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Date
08.07.2024

Reference 40552-24/4127 OPPO 01	Application No./Patent No. 19830815.7 - 1206 / 3820203
Applicant/Proprietor Hanshow Technology Co., Ltd.	

Summons to attend oral proceedings pursuant to Rule 115(1) EPC

You are hereby summoned to attend oral proceedings concerning the above European patent as detailed in the box below. The matters to be discussed are set out in the communication accompanying this summons (EPO Form 2906).

The oral proceedings will be public and will take place before the opposition division

on 18.02.25 at 09.00 hrs (CET) as a videoconference.

The date of the oral proceedings can only be changed for serious reasons (see OJ EPO 2009, 68). If you do not appear as summoned, the oral proceedings may continue without you (R. 115(2) EPC; see also OJ EPO 2008, 471).

Please see Rule 4 EPC as regards the language of the oral proceedings and the decision in Special edition No. 3, OJ EPO 2007, L.1, concerning the filing of authorisations by employees and lawyers acting as representatives before the EPO.

Please provide us with the name and telephone number of a person we can contact about the oral proceedings and an email address to which we can send the details for connecting to the videoconference.

The final date for making written submissions and/or amendments (R. 116 EPC) is 18.12.24

1st Examiner: Rolan Cisneros, Enri

2nd Examiner: Vucic, Jelena

Chairman: Baltersee, Jens

For the Opposition Division



Annexes:
Rule 4 EPC (EPC Form 2043)
Communication (EPO Form 2906)
Consolidated list of documents

Registered Letter

EPO Form 2310Z 05.23 [ORAL03=8888] 03/07/24

ORAL4

page 1 of 1 **Hanshow-Ex. 2009**
VUSIONGROUP vs. HANSHOW
IPR2024-00857

Wichtige Hinweise zur mündlichen Verhandlung

Das Europäische Patentamt verfügt über keine eigenen Dolmetscher. Diese müssen im Bedarfsfall von außerhalb, teilweise sogar aus anderen Ländern, beigezogen werden, was mit einem hohen Aufwand an Kosten und organisatorischen Vorbereitungen verbunden ist. Muss ein Verhandlungstermin kurzfristig abberaumt werden, können Kosten für bestellte Dolmetscher nicht mehr vermieden werden.

Es wird daher gebeten, eine Simultanübersetzung nur bei wirklichem Bedarf in Anspruch zu nehmen. Es wäre wünschenswert, wenn sich die Beteiligten (zweckmäßigerweise gleichzeitig mit der Terminabstimmung) auf die Benutzung einer Amtssprache einigen könnten. Bei Verständigungsschwierigkeiten sind die Mitglieder der Einspruchsabteilung bereit zu helfen.

Nachstehend führen wir den Zeitpunkt auf, bis zu dem die Verfahrensbeteiligten aus organisatorischen Gründen gebeten werden, ihre bevorzugte (abgestimmte) Verhandlungssprache mitzuteilen. Bis dahin bitten wir auch bei Bedarf eine Simultanübersetzung zu beantragen. Regel 4 (1) EPU bleibt hiervon unberührt.

☐ Verfahrenssprache ist **Deutsch**

Von der/dem/den Einsprechenden wurde

☐ Englisch

☐ Französisch benutzt.

Es wird um eilige Mitteilung, möglichst per Online Filing (OLF), gebeten.

Important information concerning oral proceedings

The European Patent Office has no interpreters of its own. When interpreters are needed they have to be brought in from outside, sometimes even from other countries, which is costly and involves considerable organisation. If oral proceedings have to be cancelled at short notice, the cost of interpreters already engaged still has to be borne.'

Please therefore make use of simultaneous interpreting facilities only where strictly necessary. If possible the parties should agree on an official language for the proceedings, preferably at the time when they arrange a date. The members of the Opposition Division wltl be willing to help should any communication problems arise.'

For organisational reasons, we ask parties to inform us by the date specified below of their preferred (agreed) language for the oral proceedings. We also ask them to request any simultaneous interpreting required by the same date. This does not affect application of Rule 4(1) EPC.

☒ Language of the proceedings is **English**

The language used by the opponent/s was

☐ German

☐ French.

Please inform us urgently, where possible by Online Filing (OLF).

Tres important Procédure orale

L'Office européen des brevets ne dispose pas de son propre service d'interprètes. Aussi faut-il appel le cas échéant à des interprètes de l'extérieur, qui viennent même parfois de l'étranger, ce qui occasionne des frais élevés et demande un grand travail d'organisation. Si la date d'une procédure orale doit être annulée au dernier moment, il n'est plus possible d'éviter les frais d'interprètes.

Les parties à une procédure sont donc priées de ne demander une traduction simultanée qu'en cas de réel besoin. Il serait souhaitable qu'elles puissent se mettre d'accord en même temps qu'elles conviennent de la date sur l'utilisation d'une langue officielle comme langue des débats. Si les parties éprouvent des difficultés de compréhension lors des débats, les membres de la division d'opposition sont disposés à leur prêter leur assistance.

Est indiquée ci-dessous la date jusqu'à laquelle, pour des raisons d'organisation, les parties sont priées de communiquer leur langue préférée (sur laquelle elles se sont préalablement mises d'accord). Les parties sont également priées, le cas échéant, de demander une interprétation simultanée avant cette date. La règle 4(1) CBE ne s'en trouve pas affectée.

☐ La langue de la procédure est le **français**

La langue utilisée par l'opposant/les opposants était

☐ l'allemand

☐ l'anglais.

Prière d'indiquer d'urgence par dépôt en ligne (OLF) si possible.

möglichst bis

Datum 18.12.24

if possible by

Date 18.12.24

si possible jusqu'au

Date 18.12.24

1. welche Sprache(n) Sie in der mündlichen Verhandlung verwenden (**Spechen**)

2. aus welcher Sprache Sie eine Simultanübersetzung benötigen (**Hören**).

1. which language(s) you intend to use during the oral proceedings (**Speaking**)

2. from which language you need simultaneous interpretation (**Listening**).

1. quelle(s) langue(s) vous utiliserez au cours de la procédure orale (**pour parler**)

2. à partir de quelle langue vous aurez besoin d'une traduction simultanée (**pour écouter**).

Sollten Sie Ihren Antrag auf mündliche Verhandlung zurückziehen oder zum anberaumten Verhandlungstermin nicht erscheinen wollen bzw. aus wichtigem Grund daran gehindert sein, werden Sie gebeten,

- unverzüglich das Amt - möglichst per Online Filing (OLF) - davon zu benachrichtigen, wobei das Schriftstück mit einem deutlichen Vermerk "Dringend, mündliche Verhandlung am..." oder sinngemäß gekennzeichnet sein sollte
- in dringenden Fällen (weniger als 1 Monat vor dem Verhandlungstermin) zusätzlich auch dem/die anderen Verfahrensbeteiligten bzw. ihre(n) Vertreter auf schnellstem Weg direkt zu unterrichten.

Should you decide to withdraw your request for oral proceedings or not wish to attend on the date set, or if for some special reason you are unable to do so, you are requested

- to notify the EPO immediately, where possible by Online Filing (OLF), marking the document clearly with the words "Urgent, oral proceedings on ..." or similar
- in urgent cases (less than one month before the date set for the proceedings), additionally to notify the other party/parties and/or their representative(s) direct as rapidly as possible.

Si vous retirez votre requête tendant à recourir à la procédure orale ou si vous ne souhaitez pas vous présenter à la date fixée pour la procédure orale ou ne pouvez vous y présenter pour une raison sérieuse, veuillez

- en faire avis sans retard à l'Office, par dépôt en ligne (OLF) si possible, en partant sur votre communication clairement la mention "Urgent, procédure orale le..." ou une indication similaire;
- dans les cas urgents (moins d'un mois avant la date fixée pour la procédure orale) en faire avis également directement pas la voie la plus rapide à autre/aux autres partie(s) ou bien à son/leurs mandataire(s).

In jedem solchen Fall obliegt der Einspruchsabteilung die Entscheidung, ob die Verhandlung durchgeführt oder abberaumt wird. Es wird jedoch darauf hingewiesen, dass einem Verfahrensbeteiligten, der eine nicht rechtzeitige oder unterbliebene Benachrichtigung zu verantworten hat, die dadurch den anderen Beteiligten verursachten Kosten auferlegt werden können (Art. 104 EPU).

Hinweis auf Regel 4 EPÜ

Regel 4
Sprache im mündlichen Verfahren

(1) Jeder an einem mündlichen Verfahren vor dem Europäischen Patentamt Beteiligte kann sich anstelle der Verfahrenssprache einer anderen Amtssprache des Europäischen Patentamts bedienen, sofern er dies dem Europäischen Patentamt spätestens einen Monat vor dem angesetzten Termin mitgeteilt hat oder selbst für die Übersetzung in die Verfahrenssprache sorgt. Jeder Beteiligte kann sich einer Amtssprache eines Vertragsstaats bedienen, sofern er selbst für die Übersetzung in die Verfahrenssprache sorgt. Von diesen Vorschriften kann das Europäische Patentamt Ausnahmen zulassen.

In all such cases the Opposition Division will decide whether the proceedings are to go ahead or be cancelled. You should however note that costs incurred by the other parties may be charged to a party who either fails to notify them or does not do so in good time (Article 104 EPC).

Attention is drawn to Rule 4 EPC

Rule 4
Language in oral proceedings

(1) Any party to oral proceedings before the European Patent Office may use an official language of the European Patent Office other than the language of the proceedings, if such party gives notice to the European Patent Office at least one month before the date of such oral proceedings or provides for interpretation into the language of the proceedings. Any party may use an official language of a Contracting State, if he provides for interpretation into the language of the proceedings. The European Patent Office may permit derogations from these provisions.

Il appartient alors à la division d'opposition de décider si la procédure orale aura lieu ou non. Il est néanmoins souligné que les frais causés aux autres parties par une partie qui est responsable de l'omission d'un tel avis ou de ce que cet avis n'a pas été fait en temps utile peuvent être mis à la charge de cette partie (art. 104 CBE).

Rappel de la Règle 4 CBE

Règle 4
Langues admissibles lors de la procédure orale

(1) Toute partie à une procédure orale devant l'Office européen des brevets peut utiliser une langue - officielle de l'Office européen des brevets autre que la langue de la procédure, à condition soit d'en aviser l'Office européen des brevets un mois au moins avant la date de la procédure orale, soit d'assurer l'interprétation dans la langue de la procédure. Toute partie peut utiliser une langue officielle de l'un des Etats contractants à condition d'assurer l'interprétation dans la langue de la procédure. L'Office européen des brevets peut autoriser des dérogations aux présentes dispositions.

(2) Die Bediensteten des Europäischen Patentamts können sich im mündlichen Verfahren anstelle der Verfahrenssprache einer anderen Amtssprache des Europäischen Patentamts bedienen.

(2) In the course of oral proceedings, employees of the European Patent Office may use an official language of the European Patent Office other than the language of the proceedings

(2) Au cours de la procédure orale, les agents de l'Office européen des brevets peuvent utiliser une langue officielle de l'Office européen des brevets autre que la langue de la procédure.

(3) In der Beweisaufnahme können sich die zu vernehmenden Beteiligten, Zeugen oder Sachverständigen, die sich in einer Amtssprache des Europäischen Patentamts oder eines Vertragsstaats nicht hinlänglich ausdrücken können, einer anderen Sprache bedienen. Erfolgt die Beweisaufnahme auf Antrag eines Beteiligten, so werden die Beteiligten, Zeugen oder Sachverständigen mit Erklärungen, die sie in einer anderen Sprache als in einer Amtssprache des Europäischen Patentamts abgeben, nur gehört, sofern dieser Beteiligte selbst für die Übersetzung in die Verfahrenssprache sorgt. Das Europäische Patentamt kann jedoch die Übersetzung in eine seiner anderen Amtssprachen zulassen.

(3) Where evidence is taken, any party, witness or expert to be heard who is unable to express himself adequately in an official language of the European Patent Office or of a Contracting State may use another language. Where evidence is taken upon request of a party, parties, witnesses or experts expressing themselves in a language other than an official language of the European Patent Office shall be heard only if that party provides for interpretation into the language of the proceedings. The European Patent Office may, however, permit interpretation into one of its other official languages.

(3) Lors de l'instruction, les parties, témoins ou experts appelés à être entendus, qui ne possèdent pas une maîtrise suffisante d'une langue officielle de l'Office européen des brevets ou d'un Etat contractant, peuvent utiliser une autre langue. Si la mesure d'instruction est ordonnée sur requête d'une partie, les parties, témoins ou experts qui s'expriment dans une langue autre qu'une langue officielle de l'Office européen des brevets ne sont entendus que si cette partie assure l'interprétation dans la langue de la procédure. L'Office européen des brevets peut toutefois autoriser l'interprétation dans l'une de ses autres langues officielles.

(4) Mit Einverständnis aller Beteiligten und des Europäischen Patentamts kann jede Sprache verwendet werden.

(4) If the parties and the European Patent Office agree, any language may be used.

(4) Sous réserve de l'accord des parties et de l'Office européen des brevets, toute langue peut être utilisée.

(5) Das Europäische Patentamt übernimmt, soweit erforderlich, auf seine Kosten die Übersetzung in die Verfahrenssprache und gegebenenfalls in seine anderen Amtssprachen, sofern ein Beteiligter nicht selbst für die Übersetzung zu sorgen hat.

(5) The European Patent Office shall, if necessary, provide at its own expense interpretation into the language of the proceedings, or, where appropriate, into its other official languages, unless such interpretation is the responsibility of one of the parties.

(5) L'Office européen des brevets assure à ses frais, en tant que de besoin, l'interprétation dans la langue de la procédure, ou, le cas échéant, dans ses autres langues officielles, à moins que cette interprétation ne doive être assurée par l'une des parties.

(6) Erklärungen von Bediensteten des Europäischen Patentamts, Beteiligten, Zeugen und Sachverständigen, die in einer Amtssprache des Europäischen Patentamts abgegeben werden, werden in dieser Sprache in die Niederschrift aufgenommen. Erklärungen in einer anderen Sprache werden in der Amtssprache aufgenommen, in die sie übersetzt worden sind. Änderungen einer europäischen Patentanmeldung oder eines europäischen Patents werden in der Verfahrenssprache in die Niederschrift aufgenommen.

(6) Statements by employees of the European Patent Office, parties, witnesses or experts, made in an official language of the European Patent Office, shall be entered in the minutes in that language. Statements made in any other language shall be entered in the official language into which they are translated. Amendments to a European patent application or European patent shall be entered in the minutes in the language of the proceedings.

(6) Les interventions des agents de l'Office européen des brevets, des parties, témoins et experts faites dans une langue officielle de l'Office européen des brevets sont consignées au procès-verbal dans cette langue. Les interventions faites dans une autre langue sont consignées dans la langue officielle dans laquelle elles sont traduites. Les modifications apportées à une demande de brevet européen ou à un brevet européen sont consignées au procès verbal dans la langue de la procédure.

1. A notice of opposition has been filed on 22.11.2023 against the European patent EP 3 820 203 B1 (based upon European patent application No. 19 830 815.7) by SES-imagotag SA.

2. The Opponent requests revocation of the patent in its entirety based on the following grounds:

(a) lack of novelty (Art.100(a), Art.54 EPC) and lack of inventive step (Art.100(a), Art.56 EPC);

(b) insufficiency of the disclosure (Art.100(b), Art.83 EPC);

(c) extension of subject-matter beyond the content of the originally filed application (Art.100(c), Art.123(2) EPC).

3. The consolidated list of documents cited during the opposition procedure is annexed to this summons. The parties are requested to adhere to the numbering referred therein.

4. In the observations received on 04.04.2024, the Proprietor requests the rejection of the opposition (Article 101(2) EPC) and files thirteen Auxiliary Requests.

5. Both parties requested an oral proceedings in case that the opposition division considered any adverse decision against their respective interests.

6. A **preliminary and non-binding opinion** will be given by the opposition division in the next paragraphs with respect the above mentioned grounds of opposition.

7. MAIN REQUEST (patent as granted)

It is noted that, in the present communication, the numbering of the features of independent **claims 1 and 7** is adopted as proposed by the Opponent.

A. Unallowable extension of subject-matter (Articles 100(c) and 123(2) EPC)

A.1 The Opponent argues that Article 123(2) EPC is infringed for three reasons:

A.1.1 Two radio frequency, RF, communication paths (feature 1.2) is not originally disclosed;

A.1.2 Relation between shorter monitoring period and fast monitoring mode (feature 1.4) is not originally disclosed;

A.1.3 Dependency between monitoring mode and wake-up mode (features 1.5 and 1.6) is not originally disclosed.

A.2 Taking into consideration the arguments of the Opponent and of the Proprietor, the preliminary view of the division is as follows:

A.2.1 Although Article 123(2) EPC does not require - for an added feature - a literal explicit support in the originally filed application, said added feature has to be disclosed directly and unambiguously by the original application. It should be noted that, although implicit features can be in this respect taken into account, the general criterion to accept a feature as implicit in a patent application is that nothing else but the presence of said feature would have made technical sense for a skilled person reading the application. Having said that, the opposition division - in line with the Opponent's view - is of the opinion that the only features directly and unambiguously disclosed by the originally filed application for the communication paths are that (par.[0023], lines 16-22):

- the first communication path is a 2,4G RF (Radio Frequency) path;
- the second communication path concerns other wireless communication modules, such as magnetic switches, NFC switches, infrared switches, etc...

A.2.2 The current formulation of feature 1.2, which covers any RF path, at any RF frequency, for the above mentioned two communication paths, extends therefore beyond the content of the originally filed application, thereby infringing Article 123(2) EPC.

A.2.3 Although features 1.4 to 1.6 are not literally disclosed by the originally filed application, par.[0003] to [0005] render it unambiguously clear for a skilled reader that a shorter "*monitoring period*" of the electronic tag results in that the tag "*wakes-up*" periodically faster, and that the tag is configured to operate in a "*normal*" monitoring mode and in a "*fast*" monitoring mode (that is, in a mode with a shorter monitoring period than in the "*normal*" mode). Paragraph [0005] explicitly states that the base station operates in a "*normal wake-up mode*" and a "*fast wake-up mode*". The view of the division is that operating the tag in a "*normal*" monitoring mode together with the base station in "*fast*" wake-up mode (and, similarly operating the tag in "*fast*" mode together with the base station in "*normal*" mode) would not make any sense in the context of the claimed invention for a skilled reader.

Thus, the preliminary opinion of the opposition division is that features 1.4 to 1.6 do not extend beyond the content of the originally filed application and are therefore compliant with Article 123(2) EPC.

A.2.4 The reasons and preliminary conclusions given in the previous paragraphs apply - in an analogous manner - to independent **claim 7**.

B. Insufficiency of the disclosure (Articles 100(b) and 83 EPC)

B.1 The Opponent argues that Article 83 EPC is infringed for the following reasons:

B.1.1 A skilled person is unable to carry out the implementation of two wake-up modes of the base station (feature 1.3);

B.1.2 A skilled person is unable to carry out a communication in complementary modes, as recited in features 1.5 and 1.6;

B.1.3 A skilled person is unable to carry out the fast wake-up instruction;

B.1.4 Contradiction between **claim 7** and **claims 11 and 12**;

B.1.5 Unable to divide computer program across multiple devices (**claims 13 and 14**).

B.2 With respect to the objections mentioned in par.B1.1 to B1.3, above, the preliminary view of the opposition division is as follows:

(a) As explained in par.A.2.3, above, the original application discloses that, when the electronic tag is in the fast monitoring mode, the base station communicates with the tag in the fast wake-up mode, and when the electronic tag is in the normal monitoring mode, the base station communicates with the tag in the normal wake-up mode, in line with the Proprietor's view in their letter of 04.04.2024. Moreover, as stated in said paragraph, the electronic tag operates with a shorter monitoring period in the fast monitoring mode than in the normal monitoring mode. However, as objected by the Opponent, the invention does not appear to disclose the specific characteristics of each of the two wake-up modes of the base station (i.e., the "normal" and the "fast" wake-up modes) and, as the communication tag-base station under two different modes is the most essential aspect of the claimed invention, it seems that a skilled person would not know how to implement the invention of **claim 1** without knowing how to implement the normal wake-up mode and the fast wake-up mode in the base station, thereby infringing the requirements of Article 83 EPC. The same applies, in an analogous manner, to independent **claim 7**;

(b) As to the implementation of the fast wake-up instruction, the only information that could be found in the patent with respect to this instruction is that it is generated by the base station in the fast wake-up mode and that it has an impact on when the electronic tag is supposed to switch from the fast monitoring mode to the normal monitoring mode (as mentioned, for example, in **claims 1, 5-7, 11 and 12**). In that sense, a skilled person would not have any difficulty in implementing an instruction signal that has said functionality when received by the electronic tag. However, it is noted that the generation of such a signal, merely intended to indicate to the electronic tag when to switch to a normal monitoring mode, does not solve the objection raised in the previous paragraph as to how the base station operates in each of the two wake-up modes;

B.3 Concerning the objection of par.B.1.4, above, the opposition division notes that, from **claim 7**, as well as from **claim 1**, a skilled person understands that if the electronic tag receives the fast wake-up instruction, the control instruction and the second data, the electronic tag will switch to the normal monitoring mode after completing the

communication. Additionally, a skilled person understands, without any difficulty, that the invention also covers two other situations that will result in the electronic tag switching from the fast to the normal monitoring mode, namely:

- when the fast wake-up instruction is not received by the tag within a preset time range (**claims 5 and 11**); or
- when the fast wake-up instruction is received but the control instruction and the second data are not received within a preset time range (**claims 6 and 12**).

B.4 Therefore, although the opposition division acknowledges a potential lack of clarity in the combined wording of **claim 7** ("*...receiving...the fast wake-up instruction...*"), **claim 11** ("*...when the fast wake-up instruction...is not received...*") and **claim 12** ("*...when the fast wake-up instruction is received but...*"), the view of the division is that this is a matter of Article 84 EPC, not being a ground for opposition and not posing any difficulty for a skilled person to carry out the invention. No infringement of Article 83 EPC is therefore observed in this respect.

B.5 The division preliminarily agrees to the Opponent's view that the opposed patent does not explain how a computer program, executed by a processor, can implement the method of claim 7-12, which involves the transmission and reception of signals between a plurality of devices (i.e., an external device, an electronic tag device, a base station, a background server). Although the Proprietor states that this is, at best, a clarity objection, the view of the division is that this would be indeed a clarity issue if the description and/or figures of the patent allowed to understand how to implement the invention of an unclearly formulated claim. However, the division could not find any information in the description, figures and/or claims of the patent as to how to implement the computer related inventions of claims 13 and 14 in order to carry out the aforementioned method of claims 7-12, these method claims involving the transmission and reception of signals between a plurality of devices.

B.6 To sum up, the preliminary view of the opposition division is that the opposed patent infringes Article 83 EPC for the following reasons:

(a) the patent does not provide enough information so that a skilled person knows how to implement the two wake-up modes of the base station in the invention of independent **claims 1 and 7**;

(b) the patent does not provide enough information so that a skilled person knows how to implement the computer related inventions of **claims 13 and 14**.

C. Lack of novelty and/or inventive step of the opposed patent

C.1 Novelty over D1 (JP 2017-126872 A)

C.1.1 The Proprietor disputes this novelty objection of the Opponent by stating that:

(a) D1 discloses only a single monitoring mode, instead of the two monitoring modes / wake-up modes of the claimed invention;

(b) D1 only teaches that the remote control / smart phone (i.e. the "*external device*") only transmits instructions to the ESL (i.e., to the "*electronic tag device*") but does not transmit "*first data*";

(c) D1 does not teach any fast wake-up instruction as in feature 1.11.

C.1.2 The view of the opposition division can be at present summarized as follows:

(a) the invention of the independent claims is to be understood, in case of doubt, in the light of the description and figures. It is therefore clear, as argued by the Proprietor, that a "*monitoring period*" is a time period separating the moments in which a tag (i.e. the ESL of D1) will automatically wake up, and that the operation states of the tag should not be mixed up with the monitoring modes. Therefore, an operation state in which the tag is permanently awake cannot be considered as a tag in a "*fast monitoring mode*", because it shows no time period separating moments in which the tag wakes up, and identifying a "*fast monitoring mode*" with a mode in which the aforementioned time period is equal to zero (that is, a mode where the tag is permanently awake) is seen as a twisted interpretation of the wording of the independent claims that would not be followed by a skilled person. Thus, the opposition division agrees with the

Proprietor's view in that D1 discloses a single monitoring mode of the electronic tag and, thus, a single wake-up mode of the base station (i.e. of the access point 30), contrary to the claimed invention;

(b) an "*instruction*" can be considered as a type of "*first data*". Therefore, no distinguishing feature is for the time being appreciated in this respect between D1 and the claimed invention;

(c) as D1 is considered to disclose a single monitoring mode of operation, nothing in this document could be found that a skilled person would reasonably consider as a "*fast wakeup instruction*" having an impact on when the electronic tag of D1 switches from a fast monitoring mode to a normal monitoring mode (D1 not disclosing any "*fast monitoring mode*", as explained in par.(a), above):

(d) thus, the opposition division preliminarily agrees with the Opponent in the assertions of par.C.1.1(a) and (c), above. Therefore, the subject-matter of **claim 1** appears to be novel over D1, and the same applies - in an analogous manner - to independent **claim 7**.

C.2 Inventive step starting from document D2 (US 2015/0278890)

C.2.1 After analysing the explanations of the parties with respect to the comparison between **claim 1** and D2, the preliminary view of the opposition division is as follows:

(a) D2 does not disclose that the remote control (i.e., the "*external device*") is configured to transmit "*first data*" to the electronic tag (features 1.7 and 1.8.1). This also has an indirect impact on the other features referring to "*the first data*" (features 1.8.2, 1.9, 1.10.1) in that D2 does not disclose that data transmitted between the tag and the server through the base station is "*the first data*" previously received by the tag from the external device;

(b) as D2 only discloses (cf. par.[0029]) that the activation of the tag is by means of a magnetic force transmitted between between the remote control and the electronic tag, the path between said remote control and said tag cannot be considered as a "*second*" RF communication path (feature 1.2);

(c) in line with the Proprietor's view in the letter of 04.04.2024, it seems that the transmission of (first) data from the electronic tag to the gateway (that is, to the "base station"), which appears to correspond to the transmission of the "INQUIRY REQUEST" in fig.2 of D2, does not trigger the entering of the "fast monitoring mode" (that is, the "real-time update mode" of D2), because - as argued by the Proprietor - the passage of par.[0047] and fig.4 seems to concern the server side and to establish a default operation mode stored in the server and to be sent to the electronic tag in the "INQUIRY RESPONSE". Thus, D2 does not appear to disclose feature 1.8.3 of **claim 1**;

(d) considering the very broad meaning of the terms "fast wake-up instruction", "control instruction" and "second data", it seems that the transmission of "update setting information in addition to merchandise information" (cf. par. [0031] of D2) can be considered to correspond to the aforementioned instructions and data of **claim 1**. Moreover, D2 seems also to disclose - as a possible alternative - that the "update setting information" results in the electronic tag being switched to the "normal monitoring mode", that is, to the "delayed update mode" of D2. Thus, features 1.10.2, 1.11.1, 1.11.3 and 1.12 appear to be disclosed by D2.

(e) to sum up, D2 does not appear to disclose features 1.2, 1.7, 1.8.1, 1.8.3, 1.11.2 and part of features 1.8.2, 1.9 and 1.10.1 (as explained in par.(a), above).

C.2.2 Contrary to the Proprietor's view, the opposition division considers D2 as a proper starting point for the problem-solution approach, because it discloses a system in which an electronic tag and a base station communicate with each other, wherein two different wake-up modes of operation, that is, a "normal" wake-up mode and a "fast" wake-up mode, are foreseen for said communication.

C.2.3 However, in view of the rather large number of distinguishing features of **claim 1** over D2, it seems that the technical problem to be solved by the claimed invention can be only formulated in a broad manner as:

- how to implement an alternative system for the communication between an electronic tag and a wireless station, comprising two different wake-up modes of operation, that is, a "*normal*" wake-up mode and a "*fast*" wake-up mode.

C.2.4 Taking into account said large number of distinguishing features, as well as the fact that D1 does not disclose two different wake-up modes of operation, as explained in section "C.1", above, the preliminary view of the division is that a skilled person aware of the teachings of D1 and D2 would not arrive at the solution of **claim 1** unless (s)he had some hindsight of the claimed invention. The same applies, in an analogous manner, to independent **claim 7**.

C.2.5 For the reasons given in the previous paragraphs, the preliminary view of the opposition division is that the subject-matter of the independent claims of the opposed patent involves an inventive step (Articles 52(1) and 56 EPC) in view of a combination of documents D2 and D1, when departing from D2 as closest prior art.

C.3 Inventive step starting from document D1 (JP 2017-126872 A)

C.3.1 The opposition division agrees with the Proprietor in that the Opponent has not provided any reason that justifies another inventive step attack, based now on a different document (D1) as starting point, that is, as closest prior art (see the EPO Guidelines G, VII, 5,1, third paragraph). Considering that the most essential aspect of the claimed invention seems to lie in the use of two different monitoring modes of the electronic tag, and that D2 discloses this aspect (see par.C.2, above) but D1 does not disclose it (see par.C.1.2(a), above), it results that document D1 does not appear to be an equally valid springboard to arrive at the claimed invention, when compared to D2. Therefore, an additional application of the problem-solution approach, now based on D1 as closest prior art, does not seem appropriate in the light of the aforementioned passage of the Guidelines.

C.3.2 Moreover, the Proprietor seems to be right in that the distinguishing features of **claim 1** over D1 (see par.C.1.1(a) and (c)) appear to be interrelated and, thus, a problem-solution approach based on partial problems does not appear in principle to be appropriate.

C.3.3 For the reasons given in the previous two paragraphs, the objection of lack of inventive step of the independent claims based on a combination of D1, D2 and D3 cannot be at present followed by the opposition division.

C.4 Preliminary conclusions of novelty and/or inventive step of the opposed patent

C.4.1 None of the objections raised by the Opponent in the Notice of Opposition, and discussed in the previous paragraphs, could be followed by the opposition division with respect to novelty and/or inventive step of independent **claims 1 and 7** of the opposed patent. Therefore, these claims appear to comply with Article 52(1), and the same applies - in an analogous manner - to independent **claims 13 and 14**.

C.4.2 Consequently, the subject-matter of the dependent **claims 2-6 and 8-12** appear to be also novel and inventive over the available prior art documents.

D. Preliminary conclusions on the Main Request

D.1 Articles 100(c) / 123(2) EPC appear to prejudice the maintenance of the patent as granted, for the reasons given in par.A.2.1, A.2.2 and A.2.4, above.

D.2 Articles 100(b) / 83 EPC appear to prejudice the maintenance of the patent as granted, for the reasons given in par.B.2.(a), B.5 and B.6, above.

D.3 Articles 100(a) / 52(1) EPC do not appear to prejudice the maintenance of the patent as granted, for the reasons given in section C, above.

8. AUXILIARY REQUESTS 1 to 13

8.1 None of the Auxiliary Requests 1 to 13 overcomes the above explained objections concerning Articles 100(b) / 83 EPC.

8.2 Auxiliary Requests 1 and 6-9 overcome the above explained objection concerning Articles 100(c) / 123(2) EPC. However, these Requests appear to infringe Article 123(3) EPC in that the amended feature "*the second communication path is another wireless communication path*" has a broader scope than the corresponding feature of the opposed patent, that is, the second path being an RF communication path.

Datum
Date 08.07.2024
Date

Blatt
Sheet 11
Feuille

Anmelde-Nr:
Application No: 19 830 815.7
Demande n°:

8.3 Auxiliary Requests 2 and 10-13 appear to overcome the above explained objection concerning Articles 100(c) / 123(2) EPC, without introducing any Article 123(3) EPC infringement.

8.4 Auxiliary Requests 3-5 do not overcome the above explained objection concerning Articles 100(c) / 123(2) EPC.

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KONSOLIDIERTE LISTE - CONSOLIDATED LIST - LISTE RÉCAPITULATIVE

P: Hanshow Technology Co., Ltd.
O1: SES-imagotag SA

	ENTGEGENHALTUNGEN - CITATIONS - ANTÉRIORITÉS	P	O1
D1	JP2017126872 (A)		D1
D1a	JP2017126872 (A) – translation		D1a
D2	US20150278890 (A1)		D2
D3	JP2016140368 (A)		D3
D3a	JPJP2016140368 (A) – translation		D3a
D4	US20030133468 (A1)		D4
D5	Wikipedia, "Wikipedia article on "Data deduplication" " 06.04.2018, [cited 13.11.2023] Available from: [https://en.wikipedia.org/w/index.php?title=Data_deduplication&diff=pre] particular relevance: page 2		D5
D6	Daehee , Kim, "Data Deduplication for Data Optimization for Storage and Network Systems" Springer, 15.09.2016 ISBN: 978-3-319-42278-7		D6
D6a	Publication date of D6		D6a