

Internal distribution code:

- (A) [-] Publication in OJ
- (B) [-] To Chairmen and Members
- (C) [-] To Chairmen
- (D) [X] No distribution

**Datasheet for the decision
of 18 June 2021**

Case Number: T 2084/18 - 3.5.05

Application Number: 14770974.5

Publication Number: 2968074

IPC: G06F19/00, A61J7/00, G06Q50/22

Language of the proceedings: EN

Title of invention:
APPARATUS AND METHOD FOR RECOGNITION OF SUSPICIOUS ACTIVITIES

Applicant:
AIC Innovations Group, Inc.

Headword:
Suspicious behaviour/AIC

Relevant legal provisions:
EPC Art. 56, 52(2)(d)

Keyword:
Inventive step - (no)
Features related to presentation of information
Obscuring the internal state of a system

Decisions cited:

T 0115/85, T 0833/91, T 1802/13, T 0336/14, T 0556/14,
T 1091/17



Beschwerdekammern
Boards of Appeal
Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0
Fax +49 (0)89 2399-4465

Case Number: T 2084/18 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 18 June 2021

Appellant:
(Applicant)

AIC Innovations Group, Inc.
19 West 24th Street, 11th floor
New York, NY 10010 (US)

Representative:

Fish & Richardson P.C.
Highlight Business Towers
Mies-van-der-Rohe-Straße 8
80807 München (DE)

Decision under appeal:

**Decision of the Examining Division of the
European Patent Office posted on 26 March 2018
refusing European patent application No.
14770974.5 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. The contested decision found that the main request did not meet the requirements of Article 54 EPC, the first to third auxiliary requests did not meet the requirements of Articles 56 and 84 EPC, and the fourth auxiliary request did not meet the requirements of Articles 84 and 54 EPC. The fifth auxiliary request was not admitted into the examination proceedings.
- II. The following document, *inter alia*, was cited in the examination proceedings:

D1: WO 2011/062934 A1
- III. With its statement setting out the grounds of appeal, the appellant filed a single request to replace the requests on file. It requested that the decision be set aside and that a patent be granted on the basis of this single request. It requested oral proceedings as an auxiliary measure.
- IV. In its preliminary opinion issued in preparation for the oral proceedings, the board raised objections under Articles 54 and 56 EPC.
- V. Oral proceedings were held before the board.
- VI. Claim 1 reads as follows:

"A medication administration confirmation apparatus, comprising:

a video capture device configured to capture a video sequence of a user administering medication in response to the display of one or more instructions (125), wherein the video capture device further comprises a display configured to display a field of view that is narrower than a field of view (410) of a video sequence being captured wherein the user is prompted on the display to perform a particular sequence of actions to be stored as the video sequence and the narrower field of view than the field of view captured by the video capture device is displayed on the display during performance of the particular sequence of actions; a memory to store the captured video sequence, wherein the memory stores the video field of view that is wider than the narrower video field of view presented to the user on the display; and a processor to analyze at the stored video sequence to determine one or more indications of suspicious activity on behalf of the user and cause the display to display one or more further instructions (125) to the user in response to identifying the one or more indications of suspicious activity, wherein a portion of the captured video sequence that is not displayed on the display is reviewed for suspicious behavior."

Reasons for the Decision

1. The closest prior art D1 discloses a medication administration confirmation apparatus which displays instructions to the user to perform a particular sequence of actions to be captured as a video sequence, analyses the captured video sequence to determine one or more indications of suspicious activity on behalf of

the user and displays further instructions to the user in response to identifying suspicious activity (see D1, figure 6 and paragraphs [000108] to [000115]).

2. The subject-matter of claim 1 differs from the above disclosure essentially in that a field of view narrower than the field of view captured by the video capture device is displayed on the display while the user is performing the particular sequence of actions (see the statement setting out the grounds of appeal, page 8, first paragraph). Indeed, D1 does not disclose that the field of view being captured by the video capture device is displayed to the user in full or in part.
3. The appellant's various lines of argumentation in favour of this distinguishing feature contributing to an inventive step do not convince the board:
 - 3.1 One line of argumentation is based on the fact that methods for treatment of the human body are, by virtue of Article 53(c) EPC, technical. According to the appellant, as the administration of a medicine is a technical task, the confirmation of the performance of this technical act should be a technical effect. However, the distinguishing feature relates to displaying a video and to the content of the displayed video, not to a method of administering a medicine or to a method of confirming it. Therefore, this argument is not relevant to the issue in hand.
 - 3.2 Displaying a video with a certain content does indeed relate to presentation of information within the meaning of Article 52(2)(d) EPC. A presentation of information might only exceptionally contribute to the technical character of the invention if it credibly assists the user in performing a technical task by

means of a continued and guided human-machine interaction process, this being the applicable test (see T 336/14, Headnote; T 1802/13, page 10, second full paragraph; T 1091/17, point 1.7 of the reasons).

Regarding the case in hand, the appellant argued (see the statement setting out the grounds of appeal, page 10, ii(c)) that this test was satisfied, since the user in claim 1 was administering medication in response to the display of one or more instructions. However, this argument is based on features of claim 1 which are already disclosed in D1 rather than on the distinguishing feature of displaying on the display a field of view narrower than the field of view captured by the video capture device. This distinguishing feature does not assist the user in administering a drug. Instead, as pointed out by the appellant elsewhere (see the statement setting out the grounds of appeal, page 7, last paragraph) with reference to paragraph [051] of the description, it is meant to let users "attempting to trick the system [...] think they are out of the field of view of camera because they are not shown in the display and may thus perform a suspicious or malicious act". Elsewhere, in paragraph [028] of the description, the application calls this "'trap[ping]' the unsuspecting malicious patient". Trapping users, by definition, does not "assist" them. Therefore, the distinguishing feature does not satisfy the test set in the case law for presentations of information.

3.3 In its letter of reply to the board's preliminary opinion and at the oral proceedings, the appellant put forward a further argument that the cognitive effect of trapping a user assisted (if not the user) the claimed apparatus itself in performing its task. To illustrate

its argument, the appellant made analogies between the case in hand, in which trapped malicious users may try to frustrate the claimed apparatus by appearing as if they were taking their medicine, and various hypothetical cases, namely frustrating currency or passport counterfeiters by security features such as invisible ink, and turning off the power light of a recording security camera in order to let observers think that it is not recording. It argued that in all these examples a technical effect was achieved by obscuring the internal state of the apparatus. The case law of the boards of appeal recognised giving visual indications about the internal state of a system as technical. Similarly, refraining from giving such a visual indication or obscuring the internal state of an apparatus in order to frustrate malicious activity should also be a technical effect.

It is evident that the appellant's statements involving refraining from giving a visual indication or obscuring the internal state of a system are inspired by Headnote I of T 115/85, i.e. "*Giving visual indications automatically about conditions prevailing in an apparatus or system is basically a technical problem*". Given the body of subsequent case law which discusses under which conditions or for which internal states of a system or apparatus this statement would be valid (see *inter alia* T 833/91, point 3.7 of the reasons; T 336/14, point 1.2.4 of the reasons, second paragraph), it is evident that statements with regard to technicality at this level of generality should be made with an abundance of caution. To take the example of "obscuring the internal state of a system", suggested by the appellant, whereas this may give rise to a technical effect in certain cases, e.g. protecting

a cryptographic computation against power analysis attacks as in T 556/14 (see points 13 and 14 of the reasons), in other cases it would not. Therefore, any alleged technical effect of the distinguishing feature of claim 1 should be judged on its own merits rather than by rules at this level of abstraction. The same holds true for the hypothetical examples given by the appellant. These examples suggest at least that the appellant considers that the cognitive effect leads to a technical effect of increased security, which is generally recognised as a technical effect. In the case in hand, however, the cognitive effect of the distinguishing feature, i.e. that the users may think that they are out of the field of view of camera, does not lead to increased security. It does not assist the apparatus of claim 1 in performing its assigned task, i.e. medication administration confirmation, either. On the contrary, the cognitive effect in the case in hand encourages the users to perform what the application calls "a suspicious or malicious act" and hence impairs the proper performance of the medication administration process.

4. Since its distinguishing feature does not produce any technical effect, the subject-matter of claim 1 does not involve any inventive step (Article 56 EPC).
5. As there is no allowable request, the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated