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**Datasheet for the decision
of 22 July 2015**

Case Number: T 1508/12 - 3.5.05

Application Number: 04707000.8

Publication Number: 1593080

IPC: G06F19/00

Language of the proceedings: EN

Title of invention:

WIRELESS MEDICAL DATA COMMUNICATION SYSTEM AND METHOD

Applicant:

Baxter International Inc.

Headword:

Wireless link check in a medical network/BAXTER

Relevant legal provisions:

EPC 1973 Art. 56

Keyword:

Inventive step - (no)

Decisions cited:

Catchword:



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

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Case Number: T 1508/12 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 22 July 2015

Appellant: Baxter International Inc.
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Representative: Potter Clarkson LLP
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Decision under appeal: **Decision of the Examining Division of the European Patent Office posted on 20 February 2012 refusing European patent application No. 04707000.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair A. Ritzka
Members: P. Cretaine
G. Weiss

Summary of Facts and Submissions

I. The appeal is against the decision of the examining division, announced in oral proceedings and posted on 20 February 2012, to refuse European patent application No. 04707000.8 on the grounds of lack of inventive step (Article 56 EPC), having regard to the disclosure of

D1: US 6 406 426,

with respect to a main request and five auxiliary requests.

II. Notice of appeal was received on 18 April 2012 and the appeal fee was paid on the same day. The statement setting out the grounds of appeal was received on 22 June 2012. The appellant requested that the decision of the examining division under appeal be set aside and that a patent be granted on the basis of the main request or any of the first to fifth auxiliary requests filed with the statement setting out the grounds of appeal. These requests were identical to the requests on which the decision was based. Oral proceedings were requested should the main request not be allowed. Furthermore, the appellant disputed the proper substantiation of the inventive step objections which led to the refusal decision. No request for reimbursement of the appeal fee has however been submitted.

III. A summons to oral proceedings scheduled for 28 January 2015 was issued on 22 September 2014. In an annex to this summons, the board gave its preliminary opinion on the appeal pursuant to Article 15(1) RPBA. Objections of lack of inventive step under

Article 56 EPC 1973 were raised with respect to all the requests on file, having regard to the disclosure of **D1** as the closest prior art and taking into account the disclosure of:

D2: GB 2 343 334,

D3: US 5 396 230,

D4: EP 0 413 963,

D5: US 2002/0038392,

D6: G. Held, "Network Utility Tools", The ABCs of IP Addressing, Chapter 9, pages 163 to 183, Auerbach Publications, 2001,

D7: A. Berg, "Applets and Network Security: A Management Overview", Network Design: Principles and Applications (ed. G. Held), Chapter 54, pages 719 to 725, Auerbach Publications, 2000, and

D8: A. J. Vincent, "JavaScript Developer's Dictionary", pages 1 to 5, 306 to 307, 326 to 327 and 334 to 337, Sams Publishing, 2002.

Documents **D2** to **D8** were introduced into the proceedings by the board pursuant to Article 114(1) EPC.

- IV. In a communication dated 22 December 2014, the board announced that the oral proceedings had been rescheduled for 22 July 2015.
- V. With a letter dated 19 June 2015, the appellant filed a main request and first to third auxiliary requests to

replace the main request and first to fifth auxiliary requests previously on file.

VI. Oral proceedings were held on 22 July 2015. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the main request or the first auxiliary request, both requests filed with letter dated 19 June 2015, or the second or the third auxiliary request submitted at the oral proceedings. The second and the third auxiliary requests filed with letter dated 19 June 2015 were withdrawn. At the end of the oral proceedings, the decision of the board was announced.

VII. Claim 1 of the **main request** reads as follows :

"A system for reporting on integrity of a wireless communication link within a healthcare facility comprising:

a wireless remote device within the healthcare facility having a message indicator responsive to status information transmitted over the wireless communication link, the status information representative of a signal generated by a medication treatment application device, wherein the message indicator comprises at least one of an audible alarm and a visual display;

software installed on the wireless remote device having a time-out output, wherein the time-out output indicates loss of the wireless communication link, wherein when the time-out output indicates loss of the wireless communication link, the wireless remote device provides a notification that data based upon the signal is not current; and,

wherein the audible alarm produces an audible sound in response to the time-out output, and/or wherein an icon

responsive to the time-out output is provided on the visual display."

Claim 1 of the **first auxiliary request** adds to claim 1 of the main request, after the wording "data based upon the signal is not current", the wording "wherein the software also indicates when the wireless remote device has real-time access to alerts and alarms transmitted over the wireless communication link".

Claim 1 of the **second auxiliary request** adds to claim 1 of the main request, after the wording "data based upon the signal is not current", the wording "and access to alerts and alarms is not available".

Claim 1 of the **third auxiliary request** adds to claim 1 of the main request, after the wording "data based upon the signal is not current", the wording "and access to alerts and alarms is not available, and wherein the software also indicates when the wireless remote device has real-time access to alerts and alarms transmitted over the wireless communication link".

Reasons for the Decision

1. The appeal is admissible (see point II).
2. Main request
 - 2.1 D1 discloses (see Figure 1) a healthcare facility comprising a medication treatment application device ("therapeutic device" 12) and a wireless remote device ("remote access device" 42). The wireless remote device is connected through a wireless communication link (see

column 9, lines 43 to 47) to a central monitoring system 14. The wireless remote device 42 has a message indicator responsive to status information representative of a signal generated by the medication treatment application device and transmitted over the wireless communication link (see column 12, lines 30 to 35 and column 14, lines 48 to 51). The system of D1 further comprises software installed on the central monitoring system having a time-out output indicating loss of the wireless communication link (see column 14, lines 56 to 60) and generating audible and visual alarms in response to the time-out output (see column 13, lines 52 to 53).

It was common ground during the oral proceedings that the differences between the subject-matter of claim 1 and the disclosure of D1 were the functionalities in the wireless remote device itself of a time-out output indicating loss of the wireless communication link, of associated audible and visual alarms, and of providing a notification that data based upon the signal is not current.

The technical problem addressed by providing the aforementioned functionalities on the wireless remote device is that of how to adapt the wireless remote device such that the user of the remote device can tell whether the wireless communication link between the device and the network is operational.

The skilled person would have recognised the underlying technical problem on the basis of his general knowledge relating to mobile terminals and would have been prompted to modify the mobile terminal of D1 to include means for indicating the probability of attaining successful communication with the network.

Having regard to the disclosure of D1 to the effect that the wireless remote devices 42 may be paging devices (see column 4, lines 18 to 22; column 9 lines 28 to 33; column 11, lines 10 to 12), the skilled person trying to solve this problem would have consulted document D4. D4 discloses a wireless paging system wherein a synchronized state, indicating the presence of a mobile terminal in the service area, is detected. Upon non-detection of the synchronized state after a time-out, an announcement in the form of a tone or a display is made on the mobile terminal (see the abstract; column 4, lines 4 to 18; column 10, lines 4 to 14; column 12, lines 43 to 49). The detection and announcement of a non-synchronized state in D4 amounts to the detection and announcement of a loss of the wireless communication link in claim 1.

In view of the foregoing, the board judges that the provision of the aforementioned functionality on the wireless remote device of D1 would not require the exercise of inventive skill.

- 2.2 The appellant argued at the oral proceedings before the board that the skilled person would be refrained from combining D4 with D1 because D4 relates to paging systems and not to healthcare systems. The board is, however, not convinced by this argument, since the problem to be solved and the solution defined by claim 1 are related solely to the communication functionality of the wireless remote device and not to the received information content.

The appellant further argued that the skilled person would not combine D4 with D1 since D1 relates to a central system wherein the monitoring of the wireless

link to the remote devices is solely performed at the central monitoring system, as described for instance by the passages in column 12, lines 50 to 56 and from column 14, line 64 to column 15, line 10. The board however holds that the definition of the problem to be solved, namely to make the remote device itself aware of a loss of the wireless link, would lead the skilled person to consider the remote device-based detection scheme of D4.

2.3 For these reasons, the board judges that the main request is not allowable under Article 56 EPC 1973.

3. First auxiliary request

Claim 1 adds to claim 1 of the main request the feature that the software indicates when the wireless remote device has real-time access to alerts and alarms transmitted over the wireless communication link.

It is however obvious that an indication of synchronized state as disclosed in D4 (see paragraphs 2.1 and 2.2 above) also indicates that the device has real-time access to the signals issued by the communication system. Therefore, applying the features of D4 with respect to this indication to the healthcare system of D1 would provide the wireless remote device with the above-mentioned added feature.

Thus, the first auxiliary request is not allowable under Article 56 EPC 1973, having regard to the combination of D1 and D4.

4. Second auxiliary request

Claim 1 adds to claim 1 of the main request the feature that the notification that data based upon the signal is not current also indicates that access to alerts and alarms is not available. In the board's judgement, this feature is a direct consequence of the indication of loss of wireless communication link, already provided by the time-out output in the claim. Therefore, this feature does not add anything of inventive significance to the subject-matter of the claim.

The second auxiliary request is thus not allowable under Article 56 EPC 1973, having regard to the combination of D1 and D4.

5. Third auxiliary request

Claim 1 adds to claim 1 of the first auxiliary request the feature that the notification that data based upon the signal is not current also indicates that access to alerts and alarms is not available. For the same reasons as expressed in paragraph 4 above, the board judges that the subject-matter of claim 1 does not involve an inventive step, having regard to the combination of D1 and D4.

The third auxiliary request is thus not allowable under Article 56 EPC 1973.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated