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Datasheet for the decision of 1 June 2016

Case Number: T 0882/11 - 3.4.01

Application Number: 04770304.6

Publication Number: 1680684

IPC: G01R33/54

Language of the proceedings: EN

Title of invention:
DIAGNOSTIC IMAGING SYSTEM WITH USER INTERFACE

Applicant:
Koninklijke Philips N.V.

Headword:

Relevant legal provisions:
EPC 1973 Art. 83

Keyword:
Sufficiency of disclosure - (no)

Decisions cited:

Catchword:

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Case Number: T 0882/11 - 3.4.01

D E C I S I O N
of Technical Board of Appeal 3.4.01
of 1 June 2016

Appellant: (Applicant)	Koninklijke Philips N.V. High Tech Campus 5 5656 AE Eindhoven (NL)
Representative:	Cohen, Julius Simon Philips Intellectual Property & Standards High Tech Campus 5 5656 AE Eindhoven (NL)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 16 December 2010 refusing European patent application No. 04770304.6 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	G. Assi
Members:	F. Neumann
	J. Geschwind

Summary of Facts and Submissions

I. The appeal lies from the decision of the examining division refusing European patent application number 04 770 304.6.

II. With the statement setting out the grounds of appeal, the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 8 of the main request or, alternatively, on the basis claims 1 to 4 of the auxiliary request, both requests having been filed with the statement of grounds.

In addition thereto, oral proceedings were requested.

III. During the oral proceedings, the appellant confirmed that the main request and the auxiliary request filed with the statement setting out the grounds of appeal were maintained.

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

"*A diagnostic imaging system (1), in particular a magnetic resonance imaging system, comprising*
a control system (2) to control the execution of operational items by the diagnostic imaging system, the operational items having respective parameter settings, which parameters associated with each of the operational items specify the activities of each of the operational items and the way the activities are performed, and
a user interface (3) coupled to the control system, the user interface including a scheduler module (4) which for at least for part of the operational items autonomoulsy (sic) orders said operational items on the

basis of their respective parameter settings to generate an ordered selection of operational items."

Claim 1 of the auxiliary request reads as follows:

"*A a (sic) magnetic resonance imaging system, comprising*
a control system (2) to control the execution of image acquistion (sic) sequences by the magnetic resonane (sic) imaging system on the basis of an execution list of image acquisition sequences each image acquistion (sic) sequence having a geometry planning as an attribute, several acquisitions sharing the same geometry planing (sic), and
a user interface (3) coupled to the control system, characterised in that the user interface includes a scheduler module (4) which for at least for several of the acquisition sequences autonomously without operator interference, selects acquisition sequences in the order of their geometry planning and initiates image acquistion (sic) sequences sharing the same geometry planning in that the scheduler releases image acquisition sequences sharing the same geometry planning to the excution (sic) list toghether (sic) once the geometry planing (sic) is carried out by the operator for at least one of the image acquisition sequences sharing the same geometry planning."

V. The arguments of the appellant, insofar as they are pertinent to the present decision, are set out below in the reasons for the decision.

Reasons for the Decision

1. The appeal is admissible.

2. Main request

2.1 Article 83 EPC 1973

2.1.1 Article 83 requires that the application shall disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art.

2.1.2 The invention, as defined in claim 1, relates to a diagnostic imaging system comprising a control system for controlling execution of various "*operational items*", the operational items having respective "*parameter settings*", and a user interface coupled to the control system, the user interface including a scheduler module which, for at least some of the operational items, autonomously orders the operational items on the basis of their parameter settings to generate an ordered selection of operational items.

2.1.3 In the contested decision the examining division held that the application did not disclose how the scheduler module autonomously generates an ordered selection of operational items (see section II.A.2). The Board agrees with these findings.

In particular, no teaching is provided to explain how the scheduler module should be equipped to decide which operational items are to be ranked in which order and how the parameter settings influence this decision. The criteria or rules for performing the ordering are not mentioned anywhere in the application. Thus although the intended aim of the invention is clear, the means for achieving this aim are simply not apparent.

2.1.4 The appellant submitted that the process of ordering the operational items was trivial and required no further explanation in the application. The operational items of the present invention were ordered in exactly the same way as items in an Excel sheet would be ordered. Each operational item had a parameter setting associated with it and these settings enabled the tasks to be grouped together.

The inventive insight lay in the fact that an ordered selection of operational items could be autonomously generated. Once it was decided to provide autonomous ordering of the operational items, the software implementation would be obvious and therefore did not need to be elucidated in the application.

2.1.5 The Board notes that the only indication given in the application as to how the ordering is carried out is that it is "*based on the actual parameter settings*" (page 3, lines 24-26) or "*on the basis of the actual parameter settings*" (page 3, lines 26-27). That the ordering should be performed in a manner similar to the manner provided by Excel has not been mentioned.

The Board maintains that, in order to put the skilled reader in a position to design a scheduler module capable of autonomous ordering, the application must contain some indication of the necessary criteria to be applied in the ordering process. This is not the case in the present application. The passages which mention the ordered selection provide no indication of the criteria or rules to be applied to place the tasks in their proper order.

Specifically, page 2, line 2-7 explains that the ordered selection includes the order of succession of

the operational items, the timing according to which the operational items are to be executed and any relationship between operational items. However, this passage merely explains what the ordered selection may be but contains no teaching as to how the operational items may actually be autonomously ordered.

Page 3, lines 24-26 explains that the scheduler module autonomously arranges the operational items in their proper order but contains no details of how the scheduler decides which ranking to give the various operational items.

Page 4, lines 2-5 concerns the release of the operational items to the execution list in their proper order. However, no details are provided as to how the proper order is decided upon.

Page 4, line 23 to page 5, line 2 concerns a specific embodiment in which a certain geometry planning is common to a number of acquisition sequences. Although this passage indicates that the shared geometry planning is taken into account in the ordered selection, no details are provided as to how the scheduler module actually produces the ordered selection.

In addition, the Board observes that the term "*parameter settings*" is so broad and encompasses so many variables that it is not evident how these parameter settings may be used to order the operational items. For instance, taking the examples given in the application (see page 2, lines 30-34), one task may have a parameter setting defining the pulse sequence for acquiring MRI signals and a further task may have a parameter setting defining the screen layout. It is not

at all apparent from the application documents how these two tasks may be ordered on the basis of their parameter settings.

2.1.6 Thus, the application fails to provide a clear instruction as to how the scheduler module autonomously orders the operational items. The invention is therefore not disclosed in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art.

2.1.7 The main request is therefore not allowable.

3. Auxiliary Request

3.1 Article 83 EPC 1973

3.1.1 The invention defined in claim 1 has been restricted to an MRI system comprising a control system for controlling the execution of image acquisition sequences and a user interface coupled to the control system, the user interface including a scheduler module which autonomously "*selects acquisition sequences in the order of their geometry planning and initiates image acquisition sequences sharing the same geometry planning*".

3.1.2 The appellant explained that the "*parameter settings*" of the main request had now been restricted to "*geometry planning*". The appellant was of the opinion that this restriction meant that it was now clear how the selection of acquisition sequences should be performed. Specifically, those acquisition sequences sharing the same geometry planning would be grouped together, the grouping being performed in a similar

manner to the grouping of related items in an Excel spreadsheet.

3.1.3 However, the Board notes that merely defining the parameter which forms the basis of the ordering does not mean that the mechanism by which the ordering is performed is disclosed. As indicated above with regard to the main request, the only passages which mention the ordered selection of "*operational items*" (or, in the language of the auxiliary request, "*acquisition sequences*") provide no indication of the criteria or rules to be applied to place the acquisition sequences in "*the order of their geometry planning*". The specific embodiment on page 4, line 23 to page 5, line 2, which refers to the geometry planning, indicates only that "*the sharing of geometries [is] included in the ordered selection, for example by adding the shared geometry planning as an attribute to the acquisition sequence.*" In other words, the scheduler module makes the ordered selection taking the shared geometry planning into account. However, as argued above, no details are provided in the application as to how the scheduler module should be programmed to make such an ordered selection. The submission of the appellant, that the grouping of acquisition sequences having a common geometry planning would be performed in the same manner as the grouping of items in an Excel spreadsheet, is not derivable from the application.

3.1.4 Thus, the application fails to provide a clear teaching as to how the scheduler module autonomously selects acquisition sequences in the order of their geometry planning. The invention, as defined in claim 1, is therefore not disclosed in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art.

3.1.5 The auxiliary request is therefore not allowable.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

R. Schumacher G. Assi

Decision electronically authenticated