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Datasheet for the decision of 15 June 2022

Case Number: T 2948/19 - 3.5.05

Application Number: 17184445.9

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Language of the proceedings: EN

Title of invention:
INFORMATION PROCESSING APPARATUS AND METHOD FOR CLINICAL LABORATORY MANAGEMENT

Applicant:
SYSMEX CORPORATION

Headword:
Operation status index divided into regions/SYSMEX

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

Keyword:
Inventive step - (no) - presentation of information

Decisions cited:
T 1741/08, T 1802/13, T 0336/14, T 1091/17

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Case Number: T 2948/19 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 15 June 2022

Appellant: (Applicant)	SYSMEX CORPORATION 5-1 Wakinohama-Kaigandori 1-chome Chuo-ku Kobe-shi Hyogo 651-0073 (JP)
Representative:	Hoffmann Eitle Patent- und Rechtsanwälte PartmbB Arabellastraße 30 81925 München (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 23 May 2019 refusing European patent application No. 17184445.9 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair	N. H. Uhlmann
Members:	E. Konak
	E. Mille

Summary of Facts and Submissions

I. The appeal is against the examining division's decision to refuse the application. The examining division decided that the main request and nine auxiliary requests then on file *inter alia* did not involve an inventive step (Article 56 EPC) with regard to the following document:

D1: US 5 366 896

II. With the statement setting out the grounds of appeal, the appellant filed a new main request and new auxiliary requests 1 to 5 to replace the requests on file. It requested that the decision be set aside and that a patent be granted on the basis of one of these requests. It further requested oral proceedings as an auxiliary measure.

III. In a communication pursuant to Article 15(1) RPBA 2020, the board raised objections under *inter alia* Article 56 EPC against the main request and auxiliary requests 1 to 4. The board informed the appellant that it was minded not to admit auxiliary request 5.

IV. With its letter of reply dated 13 May 2022, the appellant filed a new main request and new auxiliary requests 1 to 4 to replace the requests on file. It withdrew auxiliary request 5.

V. Oral proceedings were held before the board.

VI. Claim 1 of the main request reads as follows:

"An information processing apparatus (5) to be used in management of a clinical laboratory in which an analyzer configured to analyze specimens is installed, the information processing apparatus comprising:

a communication section (50) configured to communicate with a terminal (6) operable by a user; and

a controller (51) configured to control display of the terminal via the communication section,

characterized by the controller (51) being configured to execute:

a process of causing, on the basis of information collected from a plurality of analyzers (10) installed in a plurality of clinical laboratories corresponding to the user or from apparatuses (11-14) relevant to the analyzers, the terminal to display a screen including an index that indicates an operation status of an entirety of the plurality of clinical laboratories corresponding to the user; and

a process of causing, in response to the user selecting the index displayed in the screen, the terminal to display the selected index so as to be divided in a plurality of categories, wherein the plurality of categories are categories corresponding to regions which the user is in charge of, wherein

the index indicates a number of errors, an error ratio, a number of re-runs, a re-run ratio, a positive ratio, a definitive ratio, a system availability, a workload, a progress of tests, a turnaround time per specimen or a maintenance status."

Claim 1 of auxiliary request 1 differs from claim 1 of the main request in that its last paragraph has been replaced by the following text:

"[...]
the index indicates a number of errors or an error ratio."

Claim 1 of auxiliary request 2 differs from claim 1 of the main request in that its last paragraph has been replaced by the following text:

"[...]
the index in the screen indicates an operation status of an entirety of a plurality of clinical laboratories corresponding to the user included in a first region,
the index indicates a number of errors or an error ratio, and
the plurality of categories are categories corresponding to a plurality of second regions included in the first region."

Claim 1 of auxiliary request 3 differs from claim 1 of auxiliary request 2 in that the following text has been added at the end:

"[...], and
the controller (51) is configured to execute a process of causing, in response to the user selecting at least one of the categories corresponding to the plurality of second regions, the terminal (6) to display the index so as to be divided for each clinical laboratory installed in the selected second region."

Claim 1 of auxiliary request 4 differs from claim 1 of auxiliary request 3 in that the following text has been added at the end:

"[...], and

the user manages the one or the plurality of clinical laboratories, and the controller (51) is configured to be able to cause the terminal (6) to display an index regarding the one or the plurality of clinical laboratories managed by the user, and an index regarding one or a plurality of clinical laboratories managed by another user."

Reasons for the Decision

1. Main request and auxiliary request 1

1.1 The appellant considers the following features of claim 1 of the main request to be novel over D1:

(i) "the terminal to display a screen including an index that indicates an operation status of an entirety of the plurality of clinical laboratories corresponding to the user",

(ii) "in response to the user selecting the index displayed in the screen, the terminal to display the selected index so as to be divided in a plurality of categories, wherein the plurality of categories are categories corresponding to regions which the user is in charge of",

(iii) "the index indicates a number of errors, an error ratio, a number of re-runs, a re-run ratio, a positive ratio, a definitive ratio, a system availability, a workload, a progress of tests, a turnaround time per specimen or a maintenance status".

1.2 Claim 1 of auxiliary request 1 differs from claim 1 of the main request in that the values that the index in

feature (iii) indicates were limited to "a number of errors or an error ratio". It is thus expedient to assess inventive step with this limitation in mind.

1.3 The system disclosed in D1 can control and monitor at a central server the real-time operational status of individual analyzers in a plurality of remote laboratories as well as test results and possible error statuses (see D1, column 10, line 63 to column 11, line 17; column 16, lines 48 to 68; column 18, lines 38 to 62; column 23, lines 40 to 60; column 30, lines 34 to 68). Therefore an index as specified in feature (iii) is disclosed in D1 for individual analyzers but not for "an entirety of the plurality of clinical laboratories" as specified in feature (i). Nor does D1 disclose displaying this index divided into categories based on regions, as specified in feature (ii).

The appellant argued that in the cited passages of D1 an error status was sent only to the host computers located in individual remote laboratories but not to the central server SATCEN. The only information sent to the central server seemed to be test results. However, D1, column 30, lines 34 to 68 describes what a "trained technician in satellite central (SATCEN)" can do "in the event there is what appears to be a continued error". Therefore it is implicit that the central server is informed of an error status as well. Regardless, the appellant agreed that the decisive issue is whether the distinguishing features contribute to the technical character of the invention.

1.4 The distinguishing features identified above relate to presentations of information and might only in some exceptional cases (see T 1741/08, point 3.3, last paragraph; see T 1091/17, point 1.7) contribute to the

technical character of the invention. The test used in the case law to judge whether a presentation of information belongs to one of these exceptional cases is to assess whether it credibly assists the user in performing a technical task by means of a continued and guided human-machine interaction process (see T 336/14, Headnote and T 1802/13, page 10, second full paragraph).

1.5 The presentation of an operation state underlying a technical system, prompting the system user to interact with the system to enable its proper functioning, might pass this test if it is credibly demonstrated that it assists the user in performing a technical task by means of a continued and guided human-machine interaction process. The appellant argued that the case at hand passed this test. In particular, the presentation of an index indicating the operation state of an entirety of the plurality of clinical laboratories so as to be divided into regions assisted the user, who is a laboratory operator, in monitoring the correct operation of a plurality of geographically distributed clinical laboratories, which was a technical task. The user could thus efficiently monitor the entirety of clinical laboratories from a remote location without having to monitor the potentially numerous laboratories individually. By comparing the error ratio of different regions (e.g. as depicted in the user interface of Fig. 27 of the application), they could realise that certain regions had a higher error ratio. If they identified errors or malfunctioning laboratories, this would prompt them to take appropriate measures to ensure reliable testing such as shutting down a laboratory or ordering maintenance work. Reliable testing was crucial for preventing misdiagnosis and for correct medical treatment. The

user was credibly assisted, as required by the test, since the assistance did not depend on the user's subjective interests or personal preferences. Finally, the user was clearly assisted by means of a continued and guided human-machine interaction process, since they interacted with the index by selecting it, which resulted in the index being divided into regions.

The board is not convinced by these arguments. The index according to claim 1 of auxiliary request 1 presents an error ratio, as shown in the example in Fig. 19 of the application, for an entirety of a plurality of clinical laboratories. Taking the example user interface in Fig. 19, the operation state presented to the user is "Error ratio 2.49%". This information does not provide any guidance to the user as to whether anything should be done to enable proper functioning of the laboratories and, more importantly, as to what to do. The same holds true when the index is divided into a plurality of regions which the user is in charge of in response to user selection. Taking the example in Fig. 27 of the application, being presented with information such as Hokkaido 1.24%, Tohoku 1.28% or Tokyo 3.16% does not provide the user with any discernible guidance as to what to do. In the absence of any indication in the claim as to the size of respective regions or the number of analyzers in a region, it is even highly doubtful whether the user can derive any useful information from a comparison of the error ratios given for different regions. Consequently, the distinguishing features of claim 1 of auxiliary request 1 fail to pass the test provided.

1.6 Therefore the subject-matter of claim 1 of auxiliary request 1 and, *a forteriori*, of claim 1 of the main

request does not involve an inventive step (Article 56 EPC).

2. Auxiliary requests 2 to 4

2.1 The additional features added to claim 1 of auxiliary request 2 merely repeat the distinguishing features discussed above, by stating that the entirety of the clinical laboratories are a "first region" and that the categories are "second regions" included in the "first region". In the statement setting out the grounds of appeal, the appellant referred to Fig. 27 of the application, in which the first region is Japan and the second regions are regions of Japan. However, this concrete example does not change the board's assessment, namely that presenting to a user that the error ratio for Japan as a whole is 2.26% or presenting them with individual error ratios for regions of Japan does not credibly guide the user in performing a technical task.

2.2 Claim 1 of auxiliary request 3 has the additional feature of displaying the index divided for each clinical laboratory when the user selects a region. The appellant gave the example of Fig. 27 and 28, in which the laboratories in Tokyo are displayed when the region Tokyo is selected. However, this concrete example does not change the board's assessment, namely that it is not apparent that a user, by being presented with the error ratio for the whole of Tokyo or by being presented with individual error ratios for laboratories in Tokyo, is credibly guided in performing a technical task.

2.3 Claim 1 of auxiliary request 4 differs from claim 1 of auxiliary request 3 in that in addition to an index

value for the clinical laboratories managed by the user the index value for clinical laboratories managed by another user is displayed. Referring to the example in Fig. 29 of the application, the appellant argued that the user could thus compare themselves to a benchmark and would be further assisted in performing their technical task. However, the board cannot follow how presenting to a user information regarding laboratories which they are not in charge of could possibly assist or guide them in managing the laboratories they are in charge of. This is merely the presentation of a business metric without any technical effect.

2.4 Therefore the subject-matter of claim 1 of auxiliary requests 2 to 4 does not involve an inventive step (Article 56 EPC)

3. Since there is no allowable request, the appeal has to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chair:

K. Götz-Wein N. H. Uhlmann

Decision electronically authenticated