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**Datasheet for the decision  
of 23 April 2021**

**Case Number:** T 1975/18 - 3.5.05

**Application Number:** 14705805.1

**Publication Number:** 2962229

**IPC:** G06F19/00

**Language of the proceedings:** EN

**Title of invention:**

SYSTEM AND METHOD FOR PROVIDING DRUG LIBRARY DATA TO A MEDICAL  
DEVICE LOCATED WITHIN A HEALTHCARE ENVIRONMENT

**Applicant:**

Fresenius Vial SAS

**Headword:**

Device discovery tool/FRESENIUS

**Relevant legal provisions:**

EPC Art. 56, 123(2), 84  
RPBA 2020 Art. 13(2)

**Keyword:**

Inventive step - (yes)  
Amendment after summons - exceptional circumstances (yes)



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Case Number: T 1975/18 - 3.5.05

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.05**  
**of 23 April 2021**

**Appellant:** Fresenius Vial SAS  
(Applicant) Le Grand Chemin  
BP3  
38590 Brézins (FR)

**Representative:** Maikowski & Ninnemann  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 16 March 2018  
refusing European patent application No.  
14705805.1 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chair** A. Ritzka  
**Members:** E. Konak  
E. Mille

## Summary of Facts and Submissions

- I. The appeal is against the decision of the examining division to refuse the application on the grounds that the main request and auxiliary requests 1 to 4 did not meet the requirements of Article 56 EPC in view of the following documents:  
  
D1: US 2007/233520 A1  
D3: US 2005/137653 A1
- II. In its statement setting out the grounds of appeal, the appellant requested that the decision be set aside and that a patent be granted on the basis of one of these requests. It requested oral proceedings as an auxiliary measure.
- III. In its preliminary opinion issued in preparation for the oral proceedings, the board raised objections under *inter alia* Articles 84 and 56 EPC.
- IV. In response to the summons to oral proceedings, the appellant filed a new main and a new auxiliary request to replace the requests on file. It further corrected the reference signs in figure 9.
- V. Oral proceedings were held before the board. At the oral proceedings, the appellant replaced the requests on file with a revised main request and a revised auxiliary request.
- VI. Claim 1 of the revised main request reads as follows:

"A system for providing drug library data to a medical device (31, 32) located in a hospital facility, the system comprising:

- a local network (33) of the hospital facility, and
- at least one medical device (31, 32) for administering a drug to a patient, the at least one medical device (31, 32) being located in the hospital facility and connected to the local network (33), characterized by

a drug library server (1) connected to the local network (33) of the hospital facility via a public communication network (2) and constituted to provide drug library data to the at least one medical device (31, 32) via the public communication network (2), wherein the system comprises at least one communication device (40, 41) connected to the local network (33) and comprising a web client (400, 410) for communicating with the drug library server (1) via the public communication network (2), wherein the public communication network (2) is the internet and the drug library server (1) hosts a web server (10) configured to provide for a data communication with the web client (400, 410) of the at least one communication device (40, 41), wherein the drug library server (1) is constituted to provide a device discovery tool (411) to the at least one communication device (40, 41), the device discovery tool (411) being operative to gather information about the at least one medical device (31, 32) installed within the hospital facility, wherein the at least one communication device (40, 41) is operative to operate the device discovery tool (411) in the hospital facility to gather information about medical devices (31, 32) being installed in the hospital facility by scanning the local network (33) for medical devices (31, 32) connected to the local network (33) to identify network addresses of the medical devices (31,

32) in the local network (33), wherein the at least one communication device (40, 41) is operative to upload said information to the drug library server (1)."

The revised main request has a corresponding independent claim 8 in other claim categories.

The wording of the claims of the revised auxiliary request is not relevant to the present decision.

## **Reasons for the Decision**

1. Admissibility of the revised main request
  - 1.1 The revised main request was submitted in response to objections raised by the board for the first time in its preliminary opinion, representing exceptional circumstances in the present case. Therefore the board admits the revised main request into the proceedings under Article 13(2) RPBA 2020.
2. Amendments and clarity (Articles 123(2) and 84 EPC)
  - 2.1 Claims of the revised main request are the result of several amendments to claims of the third auxiliary request on which the contested decision is based. The connection between the communication device (40, 41) and the local network of the hospital facility, as described in figure 1 and on page 7, lines 33 to 35 as filed, was made clear. The details of how the device discovery tool gathers information about medical devices within the local network of the hospital facility, as described on page 6, lines 21 to 28 of the description as filed, were also added to claims 1 and 3. Corresponding amendments were also made to the

corresponding independent method claim wherever necessary. Furthermore, several dependent claims which the board found to be unclear were deleted and the unclear term "healthcare environment" was replaced throughout the claims by the term "hospital facility", as specified on page 1, lines 30-31 of the description as filed.

2.2 Therefore the board is satisfied that the claims of the revised main request meet the requirements of Articles 123(2) and 84 EPC.

3. Inventive step (Article 56 EPC)

3.1 Document D1 represents the closest prior art to the subject-matter of claim 1 of the revised main request.

3.2 Claim 1 comprises a number of features which are not disclosed in D1. The distinguishing features that are worth further consideration are the drug library server providing via the internet a device discovery tool to the at least one communication device connected to the local network of the hospital facility, this device discovery tool gathering information about the medical devices installed within the hospital facility by scanning the local network for medical devices connected to the local network to identify their network addresses and the at least one communication device uploading the gathered information to the drug library server. Although the examining division cited a number of paragraphs of D1 in the contested decision as arguably disclosing the operation of such a device discovery tool, in particular paragraphs [0094], [0095], [0098], the board agrees with the appellant that the claimed features cannot be identified in these paragraphs.

- 3.3 These distinguishing features have the technical effect that, although the drug library server is in the internet domain whereas the medical devices are located in the local network of a hospital, the drug library server can obtain information about the network addresses of the medical devices within the hospital network.
- 3.4 The objective technical problem solved by this feature can thus be regarded as being how to provide a public drug library server with information on medical devices installed in the local network of a hospital facility.
- 3.5 The solution proposed in claim 1 is to provide a device discovery tool to a communication device connected to the local network which scans the network to obtain the network addresses of the medical devices installed in the local network and then uploads this information to the drug library server.
- 3.6 Since the drug library server in D1, namely the medication management unit (MMU), is not even a public server but located within the local network of the hospital facility, the problem formulated above would not arise in the context of D1. Nor would the claimed solution be obvious to the skilled person based on D1 alone. As the remaining documents on file are not relevant for seeking a solution to this problem, they would not suggest the claimed solution either.
- 3.7 Consequently, based on the available prior art, the subject-matter of claim 1 of the revised main request involves an inventive step (Article 56 EPC).

## Order

### For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the department of first instance with the order to grant a patent based on claims 1 to 8 of the revised main request submitted by the appellant during the oral proceedings before the board, description and drawings to be adapted.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated