

EIP



Philips successfully asserts wireless charging patent at the UPC

**Koninklijke Philips N.V. v. Belkin GmbH, Belkin Limited, Belkin International, Inc.
(UPC_CFI_390/2023)**

Decision of 13 September 2024 (ORD_598464/2023)[1]

Philips asserted their patent EP 2867997[2], relating to wireless charging, against Belkin at the Munich local division of the UPC. The UPC found the patent both valid and infringed.

The Qi wireless charging standard defines interactions between a power transmitter and a power receiver. According to the prior art standard, there was a mandatory configuration phase initiated by the power receiver. The patent in suit in this case provides for an additional ‘negotiation phase’ which can be requested by the power receiver.

Claim 20 (directed to the power transmitter) includes the limitation:

“means for acknowledging ... by transmitting an acknowledgement ... being indicative of an accept or rejection of the request [...]”

The ‘request’ here relates to the request to enter the negotiation phase.

The issue of infringement hinged on whether a device which only ever transmitted an acknowledgement which indicated ‘accept’ (and never sent a ‘reject’) was within the scope of the claim.

The defendant argued that the acknowledgement must be capable of indicating both accept and reject.

The court found in favour of the claimant's broader construction, based on an extensive review of the patent specification. This discloses an example (paragraph 46) where it is mandatory, for a transmitter which supports the negotiation phase, to accept a request for that phase. It also discloses (paragraphs 172-173) various examples where no negotiation phase occurs:

1. the receiver does not request negotiation;
2. the receiver requests negotiation, but the transmitter does not support it, and sends an explicit rejection;
3. the transmitter does not support the feature and ignores, without responding, any request. The receiver assumes, from the absence of any response, that the transmitter does not support the request; and
4. the transmitter supports the feature but elects to "fall back to a [legacy] power transmission strategy (and associated communication strategy)".

The court understood that in case 4), this meant that the transmitter appeared to behave as in case 3), i.e., no response is transmitted at all (and therefore could not be within the scope of the claim in any case, because there is no acknowledgement at all).

The court used a two-step approach to understand the claim scope:

1. Does the description describe the possibility that an acknowledgement might only indicate 'accept'?
2. If yes, does the claim reflect such an embodiment?

Based on the example in paragraph 46, the answer to question 1 was 'yes'.

To answer the second question, the court stated that the correct approach was to read the claim together with the description and figures; the claim must be understood so that there are no contradictions between the claim and the description. The paragraph 46 embodiment must only be considered excluded from the claim scope if it was clear from the claim that something different was claimed. The court nevertheless emphasized that the wording of the patent claim takes precedence over the description.

The court considered that the plain reading of the claim did not require the claimed transmitter to be capable of sending a rejection in response to the request. There being nothing in the specification to counter this presumption, the court found that it was not necessary for a transmitter to have means for sending an acknowledgement indicating

‘reject’.

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On this basis, the claim was infringed.

Commentary

Courts in Germany (LG Dusseldorf and the BPG/Federal Patent Court) had previously concluded that the transmitter must be able to send both accept and reject responses.

In the present judgment, the question addressed is whether or not it is mandatory for an infringing device to be capable of sending a rejection. However, the claim refers to an “acknowledgement ... being indicative of an accept or rejection”. It is not clear why the focus was on whether ‘being indicative of’ was a limitation of the substance of the actual response(s) sent by the transmitter, rather than a limitation of the format of the acknowledgement. In particular, the court does not appear to address the following question: Would a device which always sent an ‘accept’ acknowledgement infringe the claim if the format of the acknowledgement (as specified by the Qi standard) also allowed for a rejection?

In any case, the UPC local division did not consider that the claim language itself inherently required the possibility of both alternatives. However, in hypothetical analogous claims to a ‘vehicle capable of travelling forwards or in reverse’ or ‘an indicator indicative of a forward or reverse gear’, it seems readily apparent that ‘or’ represents mutually exclusive options which must nevertheless both be satisfied (“conjunctive OR”).

Instead, the court gave significant weight to the example of paragraph 46 and construed the claim explicitly with the effect of including that example within the claim scope.

Before describing the example in which it is mandatory for transmitters to accept any request for the negotiation phase, paragraph 46 also discloses that “In some embodiments, it may also be optional between negotiation phase capable devices, and may possibly only be entered if desired by the power receiver. Although the negotiation phase will be optional, it may be mandatory that new devices support it.”. The skilled person may understand from this that devices (including power transmitters) could have the possibility to avoid the negotiation phase in at least some cases, consistent with the need for an acknowledgement capable of indicating both accept and reject. This would appear consistent with the ‘conjunctive OR’ interpretation.

Paragraph 46 forms part of the ‘Summary of the invention’ section. This section begins at paragraph 41: “According to an aspect of the invention there is provided method of operation ...according to claim 1 comprising ...”. However, the remainder of that

paragraph does not reflect the granted claim, but rather the independent claim in the application as filed (see WO 2014/001983 A1) and does not include the 'accept or rejection' limitation.

The patent was published in 2016. Since then, practice at the EPO has evolved to require applicants to amend the description (and, particularly, the 'Summary of invention' section) to be more strictly aligned with the claims. In this case, it is unlikely that the granted patent would have included paragraphs 41 and 46 in their current form, had such an alignment been carried out. The conclusion of the court might, in such case, have been quite different.

Conclusion

Applicants should take care that, in complying with a request for aligning the claims and description, unintended consequences for claim construction cannot arise. In court proceedings, parties should be alive to whether or not such alignment has been carried out, and whether this should be taken into account in claim construction.

[1] <https://www.unified-patent-court.org/en/node/1087>

[2] Prosecution history:

<https://register.epo.org/application?number=EP13759578&lng=en&tab=doclist>