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**Datasheet for the decision
of 14 October 2022**

Case Number: T 2361/19 - 3.5.03

Application Number: 13853527.3

Publication Number: 2874379

IPC: H04M1/00, H04M1/04, H04M1/725

Language of the proceedings: EN

Title of invention:
Portable information terminal retaining platform and desktop
telephone device

Applicant:
NEC Platforms, Ltd.

Headword:
Switching ongoing phone calls/NEC

Relevant legal provisions:
EPC Art. 56, 123(2)
RPBA 2020 Art. 13(2)

Keyword:

Added subject-matter - main request (yes)

Inventive step - auxiliary requests I and III (no)

Admittance of claim set filed after summons - auxiliary request II (no): no exceptional circumstances and lack of clear allowability



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Case Number: T 2361/19 - 3.5.03

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 14 October 2022

Appellant: NEC Platforms, Ltd.
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 5 March 2019
refusing European patent application
No. 13853527.3 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair K. Bengi-Akyürek
Members: K. Schenkel
C. Almberg

Summary of Facts and Submissions

I. The appeal is against the decision of the examining division to refuse the present European patent application on the grounds that claim 1 of a main request did not meet the requirements of Article 123(2) EPC and that the subject-matter of claim 1 of an auxiliary request did not involve an inventive step (Article 56 EPC), having regard to the following prior-art document:

D1: WO 2012/079619 A1.

II. With its statement setting out the grounds of appeal, the appellant filed a main request and auxiliary requests I and II, the main request and auxiliary request I underlying the appealed decision.

III. In reply to a communication issued pursuant to Article 15(1) RPBA 2020 expressing the board's preliminary opinion on the appeal, the appellant filed a new auxiliary request II and renumbered the old auxiliary request II as auxiliary request III.

IV. Oral proceedings were held before the board on 14 October 2022 by videoconference.

The appellant requested that the appealed decision be set aside and that a patent be granted based on one of

- the **main request** and **auxiliary request I** subject to the appealed decision and re-filed with the statement of grounds of appeal,

- **auxiliary request II** filed with the reply to the board's preliminary opinion, and
- **auxiliary request III** filed with the statement of grounds of appeal (then labelled auxiliary request II) and re-filed with the reply to the board's preliminary opinion.

At the end of the oral proceedings, the board's decision was announced.

V. Claim 1 of the **main request** reads as follows (board's labelling):

- (a) "A terminal system comprising a terminal holding stand (10) and a portable terminal (40, 50),
- (b) the terminal holding stand (10) being capable of holding the portable terminal (40, 50),
the terminal holding stand (10) and the portable terminal (40, 50) include voice communication control function respectively,
the terminal holding stand (10) comprising:
a first speech control section (31) configured to make a voice communication path via a LAN cable (20), the terminal holding stand (10) itself being usable as a telephone set independently of the portable terminal (40, 50);
a terminal communication section (34) comprising a Bluetooth® module configured to communicate to and from the portable terminal (40, 50);
a first transmission/reception section (60) comprising a microphone and a speaker, which enable a user to make a voice communication;

a voice path control section (32) connected to the first transmission/reception section (60), the first speech control section (31), and the terminal communication section (34), the voice path control section (32) being configured to make one of a voice communication path between the first transmission/reception section (60) and the LAN cable (20) through the first speech control section (31) or between the first transmission/reception section (60) and the portable terminal (40, 50) through the terminal communication section (34); and

a switching request input section (26) connected to the voice path control section (32), the switching request input section (26) being configured to receive from the user a switching request to switch the voice communication path, and

(c) the portable terminal (40, 50) comprising:

a second speech control section (42, 52) configured to make a voice communication path via a second speech circuit, the portable terminal (40, 50) itself being usable as a mobile phone set independently of the terminal holding stand (10);

a terminal communication section (43, 53) comprising a Bluetooth module configured to communicate to and from the terminal holding stand (10);

a second transmission/reception section (45, 55) comprising a microphone and a speaker, which enable a user to make a voice communication;

a control section (41, 51) connected to the second transmission/reception section (45, 55), the second speech control section (42, 52), and the terminal communication section (43, 53), the control section (41, 51) being configured to make a voice communication path one of between the second

transmission/reception section (45, 55) and the second speech circuit through the second speech control section (42, 52) or between the second transmission/reception section (45, 55) and the terminal holding stand (10) through the terminal communication section (43, 53); and

wherein

- (d) under a state in which a voice communication path is formed between the first transmission/reception section (60) and the second speech circuit, through the terminal communication section (34) and the portable terminal (40, 50), when the switching request is received by the switching request input section (26) to continue the voice communication with the second transmission/reception section (45, 55) on the portable terminal (40, 50), the voice path control section (32) and the second control section (41, 51) are configured to disconnect the voice communication path between the first transmission/reception section (60) and the portable terminal (40, 50) through the terminal communication section (34), and to make a voice communication path between the second transmission/reception section (45, 55) and the second speech circuit, and

wherein

- (e) under a state in which a voice communication path is formed between the second transmission/reception section (45, 55) and the LAN cable (20), through the terminal communication section (43, 53) and the terminal holding stand (10), when the switching request is received by the switching request input section (26) to continue the voice communication with the first transmission/reception section (60) on the terminal

holding stand (10), the voice path control section (32) and the second control section (41, 51) are configured to disconnect the voice communication path between the second transmission/reception section (45, 55) and the terminal holding stand (10) through the terminal communication section (43, 53), and to make a voice communication path between the first transmission/reception section (60) and the LAN cable (20)."

VI. Claim 1 of **auxiliary request I** differs from claim 1 of the main request in that,

in features (b) and (d), "a terminal communication section (34)" now reads "a first terminal communication section (34)",

in that feature (c) now reads as follows (board's highlighting of amended text):

- (c) the portable terminal (40, 50) comprising:
- a second speech control section (42, 52) configured to make a voice communication path via a second speech circuit, the portable terminal (40, 50) itself being usable as a mobile phone set independently of the terminal holding stand (10);
 - a second terminal communication section (43, 53) comprising a Bluetooth module configured to communicate to and from the terminal holding stand (10);
 - a second transmission/reception section (45, 55) comprising a microphone and a speaker, which enable a user to make a voice communication;
 - a control section (41, 51) connected to the second transmission/reception section (45, 55), the

second speech control section (42, 52), and the second terminal communication section (43, 53), the control section (41, 51) being configured to make a voice communication path ~~one of~~ between the second transmission/reception section (45, 55) and the second speech circuit through the second speech control section (42, 52) ~~or between the second transmission/reception section (45, 55) and the terminal holding stand (10) through the terminal communication section (43, 53);~~ and
wherein"

and in that feature (e) has been deleted.

VII. Claim 1 of **auxiliary request II** reads as follows (amendments with respect to claim 1 of auxiliary request I highlighted by the board):

- (a) "A terminal system comprising a terminal holding stand (10) and a portable terminal (40, 50),
- (b) the terminal holding stand (10) being capable of holding the portable terminal (40, 50),
the terminal holding stand (10) and the portable terminal (40, 50) include voice communication control function respectively,
the terminal holding stand (10) comprising:
a first speech control section (31) configured to make a first voice communication path via a LAN cable (20), the terminal holding stand (10) itself being usable as a telephone set independently of the portable terminal (40, 50);
a first terminal communication section (34) comprising a first Bluetooth ® module configured to communicate to and from the portable terminal (40, 50);

a first transmission/reception section (60) comprising a first microphone and a first speaker, which enable a user to make a voice communication;

a voice path control section (32) connected to the first transmission/reception section (60), the first speech control section (31), and the first terminal communication section (34), the voice path control section (32) being configured to make one selected from the first voice communication path between the first transmission/reception section (60) and the LAN cable (20) through the first speech control section (31) ~~or~~ and a second voice communication path between the first transmission/reception section (60) and the portable terminal (40, 50) through the first terminal communication section (34); and

~~a switching request input section~~ speech switch button (26) connected to the voice path control section (32), the ~~switching request input section~~ speech switch button (26) being configured to receive from the user a switching request to switch the voice communication path by depressing of the speech switch button (26) by the user, and

(c) the portable terminal (40, 50) comprising:

a second speech control section (42, 52) configured to make a third voice communication path via a second speech circuit, the portable terminal (40, 50) itself being usable as a mobile phone set independently of the terminal holding stand (10);

a second terminal communication section (43, 53) comprising a second Bluetooth module configured to communicate to and from the terminal holding stand (10);

a second transmission/reception section (45, 55) comprising a second microphone and a second

speaker, which enable a user to make a voice communication;

a control section (41, 51) connected to the second transmission/reception section (45, 55), the second speech control section (42, 52), and the second terminal communication section (43, 53), the control section (41, 51) being configured to make a the third voice communication path between the second transmission/reception section (45, 55) and the second speech circuit through the second speech control section (42, 52); and

wherein

- (d) under a state in which a voice communication is established by the second speech control section (42, 52) and the second a voice communication path is formed between the first transmission/reception section (60) and the second speech circuit, through the first terminal communication section (34) and the portable terminal (40, 50), when the switching request is received ~~by the~~ through depression of the switching request input section speech switch button (26) to continue the voice communication with the second transmission/reception section (45, 55) on the portable terminal (40, 50), the voice path control section (32) and the second control section (41, 51) are configured to disconnect the second voice communication path between the first transmission/reception section (60) and the portable terminal (40, 50) through the first terminal communication section (34), and to make a the third voice communication path between the second transmission/reception section (45, 55) and the second speech circuit, thereby switching from the first transmission/reception section (60) to the second transmission/reception section (45, 55)

without disconnecting the voice communication established by the second speech control section (42, 52) to continue the voice communication.

VIII. Claim 1 of **auxiliary request III** differs from claim 1 of auxiliary request I in that

in feature (b), which specifies the "terminal holding stand",

- "and" before "a switching request input section" has been deleted,
- "switching request input section" has been replaced by "speech switch button", and
- at the end the following wording has been added:
"a Bluetooth module linking button (27) configured to receive from the user a communication request to establish the communication to and from the portable terminal (40, 50) through use of the terminal communication section (34), and"

in feature (d) "switching request input section" has been replaced by "speech switch button", and

at the end of the claim the following features have been added (labelling by the board):

- (f) "under a state in which a voice communication path is formed between the second transmission/reception section and the second speech circuit through the second speech control section, when the communication request is received by the Bluetooth module linking button or the first terminal communication section automatically perform[s] processing of connecting to the portable

terminal by transmitting a connection request to the portable terminal that the Bluetooth module communicated to and from last time, the second speech control section are configured to disconnect the voice communication path between the second speech circuit and the second transmission/reception section, and to make a voice communication path between the first transmission/reception section and the portable terminal through the first terminal communication section."

Reasons for the Decision

1. Background of the invention

The present invention relates to a communication system comprising a mobile (portable) terminal and a "holding stand" for the mobile terminal, both being usable independently from each other as a telephone. In particular, the mobile terminal is supposed to be connected to a "second speech circuit", i.e. a wireless communication network like 3G, LTE, 4G or WiFi (page 4, lines 25 to 32 of the description as originally filed), and can be used independently from the holding stand as a mobile phone. The holding stand is connected via a LAN cable for IP telephony to a "first speech circuit" and can be used independently from the mobile terminal as a telephone set (page 7, lines 16 to 29 and page 9, lines 3 to 5 as filed). Moreover, the holding stand and the mobile terminal each comprise a respective Bluetooth module for communicating with each other (page 4, lines 25 to 32; page 7, lines 25 to 29 and page 8, lines 5 to 9 as filed), a respective "transmission/reception section" including a speaker

and a microphone for receiving and transmitting speech (page 4, lines 25 to 32 and page 7, line 25 to page 8, line 4 as filed) and a respective "speech control section" configured to establish a speech (path) via the respective "speech circuit", i.e. IP telephony or wireless communication (page 4, line 33 to page 5, line 1 and page 9, lines 6 to 9 as filed).

The "transmission/reception section" of the holding stand, i.e. its handset, can be connected either to a voice path control section of the holding stand or to the Bluetooth module of the holding stand. Thereby, a speech (call) via the handset of the holding stand can be made via the holding stand or via the mobile terminal (page 2, line 32 to page 3, line 7). A user can switch the voice communication path from the handset of the holding stand to the mobile terminal by activating a "switching request input section" for example in order to move to another location during the call (page 3, lines 8 to 16).

2. Main request - added subject-matter (Article 123(2) EPC)
- 2.1 Claim 1 of the main request includes several features which are implicit for the respective functions of the portable terminal and its holding stand, like for example the "transmission/reception sections", i.e. speaker/microphone, for speaking and listening during phone calls or the "speech control sections" or "voice path control sections" for establishing the phone calls and the respective voice communication paths.

The limiting features of claim 1 of the main request are thus summarised as follows (board's labelling):

- (a) A terminal system comprising a portable terminal, and a terminal holding stand being capable of holding the portable terminal,
- (b) the terminal holding stand:
 - being usable as a telephone set to make phone calls via a LAN cable independently of the portable terminal;
 - comprising a Bluetooth module for communication with the portable terminal;
 - being configured to make a voice communication path between the speaker/microphone of the terminal holding stand and one of the LAN cable and the portable terminal via the Bluetooth module; and
 - a speech switch input section for receiving from the user a request to switch the voice communication path, and
- (c) the portable terminal:
 - being usable as a mobile phone set independently of the terminal holding stand;
 - comprising a Bluetooth module for communicating with the terminal holding stand;
 - being configured to make a voice communication path between the speaker/microphone of the portable terminal and one of the mobile communication network and the terminal holding stand via the Bluetooth module; and wherein
- (d) under a state in which a voice communication path is formed between the speaker/microphone of the terminal holding stand and the mobile communication network,
 - when the speech switch input section is operated,
 - the voice communication path between the speaker/microphone of the terminal holding stand and the portable terminal is disconnected to make a voice communication path between speaker/microphone

of the portable terminal and the mobile communication network to continue the call via the portable terminal, and wherein

(e) under a state in which a voice communication path is formed between the speaker/microphone of the portable terminal and the LAN cable,

when the speech switch input section is operated,

the voice communication path between the speaker/microphone of the portable terminal and the terminal holding stand is disconnected to make a voice communication path between the speaker/microphone of the terminal holding stand and the LAN cable to continue the call via the terminal holding stand.

2.2 **Feature (e)** describes a situation in which a call via the LAN cable is being made using the speaker and the microphone of the mobile terminal and in which, in response to activating the speech switch input section, this voice communication path is disconnected and a new one is established between the LAN cable and the handset of the holding stand.

2.3 Switching the voice communication path is disclosed in the application as originally filed only in the following passages of the underlying description:

- page 2, lines 22 to 31;
- page 3, lines 8 to 14;
- page 9, lines 17 to 25;
- page 9, line 29 to page 10, line 7; and
- page 12, lines 18 to 24.

All these passages, however, refer to switching a voice communication path via the "first transmission/

reception section", i.e. the handset of the holding stand, and the "second speech control section" of the portable terminal, which implies a call via the wireless communication network. However, none of those passages discloses switching the voice communication path via the "LAN cable", let alone in response to activating the speech switch input section.

2.4 The appellant referred to the passages at page 7, lines 16 to 18 and page 9, line 29 to page 10, line 7. It argued that the application disclosed switching a voice path from the speaker/microphone of the terminal holding stand to the speaker/microphone of the portable terminal and that the terminal holding state itself was able to function as an IP telephone and therefore to establish a voice path between the LAN cable and its speaker/microphone. The skilled person would therefore derive from the application that, during an internet call, the voice path could be switched from the speaker/microphone of the terminal holding stand to the speaker/microphone of the portable terminal. Furthermore, the skilled person would acknowledge that the voice path could be switched back from the speaker/microphone of the portable terminal to the speaker/microphone of the terminal holding stand because the term "switch" meant that the voice paths via both speakers/microphones were exchangeable.

2.5 The board is not convinced by the appellant's arguments.

Claim 1 specifies in feature (e) that the switching occurs in response to a switching request input ("when the speech switch input section is operated") and during a call via the LAN cable and the speaker/microphone of the portable terminal ("under a

state in which a voice communication path is formed between the speaker/microphone of the portable terminal and the LAN cable"). Although the present application discloses that the terminal holding stand can work as a stand-alone IP telephone and establish a corresponding voice path, it is neither disclosed that, for a call via the *LAN cable*, the speaker/microphone can be switched during the call nor in response to a switching request input. Rather, the possibility to switch or exchange the speaker/microphone of the terminal holding stand and that of the portable terminal is only disclosed for voice communication paths via the *mobile communication network* (see point 2.3 above). There is however no respective teaching for such a possibility disclosed for calls via the LAN cable.

- 2.6 Claim 1 of the main request therefore does not comply with Article 123(2) EPC.
3. Auxiliary request I - inventive step (Article 56 EPC)
- 3.1 Claim 1 of auxiliary request I differs essentially from claim 1 of the main request in that **feature (e)** is deleted and in that **feature (c)** has been amended such that the portable terminal is no longer configured to make a voice communication path between its speaker/microphone and the terminal holding stand.
- 3.2 Document **D1** refers also to a system including a portable terminal ("mobile phone" or "smartphone") and a terminal holding stand for it ("docking station", abstract; cf. **feature (a)**).

As to **feature (b)**, the "docking station" is connected to a "headset system" and a "computer" (page 6, lines 19 to 26, Fig. 1) and is considered together with

these components to be the terminal holding stand in the following. The computer is connected to the internet via a cable (page 6, lines 26 to 30, Fig. 1). In one embodiment, a user can make IP telephony calls via the headset system and the computer without any involvement of the portable terminal, i.e. the terminal holding stand is configured to establish a voice communication path between the headset and the cable (page 9, lines 27 to 30). The headset system may be wireless or corded (page 7, lines 10 to 12). When the mobile phone is placed on the docking station, a Bluetooth link is established between the mobile phone and the headset system and a user can make calls via the headset system, i.e. a voice communication path is established between the headset system and the mobile phone (page 7, lines 26 to 28; page 8, lines 4 to 7). The docking system, in particular its docking station, comprises a Bluetooth module (page 7, lines 14 to 17). The docking station includes a "load sensor" for detecting the presence of the mobile phone and switching on and off accordingly the Bluetooth link (page 7, lines 21 to 28). Since the user places the mobile phone on the docking station and removes it therefrom and switches the voice communication paths accordingly, it is the user who provides an input to the load sensor. The latter therefore acts as a "speech switch input section".

As to **feature (c)**, the mobile phone is connected to a GSM wireless communication network, which implies that it is usable independently from the docking system and that it can establish a voice communication path between its speaker/microphone and the mobile communication network, and includes a Bluetooth module for communicating with the docking station (page 7, lines 1, 2 and 17 to 23).

As to **feature (d)**, D1 teaches that, when the user removes the mobile phone from the docking station, thereby actuating the load sensor, the Bluetooth link between the mobile phone and docking station and consequently the headset is deactivated (page 7, lines 23 to 26) and a voice communication path to the mobile phone's own speaker/microphone is established (page 12, lines 19 to 23).

- 3.3 Furthermore, D1 discloses that calls via the wireless communication network may be conducted via the headset of the docking system or via the mobile phone's own speaker/microphone, depending on whether the mobile phone is placed on the docking station, but is silent as to whether such changes of the voice communication path are possible during an ongoing call without interruption.
- 3.4 The system of claim 1 thus differs from the system of document D1 in that changing the voice communication path from the headset of the docking system to the speaker/microphone of the mobile phone takes place during a call via the wireless communication network and that the call is continued.
- 3.5 A credible technical effect of the distinguishing feature is that an ongoing phone call via the wireless communication network can be continued without interruption when the user removes the mobile phone from the docking station, for example, in order to leave the desk.
- 3.6 The objective technical problem may thus be seen in "how to increase the user's convenience when the user's location changes during a phone call".

3.7 The skilled person in the field of telecommunications would have been aware that the user might have the wish to leave the desk using the mobile phone for conducting the call even during the call and that having to re-establish the call in this case is somewhat annoying. The skilled person therefore, starting from D1 and faced with the aforementioned problem, would have attempted to avoid such nuisance and configured the system such that the voice communication path could be switched even during a call and without interruption. Thereby, the skilled person would have readily arrived at a system with all the features of claim 1 of auxiliary request 1, i.e. without having to exercise inventive skills.

3.8 The appellant argued that D1 did not disclose that the user could *actively* switch the voice communication path by pressing the speech switching button, and that, in D1, it was rather the sensed status of the load sensor which determined whether or not to switch the voice path.

However, claim 1 refers to a "switching request input section" for receiving a "switching request" from the user. The "switching request" is not further specified in claim 1 and may also imply simply removing the mobile phone from the docking station. Also under this condition, the user would be able to actively switch the call from the headset to the mobile phone, namely by lifting it. In that regard, it is noted that even if the "switching request input section" was limited to a button to be pressed by the user, it would not contribute to an inventive step since this would only correspond to a simpler, well-known way for inputting the respective user request.

3.9 The appellant argued further that, in the system of D1, the load sensor merely detected that the mobile terminal is removed from the docking station but did not switch or have the functionality to switch the communication path. Hence, if the mobile terminal was removed, the Bluetooth link was deactivated and the call interrupted. D1 therefore did not disclose that the user would indeed be able to switch the call from the headset to the portable terminal. It was also pointed to the teaching of D1 to send a *presence signal* "away" to the computer when the link between the portable terminal and the headset was broken (page 12, lines 21 to 24). Hence, in the situation in which the user moves away from the docking station, D1 did provide a different solution teaching away from the claimed solution of continuing an ongoing call by switching the voice communication path.

The board disagrees with the finding that D1 did not disclose a switching of the voice communication path. D1 in fact discloses that, when the load detector senses the removal of the portable terminal, the second transceiver, i.e. the headset, is activated, a link between the headset and the portable terminal is established and audio is routed to and from the portable terminal via the headset (page 12, lines 10 to 15). D1 does indeed not disclose that thereby an (ongoing) call is switched but this has been acknowledged and taken into account when establishing the differences and when framing the objective technical problem (see points 3.4 to 3.6 above).

Regarding the *presence signal* to be sent "away", it is noted that it is sent to the computer for information about the network. The signal merely indicates that the

user is not at the desk but does not signal that it is not available via the portable terminal.

- 3.10 Auxiliary request I is therefore not allowable under Article 56 EPC.
4. Auxiliary request II - admittance (Article 13(2) RPBA 2020)
- 4.1 **Auxiliary request II** was filed after notification of the summons to oral proceedings. Hence, its admittance is subject to Article 13(2) RPBA 2020.
- 4.2 According to Article 13(2) RPBA 2020, any amendment to a party's appeal case made at this late stage of the proceedings shall, in principle, not be taken into account unless there are **exceptional circumstances**, which have been justified with **cogent reasons** by the party concerned. Furthermore, in the application of Article 13(2) RPBA 2020, the criteria applicable under Article 13(1) RPBA 2020 may be relied on. In accordance with Article 13(1) RPBA 2020, "[the] Board shall exercise its discretion in view of, inter alia, the current state of the proceedings, the suitability of the amendment to resolve the issues which were [...] raised by the Board, whether the amendment is detrimental to procedural economy, and, in the case of an amendment to a patent application or patent, whether the party has **demonstrated** that any such amendment, prima facie, **overcomes the issues raised** by [...] the Board and does not give rise to new objections" (board's emphasis).
- 4.3 In the present case, as to the reasons for this late amendment, the appellant argued that the amendments comprised "linguistic clarifications" and "substantive

amendments" and were a *bona fide* attempt to address the concerns raised by the board in its preliminary opinion.

4.4 This explanation, however, does not comprise "exceptional circumstances", let alone any justifying "cogent reasons" within the meaning of Article 13(2) RPBA 2020. In particular, waiting to learn the board's preliminary appreciation of facts already on file is no such justification.

4.5 Moreover, the amendments introduced in claim 1 of auxiliary request II give even rise to *new* objections under Article 84 EPC.

- Feature (d) refers at the beginning and at the end to a "voice communication", i.e. a conversation. It is not clear how the components of the system can actually *establish* or disconnect a conversation which is solely controlled by the user.
- Further, the term "third communication path" has been added which is first defined as a communication path through the second speech circuit, i.e. the mobile communication network in feature (c) at the beginning. Then, it is stated at the end of in feature (c) that, "the third communication path" is made between the second transmission/reception section and the second speech circuit through the second speech control section. This apparently leads at least to contradictions within the claim, contrary to the requirement of clarity under Article 84 EPC.
- Also, in feature (d), "the third communication path" is "made" between the second

transmission/reception section and the second speech circuit without reference to the second speech control section. This, however, entails another clarity issue.

- Finally, the "third communication" is defined in three different ways and it is unclear which one is the binding definition and, for example, whether or not the speech control section is included. Claim 1 of auxiliary request II therefore gives rise to several new objections under Article 84 EPC.

Nevertheless, for the following assessment of *prima facie* allowability under Article 56 EPC, the different occurrences of "third communication path" are understood as "a communication path".

- 4.6 The board raised in its preliminary opinion severe concerns under Article 56 EPC and expressed its view that the replacement of "switching request input section" by "speech switch button" could not contribute to an inventive step.

The amendments made to claim 1 of auxiliary request II, besides the aforementioned limitation to a "speech switch button", do not add any substantial limitations of the claimed subject-matter but merely introduce some labelling (e.g. "first", "second") for already introduced components (e.g. "Bluetooth module", "speaker") or features already included implicitly (e.g. that the switching request is received through depression of the "speech switch switch") which cannot contribute to an inventive step either. Claim 1 of auxiliary request II therefore also does not *prima facie* overcome the concerns as to compliance with Article 56 EPC.

4.7 Hence, the board decided not to admit auxiliary request II into the appeal proceedings (Article 13(2) RPBA 2020).

5. Auxiliary request III - inventive step (Article 56 EPC)

5.1 Claim 1 of auxiliary request III differs essentially from claim 1 of auxiliary request I in that

- the "speech switching request input section" has been limited to a "speech switch button";
- a "Bluetooth module linking button" has been added for receiving from the user a request to establish a communication link between the terminal holding stand and the portable terminal via the Bluetooth modules; and
- under a state in which a voice communication path is formed between the microphone/speaker of the portable terminal and the mobile communication network, i.e. the independent use of the portable terminal, upon a request received by the Bluetooth linking button, a voice communication path is made between the microphone/speaker if the terminal holding stand and the portable terminal (i.e. feature (f)).

5.2 Document **D1** discloses that the user may put the mobile phone on the docking station, which is sensed by a load detector, and automatically the respective link is established between the mobile phone and the docking station and audio is routed to and from the mobile phone via the headset (page 12, lines 8 to 15, Fig. 11). The load detector in this situation acts as a Bluetooth linking button which is activated by putting

the portable terminal on its place and triggers the establishment of the Bluetooth link. However, D1 does not disclose that the aforementioned steps occur during an "ongoing call" with the mobile phone via the wireless communication network.

However, considering the same objective problem as framed in point 3.6 above, the person skilled in the art would have readily known that a user usually wants to have the flexibility to change their location during a phone call, and how to switch between a headset and the mobile phone. To allow this flexibility in a system which already provides the necessary resources, e.g. the communication link between the portable terminal and the terminal holding stand, does not amount to an inventive step. Hence, the consideration set out in point 3.6 above apply *mutatis mutandis*.

- 5.3 In view of the above, auxiliary request III is not allowable under Article 56 EPC either.
6. Since there is no allowable claim request on file, the appeal has to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



B. Brückner

K. Bengi-Akyürek

Decision electronically authenticated