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Aktenzeichen / Case Number / N° du recours : T 247/89 - 3.5.1

Anmeldenummer / Filing No / N° de la demande : 82 301 215.8

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Bezeichnung der Erfindung: Electrical motor

Title of invention:

Titre de l'invention :

Klassifikation / Classification / Classement : H02K 29/12

ENTSCHEIDUNG / DECISION

vom / of / du 15 May 1990

Anmelder / Applicant / Demandeur :

Patentinhaber / Proprietor of the patent /

Titulaire du brevet :

Ford Motor Company Limited

Einsprechender / Opponent / Opposant :

Siemens AG

Stichwort / Headword / Référence :

EPÜ / EPC / CBE Art. 56

Schlagwort / Keyword / Mot clé :

1. "Claim 1 as granted lacking inventive step".
2. "No further prosecution after the Patentee has lost his interest in the case"

Leitsatz / Headnote / Sommaire

Europäisches
Patentamt
Beschwerdekammern

European Patent
Office
Boards of Appeal

Office européen
des brevets
Chambres de recours



Case Number : T 247/89 - 3.5.1

D E C I S I O N
of the Technical Board of Appeal 3.5.1
of 15 May 1990

Appellant : Siemens Aktiengesellschaft, Berlin und München
(Opponent) Bundesrepublik Deutschland

Representative :

Respondent : Ford Motor Company Limited
(Proprietor of the patent) Eagle Way
Brentwood
Essex CM13 3BW (GB)

Representative : Drakeford, Robert William
Ford Motor Company Limited
15/448, Research & Engineering Centre
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Decision under appeal : Decision of Opposition Division of the European
Patent Office dated 6 February 1989 rejecting
the opposition filed against European patent
No. 0 060 143 pursuant to Article 102(2) EPC.

Composition of the Board :

Chairman : P.K.J van den Berg

Members : W.P.H. Riewald

F. Benussi

Summary of Facts and Submissions

I. European patent No. 0 060 143, incorporating independent Claim 1 and Claims 2 to 6 appended to Claim 1, was granted to the Respondent on 5 June 1985 in response to European patent application No. 82 301 215.8 filed on 10 March 1982 and claiming the priority of an application in the United Kingdom dated 10 March 1981.

II. A notice of opposition was filed by the Appellant on 3 March 1986 requesting revocation of the patent on the grounds of lacking novelty or inventive step.

In support of his request, the Opponent referred to the prior art documents

R1: DE-A-2 532 650, and

R2: DE-B-1 961 719.

III. The Opposition Division rejected the opposition by a decision dated 6 February 1989.

IV. On 5 April 1989, the Opponent lodged an appeal against the decision and paid the appeal fee on the same day. A statement of grounds of appeal was received on 18 May 1989.

The Appellant requested to set aside the decision and

- (a) to revoke the patent in its entirety,
- (b) subsidiarily to summon for oral proceedings.

In the grounds of appeal, the Opponent submitted that

- the claims were not clear (Art. 84 EPC),

- the description did not indicate the relevant prior art,
- the description did not disclose the invention in a manner sufficiently clear and complete (Art. 100(b) EPC),
- the subject-matter claimed lacked an inventive step with regard to the prior art known from the documents R1 and R2.

V. In a communication dated 22 December 1989 and accompanying summons for oral proceedings, the Rapporteur

- drew the Appellant's attention to the fact that objections under Art. 84 EPC cannot be raised by an Opponent under Art. 100(b) EPC,
- voiced the provisional view that the disclosure of the invention in the description should be regarded as sufficiently clear and complete, and
- declared it to be doubtful that the subject-matter of Claim 1 is made obvious by the cited prior art.

The Rapporteur, however, also drew attention to the fact that amendments to the claims might become necessary and that in this case the requirements of clarity had to be observed if, in the course of oral proceedings, the Board came to the conclusion that maintenance of the patent in unamended form was not possible. The Respondent (Patentee) was invited to file further information or documents, if any, at least one month before the date of the oral proceedings.

VI. With letter of 12 February 1990, received on 17 February 1990, the Respondent (Patentee) confirmed that he would not be attending the oral proceedings and that the case was no longer of interest to him so that it had been

allowed to lapse through non-payment of renewal fees in the national patent offices.

VII. Oral proceedings were held on 15 May 1990. Only the representative on behalf of the Appellant (Opponent) was present at the oral proceedings.

VIII. Claim 1 as granted reads as follows:

"An electrical motor comprising a rotor (2) carrying a plurality of permanent magnetic poles (6,6), a stator (4) carrying at least two main windings (22,23) which, when activated, interact with the magnetic fields generated by the said poles (6,6) to drive the rotor (2) relative to the stator (4), search windings (25,26) on the stator (4) each associated with a respective one of the main windings (22,23) and arranged to interact with the magnetic field generated by the said poles (6,6) and switches (T_1, T_2) for each main winding operable by the search winding (25,25) associated therewith to activate the main windings (22,23) in sequence in accordance with the rotation of the rotor (2), characterised in that the switches activate the main windings for different relative durations during each of their respective operating cycles."

IX. The Appellant's (Opponent's) submissions can be summarised as follows:

The document R1 discloses an electrical motor with all the features of the precharacterising portion of Claim 1. The document deals with the same problem as the patent in suit, viz to ensure that the motor will always start in the same direction, and teaches that the switches activate the main windings for different relative durations during a starting cycle. The only difference of the claimed motor over this prior art is to be seen in the fact that the

different duration of switch activation is maintained during each of the operating cycles of the windings, i.e. not only during starting of the motor. The principal concept of ensuring starting in the desired direction by unsymmetric excitation of the windings is, however, the same in both cases, and the Patentee's suggestion to maintain the different excitation durations during running, i.e. when different durations are not really necessary, could even be understood as a debased embodiment of the prior art.

Reasons for the Decision

1. The appeal is admissible.
2. In respect of Claim 1 in its granted and unamended form, the document R1 is to be regarded as disclosing the closest prior art.

This document refers to a motor that comprises a rotor carrying a plurality of permanent magnetic poles and a stator with a plurality of main windings (page 1, first paragraph). The main windings (Fig.1: 21,22,23), when activated, interact with the magnetic fields generated by the said poles to drive the rotor relative to the stator (page 4, lines 13 to 21). Search windings (24,25,26) on the stator are each associated with a respective one of the main windings and arranged to interact with the magnetic field generated by the said poles (page 4, lines 22 to 26). Switches (59,60,61) for the main windings are operable by the search windings associated therewith to activate the main windings in sequence in accordance with the rotation of the rotor (page 6, line 27 to page 7, line 12). In order to ensure the start of the motor in a desired direction (page 2, lines 11 to 18) provision is

made that during a starting period the switches activate the main windings for different relative durations:

the switches 59 and 60 are activated during a time period $t_0 \dots t_1$ and the switch 61 is activated during a shorter time period $t_1 \dots t_2$ (Fig. 1 and page 5, line 34 to page 6, line 17).

3. Claim 1 of the patent in suit differs from this prior art by the feature that the activation of the main windings is effected for different durations during each of the respective operating cycles, i.e. also in the normal running mode.

The Board is satisfied by the Appellant's argument that this concept may readily be envisaged by a skilled person, since a mode of operation that ensures a start of the motor in a desired direction may, at first sight, be as well suited to ensure the correct running in this direction.

4. The unamended Claim 1 of the patent can, therefore, not be maintained because its subject-matter lacks an inventive step.
5. The Board is aware of the fact that the present patent description discloses a realisation of this concept that comprises further features that differ substantially from the cited prior art (cf. the Rapporteur's communication of 22 December 1989).

However, a further prosecution of the case on the basis of this disclosure - in particular an examination of the Appellant's objection in respect of an alleged insufficiency of the disclosure or any considerations in respect of contingent amendments to the claims - is not

possible, because the Respondent (Patentee) has declared that the case is no longer of interest to him.

6. In the absence of patent documents that would allow a maintenance, the patent has, therefore, to be revoked.

Order

For these reasons, it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairman:

P. Martorana

P.K.J. van den Berg