

Publication in the Official Journal Yes / No

File Number: T 683/89 - 3.2.1

Application No.: 81 104 501.2

Publication No.: 0 041 741

Title of invention: Method and device for displaying vehicle operating parameters in a variable format

Classification: B60Q 9/00 , G06F 15/20

DECISION
of 5 June 1991

Proprietor of the patent: Nippondenso Co. Ltd.

Opponent: (I) AUDI AG
(II) VDO AG
(III) BMW AG

Headword:

EPC Art. 113(1), Art. 114(1), Art. 54, Art. 56

Keyword: "Procedural violation (no)"
"Novelty (yes)"
"Inventive step (no)"

Headnote



((2))

Case Number : T 683/89 - 3.2.1

D E C I S I O N
of the Technical Board of Appeal 3.2.1
of 5 June 1991

Appellant I : AUDI AG
(Opponent 1) Postfach 220
W-8070 Ingolstadt (DE)

Appellant II : VDO Adolf Schindling AG
(Opponent 2) Gräfstraße 103
W-6000 Frankfurt/Main (DE)

Representative : Klein, Thomas, Dipl.-Ing. (FH)
Sodener Straße 9
Postfach 6140
W-6231 Schwalbach am Taunus (DE)

**Further party to
the proceedings :** Bayerische Motoren Werke Aktiengesellschaft
(Opponent 3) Petuelring 130, BMW Haus
Postfach 40 02 40
W-8000 München 50 (DE)

Respondent : Nippondenso Co. Ltd.,
(Proprietor of the patent) 1,1-chome Showa-cho
Kariya-shi Aichi-ken (JP)

Representative : Klingseisen, Franz, Dipl.-Ing.
Dr. F. Zumstein sen., Dr. E. Assmann
Dr. R. Koenigsberger, Dr. F. Zumstein jun.
Dipl.-Ing. F. Klingseisen
Bräuhausstrasse 4
W-8000 München 2 (DE)

Decision under appeal : Interlocutory decision of the Opposition Division
of the European Patent Office dated 8 September
1989 concerning maintenance of European patent
No. 0 041 741 in amended form.

Composition of the Board :

Chairman : P. Delbecque
Members : P. Alting van Geusau
F. Benussi

Summary of Facts and Submissions

- I. The grant of European patent No. 0 041 741 in respect of European patent application No. 81 104 501.2 filed on 11 June 1981, was published on 30 January 1985 (cf. Bulletin 85/05).
- II. In notices of opposition filed by Appellant I (Opponent 1) on 15 October 1985, by Appellant II (Opponent 2) on 28 October 1985 and by the further party to the proceedings (Opponent 3) on 29 October 1985 revocation of the patent was requested on the ground of lack of inventive step of its subject-matter.

In the opposition procedure the following documents were, inter alia, referred to

D7: US-A-3 659 283
D8: JP-A-5 529 712.

- III. By the interlocutory decision of 8 September 1989, the Opposition Division maintained the patent in amended form with claims 1 to 13 filed on 11 March 1988.

The Opposition Division held that, considering the underlying problem of the patent, the available prior art did not give the skilled person any indication to the solution as claimed.

- IV. Appeals were filed against this decision on 21 October 1989 (Appellant I) and on 10 November 1989 (Appellant II) with payment of the appeal fee on the same respective days. Statements of grounds of appeal were filed on 8 December 1990 and 8 January 1990 respectively in which the Appellants essentially put forward that D8 already contained all the information for the skilled person to

arrive at the characterising features of the method of claim 1 of the patent without any inventive activity being necessary. Moreover D7 particularly concerned the idea of drawing attention to data shown on a screen such that if some data is of greater significance than other data then the more significant data might be displayed in larger characters. Therefore at least a combination of the teachings of D8 and D7 would deprive the claimed method of any inventive activity.

In addition to the arguments concerning lack of inventive step of the subject-matter of claim 1 Appellant I expressed the view that a substantial procedural violation requiring reimbursement of the appeal fee had been made by the first instance.

- V. In a communication dated 5 March 1991 the Board invited the parties to oral proceedings as auxiliarily requested by the Appellants. The Board expressed the preliminary opinion that, taking into account the circumstances of the present case, nothing could be found that constituted a procedural violation. It was further put forward that the subject-matter of the independent claims appeared to lack an inventive step when taking into account the disclosures of D8 and D7.
- VI. In the oral proceedings held on 5 June 1991 Appellant I maintained his opinion as set out in the written procedure that as regards the substantial procedural violation the Opposition Division had not complied with Art. 114(1) and Art. 113(1) EPC.

The debates concerning the question of inventive step focussed on the exact content of disclosure of D8.

Agreement was reached among the participants that the pre-characterising features of claim 1 as allowed by the Opposition Division were disclosed in D8. Appellant II and the further party drew attention to the text on page 7, third paragraph of the translation of D8 as regards the indicator information and the fact that in Figures 6 to 8 one of the monitored parameters indicated with "CHG" which - according to the description means "Charge-Discharge" - was continuously shown on the screen and when an abnormality was detected a relatively large display "BATTERY" was introduced on the screen.

Although The Respondent had denied in the written procedure that D8 disclosed that parameters which were always on display were shown in a different place and format when an abnormality was detected for this parameter, he now agreed to this interpretation of the disclosure of D8. However he pointed out that according to the method of the patent in suit there was no "double" display of the same parameter when an abnormality was detected but that instead the originally displayed item was enlarged by leaving out other also essential information which different procedure should be seen as the inventive idea disclosed in the patent.

The Appellants and further party submitted that a single display of the abnormal parameter could not be considered to represent an inventive activity because this should be seen as a mere choice of the skilled person. In this respect the further party to the proceedings drew attention to the fact that in D7 the same display was enlarged in order to draw attention.

VII. In the oral proceedings the Respondent filed as an auxiliary request a set of new claims of which claim 1 represented a combination of claims 1 and 2 of the main request.

As regards the additional features contained in claim 2 of the main request the Appellants and further party expressed the view that D8, when referring to the prior art commented upon in its description, already disclosed a series display of two or more abnormal parameters. No inventive activity could be attributed to the use of such series display for the case that two or more abnormal parameters should be displayed in the obvious method according to claim 1 of the main request. They therefore considered that also claim 1 of the auxiliary request lacked an inventive step.

VIII. The text of claim 1 of the main request reads as follows:

"1. A method for displaying the operating parameters of a plurality of parts of a motor vehicle on a viewing screen (14), comprising the steps of
(a) constantly monitoring said operating parameters,
(b) displaying the magnitudes of said monitored operating parameters as indication items in respective formats on said viewing screen,
(c) detecting when said monitored parameters are abnormal, and
(d) deleting a portion of the displayed normal items to leave a space, characterized by the step
(e) of enlarging the displayed item of said detected abnormal parameter in response to the detection of any one of said abnormal parameters by the step (c) to be displayed in an enlarged format in an area including said space."

Claim 1 of the auxiliary request reads as follows:

"1. A method for displaying the operating parameters of a plurality of parts of a motor vehicle on a viewing screen

(14), comprising the steps of
(a) constantly monitoring said operating parameters,
(b) displaying the magnitudes of said monitored operating parameters as indication items in respective formats on said viewing screen,
(c) detecting when said monitored parameters are abnormal, and
(d) deleting a portion of the displayed normal items to leave a space, characterized by the step
(e) of enlarging the displayed item of said detected abnormal parameter in response to the detection of any one of said abnormal parameters by the step (c) to be displayed in an enlarged format in an area including said space, wherein
the step (e) comprises causing the enlarged displayed items to be displayed alternately when at least two of said items are detected as being abnormal."

IX. The Appellants and further party to the proceedings request that the impugned decision be set aside and the patent be revoked in its entirety.

Appellant I additionally requests reimbursement of the appeal fee under Rule 67 EPC for the reason that a substantial procedural violation had occurred.

The Respondent requests maintenance of the patent in the amended form either with the claims according to the main request or the claims according to the auxiliary request.

Reasons for the Decision

1. The appeals comply with Articles 106 to 108 and Rule 64 EPC and are admissible.

2. The amended claims according to the main and auxiliary requests meet the requirements of Art. 123(2) EPC. In particular claim 1 according to the main request is a combination of the subject-matter contained in the original claims 1 and 4, and claim 1 according to the auxiliary request is a combination of the subject-matter of the original claims 1, 4 and 2.

2.1 Since the subject-matter of the patent is further restricted in scope the requirements of Art. 123(3) EPC are also met.

3. In the present case the underlying problem of the patent relates to a method of displaying technical parameters of a vehicle. The proposed solution of this problem is defined in the claims and concerns particular manners of presentation of these technical parameters in order to provide a more reliable corrective action by the vehicle driver when an abnormality occurs, thus providing technical consequences. Both the problem and solution may therefore be considered to be of a technical nature. The claims thus relate, in principle, to patentable subject-matter.

4. **Novelty**

The subject-matter of claim 1 according to the main request is novel over the prior art documents D8 and D7 as well as over the other prior art documents cited during the proceedings. None of the documents discloses a method for displaying the operating parameters of a motor vehicle which includes the step of deleting a portion of the displayed normal items to leave a space and enlarging the displayed item in an area including said space when detecting that said monitored operating parameter is abnormal.

Novelty of the method according to claim 1 of the auxiliary request is to be acknowledged in view of the

fact that this claim represents a combination of claims 1 and 2 of the main request.

5. Closest state of the art

Document D8 represents the state of the art which is closest to the subject-matter of the first independent claims of the main and auxiliary requests.

This document discloses a method for displaying "indicator information such as OIL (lubricating oil pressure), CHG (charge/discharge)" etc. in which these parameters are constantly monitored "and an alarm signal is output when the output from any sensor has reached a predetermined value". (See the translation in the English language provided by the Opposition Division as attached to their decision on page 7, third paragraph and page 4, last paragraph, page 5, first paragraph). When items occur for which an alarm must be given the display area for non-essential information is reduced or eliminated so that other information can be displayed in the vacant place where it is easily recognised.

This combination of features represents the pre-characterising features of Claim 1 of the main and auxiliary requests.

6. Inventive step (main request)

6.1 Considering D8 as the starting point for the claimed subject-matter when assessing inventive step, the objective technical problem to be solved over the closest prior art is to be seen in the problem of attracting the attention of the vehicle driver in a more efficient manner when an alarm condition occurs so that corrective action may be initiated.

According to the main request this problem is solved by a method which is characterised by the step of enlarging the displayed item of said detected abnormal parameter in response to the detection of any one of said abnormal parameters to be displayed in an enlarged format in an area including the space of deleted displayed normal items.

- 6.2 The primary question is whether or not it was obvious to a person skilled in the art and faced with the problem indicated above to modify the known method so as to arrive at the method of claim 1 of the main request.
- 6.3 It is observed that although in the preferred embodiment disclosed in D8 only so-called "safety monitor information" is displayed in the vacant place which is produced by eliminating the display area for non-essential information when an alarm must be given for one or more of these safety monitor items the parties agreed that in view of the reference to an "alarm signal " which must be given also for the "indicator information" (see page 7, third paragraph of the translation of D8) such "alarm" obviously must be given in similar manner as for the alarm of the safety monitor information.

Further, attention was drawn by the further party to the proceedings to the fact that in Figures 6 to 8 the indicator information "CHG" which is in principle a battery charge information is displayed in large format as "BATTERY" when an alarm must be given for this item.

Considering these disclosures of D8 the Board is the opinion that although D8 does not contain an explicit clear disclosure of the manner how the alarm for the indicator information is given, it is in view of the

example referred to by the further party considered to be obvious to the skilled person that such alarm is given in similar manner as the alarm for the safety monitor information.

6.4 Although the Respondent agreed to the interpretation of D8 given by the further party, he argued that even if the skilled person had drawn this information from D8 he would not arrive in an obvious manner at the characterising features of claim 1 since no lead could be derived from either D8 or D7 to the deletion of other important information and enlarging the displayed item itself rather than displaying this item a second time somewhere else on the screen.

6.5 In this respect the Board follows the Opponent's and further party's view that in the present case when dealing with display of technical information on a viewing screen the competent person for resolving the underlying problem referred to above must be considered to have knowledge himself or at least would seek assistance of an expert in the field of electronic data display on a viewing screen.

Such an expert competent for solving the underlying problem of the patent must, in the Board's opinion, be considered to be acquainted with variable size character raster display such as disclosed in D7 and must also be considered to be well aware of the possibility of drawing attention to more significant data by displaying these data in larger characters (D7, column 2, lines 3 to 11, column 4, lines 55 to 75).

The Opposition Division's argument that D7 is not related to the field of improving vehicle driving security and that thus there was no reason why a skilled person

should refer to the specific area of D7 to see how similar problems had been solved cannot therefore be accepted.

However, in the present case the manner how the information is displayed on the viewing screen is, in the Board's opinion, essentially a question to be solved by the electronic data display expert. Although in D8 an extra display appears on the screen when an abnormality is detected for an item it is considered to be obvious to this skilled person to apply the teaching of D7 as an alternative when attention must be drawn to abnormal items which problem is moreover referred to in D7 itself. In this respect it is noted that the information for which alarm must be given was already available in electronic form for display on the screen. D7 teaches how such information may be displayed in enlarged size on a screen simple by doubling its size so that the competent skilled person had also no difficulty applying the teaching of D7 to the known method of displaying vehicle parameters disclosed in D8.

- 6.6 The Respondent drew attention to the fact that in D8 only "non-essential" information is removed to allow the alarm items to be displayed in a large format whereas in the method according to claim 1 of the main request also essential information may be removed.

In view of the fact that claim 1 of the main request (or the auxiliary request) does not refer in any way to "essential" or "non-essential" information - also not in an implicit way - this argument cannot be accepted for support of inventive step.

- 6.7 For the above reasons the subject-matter of claim 1 of the main request is not considered to involve an inventive step within the meaning of Art. 56 EPC.

Since the request must be considered in total the unacceptability of claim 1 has as its consequence that the request must be rejected in its entirety.

7. Inventive step (auxiliary request)

7.1 The additional features of claim 1 of the auxiliary request when compared to claim 1 of the main request relate to causing the enlarged displayed items to be displayed alternately when at least two of said items are detected as being abnormal.

The underlying problem solved by the subject-matter of claim 1 of the auxiliary request when starting from the prior art disclosed in D8 thus relates to a further more specific problem e.g. attracting the attention of the vehicle driver in a more efficient manner when at least two alarming conditions occur at the same time.

7.2 Considering this problem the Board notes, as was also submitted by the Appellants and further party, that D8 although teaching a parallel display of the abnormal items - i.e. the abnormal items are displayed all at the same time on the screen - also refers in its discussion of the prior art on page 3, last paragraph and page 4, first three paragraphs of the translation, to cases where a plurality of items of information for which an alarm must be given are imparted simultaneously. In such a case it is arranged for these items to be displayed "in turn". In the opinion of the Board this disclosure must be considered to give a clear reference to a series display of alarm items which is, in principle, what is added to the subject-matter of claim 1 of the main request.

7.3 The Respondent noted that in D8 the parallel method display is selected and thus could not be considered to give a lead to a series display of the alarm item.

However, in view of the in itself well-known alternative methods of display which moreover are disclosed in one and the same prior art publication dealing with display of vehicle parameters without that it can truly be said that the disclosure of D8 contains a prejudice against series display, no inventive significance can be seen in a series display when compared to the known parallel display of the abnormal data.

Therefore the Board considers the alternative of series display of the abnormal data to be an obvious alternative for the skilled person which does not involve an inventive step.

7.4 As a consequence also claim 1 of the auxiliary request is not considered acceptable for reasons of lack of inventive step of its subject-matter and the auxiliary request must therefore also be rejected in its entirety.

8. Request for reimbursement of the appeal fee

8.1 The Appellants' I request for reimbursement of the appeal fee is based on the argument that the Opposition Division has not complied with Art. 114(1) and Art. 113(1) EPC and has thus committed substantial procedural errors requiring reimbursement of the appeal fee under Rule 67 EPC.

8.2 According to Art. 114(1), in proceedings before it, the EPO shall examine the facts of its own motion; it shall not be restricted in this examination to the facts, evidence and arguments provided by the parties and the relief sought.

In the present case Appellant I submitted that in view of the relevance of D8 the Examining Division and at least the Opposition Division should have required a translation of this document in order to comply with Art. 114(1) EPC.

- 8.3 The Board observes that Art. 114(1) EPC does not require that cited documents should always be translated completely when they are not available in one of the official languages of the EPC but merely implies that all the decisive facts of a particular case should be established before a decision is taken.

In this respect also Rule 1(2) EPC only refers to the possibility that the EPO may require a translation in one of its official languages when documents to be used for evidence are filed in another language.

- 8.4 Considering now the facts of the present case the Board notes that at the time of their decision (8 March 1989) the Opposition Division had at their disposal apart from the JP document D8 itself (with 8 figures), a translation in the English language of the patent claim of D8 provided by the Respondent on 12 December 1983 in the grant procedure.

As can be derived from the file the Opposition Division obviously has judged the content of D8 on the face of these documents and has come to the conclusion that sufficient information was provided by these documents and that there was no good reason to ask for a full translation of D8.

- 8.5 In this respect reference is made to the minutes of the oral proceedings of 8 March 1989 from which recapitulation there can be derived that the Opposition Division did not have any doubt about their interpretation of the

disclosure of D8 (see for example point 11 (8)) although Opponent 1 alleged that D8 taught more (e.g. enlargement of the displayed items, point 13 (8)).

8.6 Following the principle set out in paragraph 8.3 hereinabove there was thus no reason for the Opposition Division to delay the proceedings and order a full translation of D8 before taking a decision in this case. The Board is therefore of the opinion that in the present case no valid grounds are put forward by the Appellants for substantiating that the Opposition Division has not complied with Art. 114(1) EPC.

8.7 As regards the requirement of Art. 113(1) EPC the Appellant I reproached that the Opposition Division supported their written decision on text passages of a complete translation of D8 which translation was transmitted to the parties only together with the final decision.

8.8 However, considering the references to text passages of the translation of D8 in the contested decision (see page 11, fourth paragraph) these references solely serve to draw the parties' attention to the fact that the Opposition Division's interpretation of D8 on the basis of the documents available and as set out in the oral proceedings on 8 March 1989 was correct and therefore the provision of the translation as well as the reference to text passages thereof must in the Board's opinion be considered to be a "bonus" of information without bringing new facts into the proceedings on which the parties had not yet had an opportunity to comment.

Therefore, although the Board considers that a different practice would have been possible and perhaps preferable because of the risk that indeed new facts might be

introduced, there is no evidence in the present case that Art. 113(1) EPC is infringed. Furthermore, it would have been possible for the Opponent to provide a translation in the case that he had doubts or disagreed with the information given by the Opposition Division.

- 8.9 Summarising, the Board comes to the conclusion that no substantial procedural violation occurred and that therefore there is no ground for reimbursement of the appeal fee.

Order

For these reasons, it is decided that:

1. The decision of the Opposition Division is set aside and the European patent 41 741 is revoked.
2. The request for reimbursement of the appeal fee is rejected.

The Registrar:



S. Fabiani

The Chairman:



P. Delbecque