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Datasheet for the decision
of 10 June 2015

Case Number: T 1264/11 - 3.5.03
Application Number: 04000807.0
Publication Number: 1441269
IPC: G05B19/042, E06B9/32

Language of the proceedings: EN

Title of invention:
Configuration method for an installation comprising solar protection and/or lighting device

Applicant:
Somfy SAS

Headword:
Configuration method/SOMFY

Relevant legal provisions:
EPC Art. 56
EPC R. 103

Keyword:
Inventive step (main request, first and second auxiliary requests) - (no)
Reimbursement of appeal fee - (no)

Decisions cited:

Catchword:
Case Number: T 1264/11 - 3.5.03

DECISION
of Technical Board of Appeal 3.5.03
of 10 June 2015

Appellant: Somfy SAS
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Representative: Bugnion Genève
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Decision under appeal: Decision of the Examining Division of the European Patent Office posted on 11 January 2011 refusing European patent application No. 04000807.0 pursuant to Article 97(2) EPC.

Composition of the Board:
Chairman R. Cramer
Members: A. Madenach T. Snell
Summary of Facts and Submissions

I. The present appeal is against the decision of the examining division refusing application No. 04000807.0 on the ground that none of the requests on file met the requirements of the EPC regarding inventive step (Articles 52(1) and 56 EPC) having regard to the disclosure of

D1: EP 1 054 134 A1

and common general knowledge.

II. In the statement of grounds of appeal, the appellant requested that the decision under appeal be set aside, and that a European patent be granted for the application on the basis of claims 1 to 6 of a main request or, as an auxiliary measure, on the basis of claims 1 to 6 of either a first auxiliary request or of a second auxiliary request, all requests being attached to the grounds of appeal. As a further auxiliary measure, oral proceedings were requested. Further, a request for the reimbursement of the appeal was made.

III. In a communication accompanying a summons to oral proceedings, the board gave a negative preliminary opinion as regards clarity (Article 84 EPC) and inventive step (Article 56 EPC) in respect of all requests as well as regards the request for reimbursement of the appeal fee.

IV. In response to the board's communication, the appellant filed new claims of a main request, a first and a second auxiliary request.
V. Oral proceedings before the board were held on 10 June 2015. The appellant maintained its previous requests, i.e. that the decision under appeal be set aside and that a patent be granted on the basis of the main request, or alternatively, either the first or second auxiliary requests, all requests filed with the letter dated 8 May 2015. The appellant also requested reimbursement of the appeal fee. After deliberation, the chairman announced the board's decision.

VI. Claim 1 of the main request reads as follows:

"A configuration method for an installation (1) comprising solar protection and/or lighting devices (3) controlled by a central unit (2) comprising a memory (22), computing means (21) and a user interface, wherein it comprises the following steps:

- in a first phase, a parameterization step comprising an iteration, over all of the solar protection and/or lighting devices (3), of the following phases:

- entry and recording of data (F1) defining the exposure of the opening fitted with the solar protection device (3) with respect to the sun,

- entry and recording of data (Dli) defining the type of the solar protection and/or lighting device, the solar protection being Venetian blinds, combining criteria relating to the position and to the orientation of the blades and screen blinds comprising a criterion of position and possibly a criterion of opacity,

- entry and recording of data (L1) defining the maximum desired depth of penetration of the sun into the
building, and/or the sought visual comfort in the zone
covered by the solar protection device,

- in a second phase, a step of iterative calculation
over all of the solar protection and/or lighting
devices (3) during which, for each device, coefficients
for a control algorithm and/or a control algorithm,
intended for the control of the device, are calculated
on the basis of the data (Fi, Dli, Li) recorded in
memory in the parameterization step and of general
information (D2i) characterizing the different types of
solar protection and/or lighting and contained in
memory."

In claim 1 of the second auxiliary request the feature

"where the computing means will generate as many
algorithms (Ai), or as many groups of coefficients (Ci)
used by a same algorithm (Ai), as there are different
products or products subjected to different conditions
(Fi, Dli, D2i, Li)"

has been added with respect to claim 1 of the main
request.

Claim 1 of the first auxiliary request is the same as
claim 1 of the second auxiliary request except that the
feature relating to Venetian blinds has been removed.

In view of the following decision, it is not necessary
to recite the further independent claims.

Reasons for the Decision

1. Claim 1 of the main request: inventive step (Art. 52(1)
and 56 EPC)
1.1 The board considers that D1 represents the closest prior art.

This document discloses (see claim 1) a method of operating a motorised closure system for a building including blinds and window shutters and thus relates to an installation comprising solar protection and/or lighting devices. The installation is controlled by a central server (claim 1) which at least implicitly comprises a memory and computing means and a user interface. The method comprises the following steps:

- identifying each of the closure systems which may be used (claim 1 and paragraphs [0024] and [0025]),

- selecting the variable parameters to be considered for the operation (claim 1 and paragraph [0025]),

- defining the threshold values of the variable parameters (claim 1 and paragraph [0025]),

- controlling the operation of the motorised closure system if one or more of the variable parameters exceeds its threshold value (claim 1).

According to D1, data defining the exposure of the opening fitted with the solar protection device with respect to the sun are recorded (paragraph [0018], first sentence).

The first three steps of this method and the recording of exposure data serve to configure the motorised closure system as they precede the actual control process and occur when the system is set up for the
first time (paragraph [0025]). They may thus be considered to form together a parameterization step.

Further, the identifying step of D1 is considered to imply the entry and recording in a memory of data defining the type of solar protection device for the following reasons. From paragraphs [0028] and [0029] it follows that the closure system of D1 is applicable to different types of closure systems ("type store", "volets roulants"). To the extent that different devices are used, some kind of distinction needs to be made at the level of the server in order to be able to specifically address the different devices. Hence, D1 implicitly discloses the entry and recording of data defining the type of solar protection device. Further, one device type is screen blinds ("type store").

Further, the controlling step of D1 implies that a control algorithm (e.g. a generic closing algorithm) is executed using the threshold values previously defined (claim 1) by comparing an actual value with the relevant threshold value (paragraph [0025]). The threshold values can, thus, be considered as coefficients of such a control algorithm. Since the threshold values are specific to the variable parameters of the operating method of D1 (see claim 1) they must reflect the exposure and type as well as the variable parameters used for the control method which have been previously recorded and, hence, stored in a memory.

The known method does not explicitly mention any of the steps being iterated over any number of solar protection devices. From paragraph [0024] it follows, however, that the method of D1 is intended to be applied to several motorised closure systems
("identifier chacun"). This implies that the steps recited in claim 1 of D1 need to be performed on each of the several solar protection devices. D1 does, however, not specify any grouping of this process into phases.

1.2 The subject-matter of claim 1 differs from the known method by the following features:

- the solar protection device is Venetian blinds, combining criteria relating to the position and to the orientation of the blades, and the data entered and recorded relate to the position and to the orientation of the blades,

- the variable parameters to be considered for the operation define the maximum desired depth of penetration of the sun into the building, and/or the sought visual comfort in the zone covered by the solar protection device,

- the iteration of the method over several solar protection devices is performed in such a way that the parameterization step is first performed over all solar protection devices before the coefficients for the control algorithm is calculated for all solar protections devices

- coefficients for a control algorithm are calculated.

1.3 The first feature solves the problem of extending the automatisation method of D1 to further solar protection devices.
It was common ground that Venetian blinds had been known for a long time and certainly before the relevant priority date. It was further undisputed that it was evident to the skilled person that the functioning of Venetian blinds is determined by two parameters, i.e. their position (open or (partially) closed) and the orientation of the blades.

D1 gives various examples for solar protection devices for which the invention is considered (paragraph [0021]). This list is, however, not exhaustive ("etc."). Considering that Venetian blinds were known as solar protection devices and that they can obviously also be motorised, the skilled person would have considered extending the invention of D1 to Venetian blinds in order to profit from the automatisation provided by it. He would also have considered automatisation of the known two variables provided by Venetian blinds, i.e. their position and the orientation of the blades, in order to make full use provided by the arrangement of blades in a Venetian blind.

1.4 The problem to be solved by using a parameter internal to a building like the "maximum desired depth of penetration of the sun into the building" is to achieve finer control than would be possible if only external parameters (from a meteorological station) were used as is the case in D1.

In order to solve this problem, the skilled person was aware that the use of internal control parameters was known (see for example paragraph [0011] of D1). It was also known that there is a trade-off between using internal control parameters with a multiplicity of sensors in or at a building which would allow a more
individual and thus finer control and using a centralised source of parameters which is less complicated (D1, paragraph [0013]) but less individual.

Hence, the skilled person would have made an informed decision to use internal sensors in view of the above trade-off according to the circumstances of a given situation without the exercise of an inventive step (Article 56 EPC).

The specific parameter "maximum desired depth of penetration" cannot be seen to confer an inventive step, either. It was common knowledge and corresponds to every day experience that the depth of penetration of the sun into a building is an important factor responsible for the brightness or visual comfort as well as for the heat development in the building. Hence, it would have been obvious to the skilled person to consider such a parameter in order to control for example the visual comfort in a room.

1.5 The third feature cannot be seen to solve any particular problem apart from introducing a specific grouping for the iteration process over several solar protection devices. Indeed, the further independent process claim 2 relates to a method in which the iteration is not grouped but performed after completion of the parameterization and calculation steps for each of the solar protection devices.

No inventive step can be attributed to a deliberate choice of a particular grouping of the iteration over all solar protection devices.

1.6 Having regard to the fourth difference, the board notes that according to D1, threshold values are determined
by a user (paragraph [0025]) whereby the determination of the threshold is to be interpreted broadly (paragraph [0027]).

The board considers this to mean that the threshold values are not necessarily literally determined by the user. This would, in a typical situation, not make much sense if the threshold value used by the closure system is for example a voltage. Typically, a closure system would then be set up in such a way that a threshold value of a type which is easily accessible to a general user could be entered, like for example a temperature value or a brightness value. On the level of the closure system, this value would then have to be transformed, that means a calculation would have to be made to turn it into a value which is actually measured by the detectors used by the system, e.g. a voltage. Hence, the calculation of coefficients for a control algorithm would at least have been obvious to the skilled person.

1.7 The appellant argued that the intrinsic properties of Venetian blinds comprising two adjustable parameters (i.e. blade orientation and position) would entail a non-obvious difference in control handling. The board does not share this opinion. The two adjustable parameters of Venetian blinds are self-evident. Since there are no specific details with respect to their control in claim 1, no inventive step can be seen in simply mentioning these parameters with a generic calculation step being based upon them.

The appellant further argued that the desired depth of penetration, which is an internal parameter, is a different type of parameter as compared to the parameters explicitly discussed in D1 which are all
external parameters. This argument has already been dealt with under point 1.5 above. The appellant further argues that the claimed parameter is a parameter on which the control action acts upon. This argument, however, is irrelevant for the subject-matter of claim 1 as it invokes a control step which is not claimed.

Finally, the appellant argued that the calculation of coefficients of a control algorithm or of the control algorithm itself would involve more than the obvious transformation of user accessible values into values used by the closure system (see point 1.6 above). In particular, the controlled parameter, i.e. the maximum desired depth of penetration, was a parameter which would require a more complex calculation. The board does not share this argument as there is nothing in the application to support it. On the contrary, in paragraph [0053] of the application as published, it is mentioned that coefficients of the algorithm are determined or produced. Hence, not only is the same language used as in D1 with respect to the threshold values ("déterminer") but these formulations can be understood as meaning that instead of the alleged complex calculations, a simple selection of coefficients takes place.

1.8 Since, for the above reasons, the subject-matter of claim 1 of the main request does not involve an inventive step (Article 56 EPC), the request is not allowable.

2. **Claim 1 of the first and second auxiliary requests:** inventive step (Articles 52(1) and 56 EPC)
2.1 Claim 1 of the first and second auxiliary requests comprises, compared to claim 1 of the main request, the additional feature

"where the computing means will generate as many algorithms (Ai), or as many groups of coefficients (Ci) used by a same algorithm (Ai), as there are different products or products subjected to different conditions (Fi, Dli, D2i, Li)".

The board understands the term "product" in the first alternative to relate to a type of solar protection and/or lighting device and in the second alternative to the same type of solar protection device subjected to different conditions as e.g. being installed in rooms having a different orientation. This feature is, however, already known from D1. Claim 1 of D1 applies to the operation of closure systems (plural!), and variable parameters for their operation are selected for each of them ("chacun d'eux"). The variable parameters are monitored ("surveiller") with respect to threshold values, which the board identified as the coefficients in the sense of claim 1 of the present invention (see point 1.1 above). Since the threshold values (the coefficients in the language of claim 1) are specific to the variable parameters of the operating method of D1, which themselves are specific to a given situation (paragraph [0025]) it follows that there exist as many groups of coefficients as there are different products or products subjected to different conditions.

The subject-matter of claim 1 of the second auxiliary request does not therefore involve an inventive step (Article 56 EPC).
2.2 Since the subject-matter of claim 1 of the second auxiliary request does not comprise an inventive step (Article 56 EPC), the request is not allowable.

2.3 The scope of claim 1 of the first auxiliary request is broader than that of latter claim, as the feature "the solar protection being Venetian blinds, combining criteria relating to the position and to the orientation of the blades and screen blinds comprising a criterion of position and possibly a criterion of opacity"

has been deleted compared to claim 1 of the second auxiliary request. Hence, the previous arguments (see point 2.1) apply to the subject-matter of this claim as well.

2.4 Since the subject-matter of claim 1 of the first auxiliary request does not comprise an inventive step (Article 56 EPC), the request is not allowable.

3. Reimbursement of the appeal fee (Rule 103 EPC)

3.1 According to Rule 103(1)(a) EPC the reimbursement of the appeal is unconditionally linked to the Board of Appeal deeming the appeal to be allowable.

3.2 As this requirement is not fulfilled, the appeal fee is not to be reimbursed.

Order

For these reasons it is decided that:

The appeal is dismissed.
The request for reimbursement of the appeal fee is rejected.

The Registrar: 

G. Rauh

The Chairman: 

R. Cramer

Decision electronically authenticated