine since its output was not greater than the sum of the energy input and the latent energy.

Regarding the devices shown in Figures 5 and 6, the representative explained that when a circuit was completed between the battery and the coil a wavefront travelled along the coil at or near the speed of light, creating a magnetic field before current started to flow. If the current was reversed before the wavefront reached the far end of the coil, the battery would not be used up. This was an empirical result, which the Appellant had confirmed experimentally and attempted to explain by his gyroscopic particle theory.

The representative argued that the right to a patent did not depend on the correctness of the Appellant's theory. Particular examples of working prototypes and the general design principles were described on pages 22 to 39 of the application. The application contained sufficient information about the way in which the coil should be constructed to provide a current retarding effect, which was the technical means for getting more energy out than was put in. In cases such as the present one, where it was difficult to determine the limits of the invention by theory or to explore them empirically by building a large number of embodiments, it was allowable to define the invention in functional terms.

In answer to the Board's questions as to where the application disclosed details of the means for reversing the current before it had travelled through the coil, the representative referred to page 24, line 21, to page 27,

line 7, and explained that the coil was constructed to so retard the current as to make possible the use of a conventional commutator. The invention was reproducible: if a person skilled in the art started with a coil which did not produce the desired effect, the description on pages 34 to 39 told him how to modify it, namely by using more material, ie. a longer coil of larger diameter and stronger magnets.

VIII. The Appellant requests that the decision under appeal be set aside and a patent be granted on the basis of

Claims 1 to 27, filed on 18.05.83, and Claim 28, filed on 17.03.88, with pages 1 to 41 of the description and sheets 1 to 3 of the drawings of the published application (main request)

Claims 9 to 12 and 21 to 28 as above, with leave to file a divisional application in respect of Claims 1 to 8 and 13 to 20 (first auxiliary request).

The Appellant also requests, if dismissal of the appeal is envisaged because of insufficient evidence, that the Board's decision be deferred sine die (second auxiliary request).

IX. The text of the independent claims is as follows:

1. An electrical energy generation system for generating usable electrical energy, comprising:

a source of at least one magnetic field;

usable electrical energy output means associated with said magnetic field for making available for use the usable electrical energy generated in the system; and

application means associated with said magnetic field for applying an adequate force at the proper angle to the gyroscopic type energy particles making up said magnetic field to cause said gyroscopic type energy particles to follow a desired direction producing usable electrical energy at said output means, the amount of said usable electrical energy being greater than the amount of any external energy input to said source and said application means.

8. An energy generation system for generating usable energy, comprising:

at least one mass of material producing a source of at least one magnetic field;

usable energy output means associated with said magnetic field for making available for use the usable energy generated in the system;

alignment means associated with said mass for causing at least some of the atoms of said mass to alternatively align and disalign releasing some of the internal energy making up the affected atoms of said mass; and

utilization means for utilizing some of the energy released from the affected atoms of said mass producing usable energy at said output means, the amount of said usable energy being greater than the amount of any external energy inputted to said mass, said alignment means and said utilization means.

9. An energy generation system for generating usable energy, comprising:

at least one mass of material producing a source of at least one magnetic field;

usable energy output means associated with said magnetic field for making available for use the usable energy generated in the system;

alternating electric current means associated with said mass for producing an electric current in said mass in an alternating direction, causing an alternating magnetic field to encompass said mass; and

current retarding means associated with said mass for at least partially entrapping said electric current in said mass an effective amount for producing usable energy at said output means of an amount greater than the amount of energy inputted into said mass from said alternating electric current means.

14. The method of generating usable energy, comprising the steps of:

a. providing a magnetic device which has a material mass into which an electrical current is introduced, which results in causing pertinent atom alignment within said material mass, thereby releasing some of the electromagnetic energy making up the atoms of said material mass in the form of a magnetic field, causing the gyroscopic type energy particles of said magnetic field to then interact with the gyroscopic type energy particles making up a magnetic field coming from the atoms of a different material mass; and

b. having the magnetic device then cause a release of usable energy through at least one power outlet and

resulting in producing a greater energy output than external energy input into the device.

18. A method of generating usable electrical energy from a source of at least one magnetic field, comprising the following step:

applying an adequate force at the proper angle to the gyroscopic type energy particles to follow a desired direction producing usable electrical energy at an output means of an amount greater than the amount of any external energy inputted to the system.

20. A device which increases the availability of usable electrical energy or usable motion, or both, from a given mass or masses by a device causing a controlled release of, or reaction to, the gyroscopic type energy particles making up or coming from the atoms of the mass or masses, which in turn, by any properly designed system, causes an energy output greater than the energy input.

21. The method of producing usable energy, comprising the following steps:

a. inputting energy into a device from an external source;

b. having electrical current flow within said device; and

c. utilizing the internal electromagnetic energy of at least some of the matter in the device to add to the energy being inputted into the device from the external source to produce useful energy for use outside of the

device having an amount greater than the energy being inputted to the device.

22. A method for generating usable energy from at least one mass of material producing a source of at least one magnetic field, comprising the following steps:

a. producing an electric current in said mass in an alternating direction, causing an alternating magnetic field to encompass said mass; and

b. at least partially entrapping said electric current in said mass an effective amount for producing usable energy at said output means of an amount greater than the amount of energy inputted to said mass from said alternating electric current means.

27. A method for generating usable energy from at least one mass of material producing a source of at least one magnetic field, comprising the following steps:

a. causing at least some of the atoms of said mass to alternatively align and disalign releasing some of the internal energy making up the affected atoms of said mass; and

b. utilizing some of the energy released from the affected atoms of said mass producing usable energy at an output means of an amount greater than the amount of any external energy inputted to the system.

28. An energy generation system comprising a coil (205) of an electrically conducting material, a magnet (200) positioned in the vicinity of the coil, the magnet (200) being rotatable relative to the coil (205), electrical energy input means (201) for supplying

electrical energy to the coil and to produce rotation of the magnet (200) relative to the coil (205), and means (202) to reverse the direction of current through the coil (205) during said rotation, characterised in that the conducting material of the coil (205) is selected to be of sufficiently large length and diameter, and the number of turns of the coil (205) is selected to be sufficiently large, to ensure that a substantial portion of the current from the electrical energy input means does not travel through the entire length of the conducting material of the coil (205) before the direction of the current is reversed by the current reversing means (202), thereby producing a latent energy in the apparatus, whereby the total energy output of the apparatus is greater than the energy input, but less than the sum of the energy input and the latent energy produced.

Reasons for the Decision

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is, therefore, admissible.
2. In its most general form, the present invention utilises a material or substance or structure to place a force at the proper angle to the gyroscopic particles of an electromagnetic field, which particles follow a path or paths which do not cancel one another out, thereby producing electrical current at appropriate outputs. (cf. page 8, lines 3 to 12 of the present application as published in WO 83/00963).

There are three distinct types of embodiment described in the application, namely

(a) The gas or gas-liquid mixture type described on page 8, line 14, to page 10, line 7, with reference to Figures 1 and 2;

(b) The aligned atoms type described on page 10, line 9, to page 13, line 12, with reference to Figure 3; and

(c) The rotating magnet and coil type described on page 13, line 15, to page 39, line 21, with reference to Figures 5 and 6.

It is convenient to consider these three types separately.

3. Type (a): When exposed to a high magnetic field, the gas or gas-liquid mixture 117, Fig. 1 is required to exhibit the exceptional property of becoming electrically charged in such a way that the charge can be picked up by a wire network (cf. page 9, line 19 to page 10, line 7). No specific example of a suitable gas or gas-liquid mixture is mentioned in the application and in the Board's opinion a person skilled in the art would not readily be able to think of one. Furthermore, the Appellant's representative admitted at the oral proceedings that he did not know of a gas or gas-liquid with the required property.

In the opinion of the Board, therefore, the application cannot be considered to have met the requirement of Article 83 EPC, namely disclosure of the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art, in respect of this type of embodiment.

4. Type (b): Here the extended member 201 is required to exhibit the exceptional property of being able to produce an electric current when positioned in the field between

the magnets 202, 203, even when the member 201 is completely static with respect to the magnets which apparently produce a static magnetic field (cf. page 10, line 12 to page 11, line 11). Although brass and lead are mentioned as materials which it is believed can be so treated as to exhibit the required property, it is common experience that they do not normally exhibit this property. The information given on pages 11 to 13 is very general and vague. Furthermore, the Appellant's representative admitted at the oral proceedings that he did not know of an example of a material having the required property.

In the opinion of the Board, therefore, the application cannot be considered to have met the requirement of Article 83 EPC in respect of this type of embodiment.

5. Type (c): According to the explanation on pages 13 to 22, the bottom of page 25, and pages 28 and 29, in this type of embodiment electromagnetic energy is released from the atom make-up of the battery 201 (301) and the coil 205 (305) in accordance with Einstein's equation $E = mc^2$. Although various constructional details are given, in particular on pages 22 to 24 and 32 to 37, the Board has found no disclosure of the technical means required to cause the conversion of matter into energy in such a way as to produce the described effects. A person skilled in the art could not be expected to devise such means himself without instruction.

At the oral proceedings the Appellant's representative explained that this type of embodiment did not involve the conversion of matter into energy and he pointed out that such a conversion is not mentioned in any of the claims. Therefore it was not necessary for the application to disclose means for doing this. Rather, this type of embodiment harnessed latent energy present in the materials

from which it was constructed, by reversing the current before the initial wavefront had travelled through the coil.

In the opinion of the Board this would necessitate an extremely rapid switching or an extremely long coil. Apart from passing references to brushes and commutator 202 on pages 22 and 23, the only disclosure of the details of the switching means appears on page 33, lines 13 to 23, where it is stated that "the commutator segments 202 (302) can be made of a large diameter and the area of the brushes made small, whereby, when the brushes cross over the gaps in the commutator segments, there will be no short circuit at any time directly back to the battery 201 (301). By combining the slip rings and brushes (the slip rings can be made of a small diameter) to the side or sides of the brushes and commutator segments 202 (302), then battery 201 (301) does not have to rotate with magnet 200 (300)."

According to the description on page 36, the rotor turns at 120 rpm. Thus, if the commutator reverses the current twice per revolution and the wavefront travels at a speed of the order of 10^{10} cm/sec, the length of wire in the coil would have to be of the order of at least 10^4 km. However, according to the description on page 33, line 25, to page 34, line 26, in the prototypes the primary motor coils 205 and 305 shown in Figures 5 and 6 consist of 31.5 kg of No. "14" gauge copper insulated wire, or of 1845 kg of No. "5" gauge copper wire with a coil loop diameter 135 cm and coil length of 75 cm. The length of wire in the described coils is clearly several orders of magnitude too short.

According to the Appellant's representative at the oral proceedings, the described prototypes do work, owing to the current retarding effect. He stated their efficiency is only 102% (apparently neglecting any mechanical energy

delivered by the prototypes), but the general design principles on pages 37 to 39 gave the skilled man all the information he needed to develop more efficient embodiments.

The Board is aware that it is well known that coils exhibit the property of inductance, which tends to oppose changes in the current flowing through them. However, this applies equally to increases and decreases in current flow and consequently also to reversals of current flow. The present application does not disclose any means for retarding the start-up of a current while permitting a rapid reversal of the current.

In the opinion of the Board, the concepts involved are so revolutionary that a person of average skill in the art would not be able to fill in the missing details of the commutator and current retarding means on the basis of his own knowledge or as the result of a reasonable amount of trial and error. It follows that the application cannot be considered to have met the requirement of Article 83 EPC in respect of this type of embodiment.

With reference to the affidavits, declarations and statements on the file, which were alleged to constitute evidence in support of the application, the Board observed that none of this evidence revealed any details of the construction of the devices which were the subject of this evidence, and that therefore it could not be directly related to the devices described in the application. The Appellant's representative agreed that this appeared to be correct.

In any event, such evidence could not assist the Appellant in connection with the objections under Article 83 EPC.

6. Turning now to the claims:

Claim 1 specifies the desideratum "producing usable electrical energy at said output means, the amount of said usable electrical energy being greater than the amount of any external energy input to said source and said application means." According to the claim, this is done by "application means ... for applying an adequate force at the proper angle to the gyroscopic type energy particles"

The application contains no guidance concerning "the adequate force" or "the proper angle" or how to construct a suitable "application means." The Board considers that a person skilled in the art would not be able to devise a suitable application means, since none of the particular embodiments (types a, b and c) has been sufficiently disclosed (cf. items 3, 4 and 5 above).

Claims 2 to 5 are dependent on Claim 1 and relate to embodiments of type a. As shown in item 3 above, the disclosure in respect of this type of embodiment is insufficient.

Claims 6 and 7 are dependent on Claim 1 and relate to embodiments of type b. As shown in item 4 above, the disclosure in respect of this type of embodiment is insufficient.

Claim 8 specifies the desideratum "the amount of said usable energy being greater than the amount of any external energy inputted to said mass, said alignment means and said utilization means." The Board considers that a person skilled in the art would not be able to devise a suitable alignment means, since none of the particular embodiments

(types a, b and c) has been sufficiently disclosed (cf. items 3, 4 and 5 above).

Claim 9 specifies "current retarding means associated with said mass for at least partially entrapping said electric current in said mass an effective amount for producing usable energy at said output means of an amount greater than the amount of energy inputted into said mass from said alternating electric current means." The Board considers that a person skilled in the art would not be able to devise a suitable current retarding means, since, as shown in item 5 above, the embodiments of type c have not been sufficiently disclosed.

Claims 10 to 13, which are dependent on Claim 8 or on Claim 9, relate to embodiments of type c. As shown in item 5 above, the disclosure in respect of this type of embodiment is insufficient.

Claim 14 is a method claim and includes the desideratum "having the magnetic device then cause a release of usable energy through at least one power outlet and resulting in producing a greater energy output than external energy input into the device." The Board considers that a person skilled in the art would not be able to carry out this step, since none of the particular embodiments (types a, b and c) has been sufficiently disclosed (cf. items 3, 4 and 5 above).

Claims 15 to 17 are dependent on Claim 14 and share it fate.

Claim 18 specifies "applying an adequate force at the proper angle to the gyroscopic type energy particles ...". As has been shown above when considering Claim 1, the application does not contain sufficient disclosure for a person skilled in the art to carry this out.

Claim 19 is dependent on Claim 18 and relates to a method involving a type b embodiment. As shown in item 4 above, the disclosure in respect of this type of embodiment is insufficient.

Claim 20 specifies the desideratum "which in turn, by any properly designed system, causes an energy output greater than the energy input." The Board considers that a person skilled in the art would not be able to devise a "properly designed system" since none of the particular embodiments (types a, b and c) has been sufficiently disclosed (cf. items 3, 4 and 5 above).

Claim 21 specifies "utilizing the internal electro-magnetic energy of at least some of the matter in the device to add to the energy being inputted into the device from the external source to produce useful energy for use outside of the device having an amount greater than the energy being inputted to the device." The Board considers that a person skilled in the art would not be able to carry this out, since none of the particular embodiments (types a, b and c) has been sufficiently disclosed (cf. items 3, 4 and 5 above).

Claim 22 specifies "at least partially entrapping said electric current in said mass an effective amount for producing electrical energy at said output means of an amount greater than the amount of energy inputted to said mass from said alternating electric current means." The Board considers that a person skilled in the art would not be able to carry this out, since none of the particular embodiments (types a, b and c) has been sufficiently disclosed (cf. items 3, 4 and 5 above).

Claims 23 to 26 are dependent on Claim 22 and relate to methods involving embodiments of type c. As shown in item 5 above, the disclosure of this type of embodiment is insufficient.

Claim 27 specifies "utilizing some of the energy released from the affected atoms of said mass producing usable energy at an output means of an amount greater than the amount of any external energy inputted to the system." The Board considers that a person skilled in the art would not be able to carry this out, since none of the particular embodiments (types a, b and c) has been sufficiently disclosed (cf. items 3, 4 and 5 above).

Claim 28 relates to a type c embodiment and specifies "the number of turns of the coil (205) is selected to be sufficiently large, to ensure that a substantial portion of the current from the electrical energy input means does not travel through the entire length of the conducting material of the coil (205) before the direction of the current is reversed by the current reversing means (202)," As shown in item 5 above, the disclosure in respect of this feature is insufficient.

7. Thus, in the opinion of the Board, the application does not disclose any embodiment of the subject-matter claimed in any of the claims in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art. Therefore, the application cannot be considered to have met the requirement of Article 83 EPC.
8. Since, according to Article 123(2) EPC, a European patent application may not be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed, it is not possible to remedy the above mentioned lack of compliance with the requirement of Article 83 EPC.

In these circumstances it is not necessary for the Board to consider whether or not the alleged invention would or could work, if it were reduced to practice on the basis of sufficient further information not disclosed in this application.

9. Since, as shown in items 2 to 7 above, the application does not meet the requirement of Article 83 EPC, the Appellant's main request must be refused.

Similarly, grant of a patent on the basis of Claims 9 to 12 and 21 to 28 must be refused. Since the effect of granting leave to file a divisional application in respect of Claims 1 to 8 and 13 to 20 would be to continue the procedure in respect of matter which this Board has already decided does not meet the requirement of Article 83 EPC, and which is therefore *res judicata*, the Appellant's first auxiliary request must be refused.

Since, in the Board's opinion, the insufficiency of the disclosure in the present application is such that it could not be remedied by the filing of further affidavits or other evidence, the Appellant's second auxiliary request is also refused.

10. With reference to the United States court documents referred to in paragraph VI above, at the oral proceedings held on 18 March 1988 the Board was not informed (nor did it enquire) whether the court proceedings in the United States in connection with the possible grant of a United States patent had been concluded. Consequently the decision of the Board was announced at the oral proceedings without any knowledge of the United States proceedings beyond what is contained in the documents filed on 16 March 1988.

Order

For these reasons, it is decided that:

1. the appeal is dismissed.
2. all the Appellant's requests are refused.

The Registrar

The Chairman

S. Fabiani

P.K.J. van den Berg