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**Datasheet for the decision
of 21 November 2018**

Case Number: T 2099/12 - 3.5.01

Application Number: 06720382.8

Publication Number: 1861816

IPC: G06Q10/00, G06F9/44

Language of the proceedings: EN

Title of invention:

SYSTEMS AND METHODS FOR COORDINATING THE FLOW OF EVENTS IN A
HEALTH CARE SETTING USING WORKFLOW MODULE

Applicant:

Get Well Network Inc.

Headword:

Automatic event coordination / GET WELL NETWORK

Relevant legal provisions:

EPC Art. 56, 84, 123(2)

Keyword:

Claims - clarity (no) - support in the description (no)
Amendments - added subject-matter (yes)
Inventive step - automatic event coordination - (no - obvious
automation of non-technical steps normally carried out by a
human)

Decisions cited:

Catchword:



Beschwerdekammern
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Chambres de recours

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Case Number: T 2099/12 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 21 November 2018

Appellant: Get Well Network Inc.
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Representative: Mewburn Ellis LLP
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 27 April 2012
refusing European patent application No.
06720382.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman M. Höhn
Members: A. Wahrenberg
Y. Podbielski

Summary of Facts and Submissions

- I. This is an appeal against the decision of the examining division to refuse the European patent application 06720382.8 on the grounds of added matter (Article 123(2) EPC) and lack of inventive step (Article 56 EPC).
- II. The appellant requested that the decision of the examining division be set aside and that a patent be granted on the basis of the refused main request filed on 16 March 2012, or the first, or second, auxiliary request, filed with the statement setting out the grounds of appeal dated 6 September 2012.
- III. Claim 1 of the main request reads:

A method of automatically coordinating at least a portion of events that occur between a time that a person enters a health care setting and a time that the person is discharged from the health care setting by generating a health care setting specific workflow module that controls communication between components of an automated event coordination system, the method comprising:

receiving a selection of at least one predetermined event;

associating at least one workflow process with the at least one predetermined event, wherein the at least one workflow process comprises a plurality of predetermined system component activities that are to be performed by the system after the at least one predetermined event occurs; and

implementing the at least one workflow process in the system using a software program after the at least

*one predetermined event occurs,
characterised by:*

*re-implementing the at least one workflow process
in the system if a component of the system does not
perform a predetermined activity from the plurality of
system component activities after a predetermined
amount of time.*

IV. Claim 1 of the first auxiliary request differs from the
main request by:

*the deletion of the text "that controls
communication between components of an automated event
coordination system" immediately after "a health care
setting specific workflow module";*

*the replacement of the word "the" by the text "an
automated event coordination" immediately after "a
plurality of predetermined system component activities
that are to be performed by";*

*the use of "characterised in that" in replacement
of "characterised by";*

*the addition of the following text in the
characterising portion, immediately before the "re-
implementing" step:*

*"the automated event coordination system includes a
system selection component arranged to permit the
person to accept or decline implementation of the at
least one workflow process, and*

the method further includes:

*performing the at least one workflow process in the
system if the person accepts implementation thereof via
the system selection component,"*

the addition of the following text at the end of the characterising portion:

" , and preventing engagement of the system selection component with the system until after the at least one workflow process is implemented if the person declines implementation thereof via the system selection component a predetermined number of times".

- V. The second auxiliary request differs from the first auxiliary request by the addition of the following feature at the beginning of the characterising portion in claim 1:

"the at least one workflow process comprises automatically displaying a safety video to the person on a television in a room following selection of that room for the person upon admission of the person to the health care setting;".

- VI. In the grounds of appeal, the appellant argued that:

The embodiments described in the application depicted exemplary workflow processes. A common feature of all the embodiments was a repeat step that occurred if a person declined to conduct a process, such as watching a safety video or completing a survey. That constituted a basis for the general "re-implementing" step in claim 1.

The use of the verb "implement" found a basis in paragraph [007], which disclosed enacting multiple workflow process and system component activity as "implementation". Accordingly, the term "re-implementation" would be understood as enacting again a process and/or system component activity.

The coordination between system component activities and the communication between system components required to preform that coordination required technical considerations. The invention was not merely concerned with automating a non-technical method; it was concerned with improving the technical performance and coordination of such an automated system.

The step of re-implementing the workflow process when one of the predetermined activities did not take place for a period of time allowed an increased level of user flexibility (e.g. the possibility of deferring various activities) in an automated system without a consequent burden of human intervention.

The technical problem to be solved could therefore be considered as how to increase the level of user flexibility in an automated event coordination system. The solution lied in the re-implementation operation, which provided a function that permitted deferral of the operation of a system component within a system of interlinked components, without stalling or otherwise halting operation of the system. This function of the system was not disclosed or suggested in any prior art document.

The invention could not be compared with known automated reminders, because such reminders were implemented in a single device based on a single user input, and therefore not applicable to the overlapping workflow activities implemented by a plurality of system components.

VII. The Board set out its preliminary opinion in a communication accompanying a summons to oral

proceedings. The Board preliminarily agreed with the examining division's findings on added subject-matter (Article 123(2) EPC) and inventive step (Article 56 EPC), and pointed to further problems concerning clarity and lack of support by the description (Article 84 EPC).

VIII. In reply to the Board's communication, the appellant informed the Board that it would not attend the oral proceedings.

IX. The Board held oral proceedings in the appellant's absence and announced the decision.

Reasons for the Decision

1. *Background*

1.1 The invention is about coordinating events in a health care setting, for example a hospital.

1.2 Between the time that a patient enters a hospital and the time that he is discharged, a series of events take place. The invention automates the coordination of at least a portion of those events using a workflow module, which is essentially a software program that controls workflow processes implemented on a computer system.

1.3 Figure 1 shows an example of a workflow process involving the display of a safety video when the patient is admitted to the hospital. When prompted to watch the safety video, the patient can either accept or decline. If the patient accepts, the video will be

displayed. If, on the other hand, the patient declines, he will be reminded to watch the video after the expiration of a predetermined amount of time.

Another example is a pain assessment survey. If the patient does not respond to the survey, he will be reminded as in the safety-video example.

The application also contains an example relating to post-discharge medication, but that example does not fall within the scope of the claims. Therefore, it will not be discussed further in this decision.

2. *Main request, claim 1*

2.1 Claim 1 of the main request is very broad and general. It defines neither the events nor the activities performed by the system, and it is not clear which steps of the method are performed automatically. Indeed, the description suggests that at least some of the steps in claim 1, for example the step of associating a workflow process with an event, may be performed, manually, by a nurse (see paragraph [0022]).

In its communication, the Board raised doubts whether the definitions in claim 1 were sufficient to allow a meaningful understanding of the invention, and consequently, whether claim 1 was clear. The appellant did not reply, and the Board sees no reason to depart from its preliminary view expressed in the communication that the subject-matter of claim 1 is not clear (Article 84 EPC).

2.2 The subject-matter of claim 1 is considerably broader than the two examples in the description. Those examples concern specific activities (watching a video,

completing a survey; see point 1.3 above), and in both of them, the system is waiting for the user to provide an input. This is not reflected, at all, in claim 1. Therefore, the Board takes the view that claim 1 is not supported by the description as required by Article 84 EPC.

2.3 The examining division considered that claim 1 contravened Article 123(2) EPC. In particular, the examining division found that the step of *"re-implementing the at least one workflow process in the system if a component of the system does not perform a predetermined activity from the plurality of system component activities after a predetermined amount of time"* was an unallowable generalisation of the more specific examples of reminding the patient to watch a safety video or complete a survey in the application as filed. The Board agrees with this finding for essentially the same reasons as given above with regard to support by the description under Article 84 EPC (see point 2.2). In the application as filed, the workflow processes involve specific activities and specific system components. Indeed, "re-implementing the workflow process" is not the same as repeating a specific step that requires user input.

2.4 In addition to the objection of added matter, the examining division found that the subject-matter of claim 1 of the main request did not involve an inventive step over a notoriously known computer system (Article 56 EPC). The coordination of events in claim 1 was considered to be a non-technical, administrative activity, which did not contribute to inventive step. The technical contribution of the claimed invention lied in the implementation of the non-technical method on the known computer system, but the examining

division concluded that this would have been obvious to the skilled person.

The examining division additionally argued that automatic reminders, e.g. snooze functions, were well known at the priority date, and that it would have been obvious to use such an automatic reminder to remind a patient in a health care setting to watch a video or complete a survey.

- 2.5 The Board does not see any error in the examining division's conclusion that the subject-matter of claim 1 of the main request lacks an inventive step. In the Board's view, claim 1 does not provide anything technical, apart from the automation of activities typically performed by a human. Indeed, the nurse could ask or remind the patient to watch the safety video or to complete the survey. The Board agrees with the examining division that it would have been obvious to use a (known) computer to automate those non-technical steps.

The Board furthermore agrees with the examining division that the subject-matter of claim 1 of the main request would have been obvious in view of a well-known automatic reminder, in combination with a system for performing the activities of the workflow (e.g. displaying the safety video)

- 2.6 The appellant argued that the invention as defined in claim 1 was concerned with the interaction of different system components of a computerised system, which was clearly technical. The coordination of activities and the communication between system components required to perform the coordination required technical considerations. Furthermore, according to the

appellant, the step of re-implementing the workflow process when one of the predetermined activities did not take place for a period of time had the technical effect of increasing user flexibility (e.g. the ability to defer various activities) without otherwise halting operation of the system.

- 2.7 The appellant's arguments do not persuade the Board. Every computer program involves interaction between various system components, for example between a processor and memory. This is just normal interaction between software and hardware in a computer. The application does not define any particular interaction, which goes beyond that.

Furthermore, the Board is not convinced that increased user flexibility is a technical effect, which could support the presence of an inventive step. The same level of flexibility would be achieved when the nurse reminds the patient.

- 2.8 For these reasons, the Board concludes that the subject-matter of claim 1 according to the main request lacks an inventive step (Article 56 EPC).

3. *First auxiliary request*

- 3.1 Claim 1 of the first auxiliary request adds to the main request a "system selection component" that permits the person (patient) to accept or decline "re-implementation of the workflow process", and the steps of:

performing the workflow process if the person accepts implementation thereof via the system selection component; and

preventing engagement of the system selection

component with the system until after the workflow process is implemented if the person declines implementation thereof via the system component a predetermined number of times.

3.2 The subject-matter of claim 1 of the first auxiliary request is, like in the main request, a generalisation of the examples in the application as filed. The Board does not see any basis for such a generalisation, and the general terms of the claim do not, on their own, allow a clear interpretation. Therefore, the first auxiliary request has the same problems of lack of clarity and support by the description (Article 84 EPC) and added matter (Article 123(2) EPC) as the main request. Furthermore, the Board agrees with the examining division that the application as filed does not directly and unambiguously disclose the additional feature of "preventing engagement of the system selection component...". The application as filed discloses the more specific step of refusing, via the system viewing selection component, to allow the person to engage in any activities associated with the television until the person watches the safety video (see paragraph [0021]).

3.3 Furthermore, the additional features in the first auxiliary request are no more technical than the features in claim 1 of the main request. The nurse could forbid the patient to watch television until he has watched the safety video. In claim 1 of the first auxiliary request, the computer takes over the role of the nurse, but that would, in the Board's view, have been an obvious automation. Therefore, the subject-matter of claim 1 of the first auxiliary request does not involve an inventive step (Article 56 EPC).

4. *Second auxiliary request*

4.1 Claim 1 of the second auxiliary request specifies that the at least one workflow process comprises automatically displaying a safety video to a person on a television in a room following selection of that room for the person upon admission of the person to the health care setting.

However, since it is not defined how the predetermined event and activity in claim 1 relate to the display of the safety video upon admission, the problems of lack of clarity, lack of support by the description, and added matter set out above with regard to the main and first auxiliary requests remain unresolved.

4.2 The reasoning on inventive step with regard to the main request is already based on the safety-video example, Therefore, the subject-matter of claim 1 of the second auxiliary request lacks inventive step (Article 56 EPC) for the reasons as already given. Furthermore, the safety video itself does not contribute to inventive step, since it relates to the cognitive content to be conveyed to the user rather than to functional data, i.e. data that has a technical function.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



T. Buschek

M. Höhn

Decision electronically authenticated