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D E C I S I O N
of 17 May 2000

Case Number: T 0915/98 - 3.5.1

Application Number: 92303728.7

Publication Number: 0511794

IPC: B60R 16/02

Language of the proceedings: EN

Title of invention:

System for data communication on automobile

Patentee:

PIIONEER ELECTRONIC CORPORATION

Opponent:

Robert Bosch GmbH

Headword:

-

Relevant legal provisions:

EPC Art. 123(2), 123(3), 84

Keyword:

"Amendments - added subject-matter (no)"

"Amendments - extension of protection (no)"

Decisions cited:

-

Catchword:

-



Case Number: T 0915/98 - 3.5.1

D E C I S I O N
of the Technical Board of Appeal 3.5.1
of 17 May 2000

Appellant: PIONEER ELECTRONIC CORPORATION
(Proprietor of the patent) No. 4-1, Meguro 1-chome
Meguro-ku
Tokyo-to (JP)

Representative: Brunner, Michael John
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Respondent: Robert Bosch GmbH
(Opponent) Postfach 30 02 20
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Representative: -

Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 20 July 1998
revoking European patent No. 0 511 794 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairman: P. K. J. van den Berg
Members: R. S. Wibergh
P. H. Mühlens

Summary of Facts and Submissions

I. This is an appeal by the proprietor of European Patent No. 0 511 794 against the decision of the Opposition Division to revoke the patent.

II. Claim 1 as granted reads (omitting the reference signs):

A data communication system for use in a motor vehicle, the system comprising:

- a communication bus;
- at least one master unit connected to the communication bus; and
- at least one slave unit connected to the communication bus, characterised in that
 - the master unit has connection request demand means for outputting connection request demand data to the slave unit when the master unit is enabled, and
 - the slave unit has connection request means for transmitting its own connection request information to the master unit in response to the connection request data from the master unit.

III. The respondent had opposed the patent on the ground that the invention was not new. In the course of the opposition proceedings claim 1 was amended. The amendments were objected to by the opponent as being contrary to Article 123 EPC, paragraphs (2) and (3).

IV. The Opposition Division decided that claim 1 in the version before it did not fulfill the requirements of Article 123(2) EPC but did fulfill those of Article 123(3). It was also found that Article 84 EPC

had been infringed since "not all the embodiments contained in the amended claims are described". It was not decided whether the invention was new or involved an inventive step.

V. The patentee (appellant) lodged an appeal against this decision. The grounds of appeal were filed on 19 November 1998 together with a new main claim.

VI. Claim 1 as filed on 19 November 1998 reads as follows (omitting the reference signs):

A data communication system for use in a motor vehicle, the system comprising:

a communication bus;

at least one master unit connected to the communication bus; and

at least one slave unit connected to the communication bus, characterised in that

the master unit has connection request demand means for outputting connection request information demand data to all the slave units, a group of the slave units or groups of the slave units, including the at least one slave unit in a single transmission when the master unit is enabled, and

the at least one slave unit has connection request means for transmitting its own connection request information to the master unit in response to the connection request information demand data from the master unit.

VII. Oral proceedings before the Board were held on 17 May 2000.

The appellant argued that claim 1 fulfilled both

Article 123(2) and 123(3) EPC.

The respondent raised no objection under Article 123(2) EPC against the claim but maintained that the protection conferred had been extended, contrary to Article 123(3) EPC. An objection was also raised under Article 84 EPC.

VIII. The appellant requested that the decision under appeal be set aside and that the case be remitted to the first instance.

IX. The respondent requested that the appeal be dismissed, or, as an auxiliary request, that the decision under appeal be set aside and the case be remitted to the first instance.

Reasons for the Decision

1. The invention now claimed is a communication system comprising master units and slave units. A master unit has means for addressing several slave units simultaneously. This is faster than addressing them sequentially.

2. *Article 123(3) EPC*

2.1 Claim 1 as granted is directed to a system comprising, in particular, "at least one slave unit". The claim states that the master unit has means for outputting certain data "to the slave unit".

2.2 The present claim 1 differs from the granted version mainly in the definition of the master unit. According

to the addition made, the master unit has means for outputting data to "all the slave units, a group of the slave units or groups of the slave units... in a single transmission".

- 2.3 The respondent has objected against this amendment. In the respondent's view the technique of addressing of several slave units simultaneously, although disclosed in connection with embodiments 1 and 3, was not covered by claim 1 as granted. This claim concerned only sequential addressing of slave units in accordance with embodiment 2. The limitation was clear from the wording of the granted claim: "the master unit has... means for outputting... data to the slave unit", ie data were output to a **single** slave unit. If several slave units were addressed each one of them would have to be addressed individually. This would be sequential addressing, not addressing "in a single transmission", as now claimed.

The appellant has rejected this view. In the appellant's opinion the granted main claim was consistent with all described embodiments and therefore covered also the addressing of several slave units in a single transmission.

- 2.4 The Board finds that the amendments made to claim 1 do not extend the scope of protection of the patent. The reason is the following.

- 2.5 The only feature in claim 1 as granted concerning the addressing of slave units states that "the master unit has... means for outputting... data to the slave unit". The expression "the slave unit" must be read in the light of the preamble, which mentions "**at least** one

slave unit". The master unit is therefore capable of addressing one **or several** slave units. How the addressing of several slave units is performed - in a single transmission or not - is not said and thus left open. There is in other words no limitation in this claim to the addressing of one single slave unit in each transmission. Nor does the description impose such an interpretation since there are embodiments in which more than one slave unit are addressed in a single transmission.

According to the present claim, "all slave units" or "a group of slave units" can be addressed (in a single transmission). In either case at least one slave unit is addressed. It follows that any system infringing the present claim 1 would also infringe claim 1 as granted. This is equivalent to saying that the protection has not been extended to matter which was not protected by the patent as granted. The requirement of Article 123(3) EPC is thus fulfilled.

3. *Article 123(2) EPC*

3.1 The respondent has not objected to claim 1 as containing subject-matter extending beyond the content of the application as filed. The Board nevertheless needs to go into this question because the decision to revoke the patent was based on it.

3.2 It appears from part II.1 of the decision under appeal that the Opposition Division considered that the patent application as filed disclosed only "special" groups of slave units whereas claim 1 as refused by the Opposition Division included "any combination" of slave units. The addressing had therefore been generalised.

Although this conclusion was based on the version of claim 1 then on file it might be argued that it still applies since the present claim 1 contains the term "groups" without indicating that the groups would be special in any way.

- 3.3 The Board, however, takes the view that no objection under Article 123(2) EPC can be raised against claim 1.

First, a "group" of units simply means a certain **number** of units. The word does not necessarily imply "any combination of units", nor is the word used in that way in the description. What the skilled person learns from the application as filed (embodiments 1 and 3) is that the main unit can address several slave units simultaneously, which is faster than addressing them sequentially (see eg the patent application as published, column 17, lines 31 to 34). What matters in order to obtain this advantage is evidently only the **number** of slave units addressed in a single transmission. How the addressing is performed and what combinations of slave units can be addressed will be subsequent questions. The original disclosure covers also these issues but is not limited to them.

Second, the invention as described allows slave units to be divided into groups according to their function (eg into an audiovisual group or a telephone group). The possibility of defining groups seems to imply that in fact any group of slave units **can** be formed, namely by selecting the addresses properly. Thus, claim 1 would not necessarily contravene Article 123(2) EPC even if the term "group" were understood as "any combination" of units.

4. *Article 84 EPC*

4.1 Since the Board finds that the patent has not been amended in a manner contrary to Article 123(2) EPC, the Opposition Division's objection that claim 1 contains embodiments which are not described (see point IV above) is not upheld.

4.2 With reference to Article 84 EPC the respondent has objected that claim 1 does not define what features are necessary to make the slave units respond to a call from the main unit in an orderly fashion. The argument appears to be that claim 1 does not contain all the essential features of the invention. In the Board's view this issue cannot be dealt with without taking the prior art into account. It should therefore be discussed at a later stage, if this is deemed necessary.

5. The invention has not yet been examined for novelty and inventive step. Therefore, in accordance with the appellant's request and the respondent's auxiliary request, the case is remitted to the first instance to consider these and any other remaining issues.

6. In this context the Board would like to make the following comment. It is stated in the decision under appeal that the discussions in the oral proceedings before the Opposition Division were limited to issues relating to Articles 123 and 84 EPC and that there was no need to discuss or decide on further issues since claim 1 was regarded as not fulfilling the requirements of Article 123(2) EPC. Although this opinion may be correct from a formal point of view the Board disagrees with it with regard to overall efficiency. Had the

Opposition Division decided - or at least given a reasoned opinion - also on the questions of novelty and inventive step, the Board may well have been able to take a final decision on the case at this point instead of having to remit it. Splitting up the proceedings in this way only prolongs the procedure and may cause unnecessary costs both for the parties and the EPO.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the first instance for further prosecution.

The Registrar:

The Chairman:

M. Kiehl

P. K. J. van den Berg