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**Datasheet for the decision  
of 22 April 2024**

**Case Number:** T 1071/22 - 3.5.05

**Application Number:** 17842599.7

**Publication Number:** 3499831

**IPC:** H04L27/26, H04L5/00, H04L1/08

**Language of the proceedings:** EN

**Title of invention:**  
Data signal processing method and related device

**Applicant:**  
Huawei Technologies Co., Ltd.

**Headword:**  
Repeated signal transmissions/HUAWEI

**Relevant legal provisions:**  
RPBA 2020 Art. 12(6), sentence 2

**Keyword:**  
Admittance of claim amendments filed on appeal (no) - should have been filed earlier



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Case Number: T 1071/22 - 3.5.05

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.05**  
**of 22 April 2024**

**Appellant:** Huawei Technologies Co., Ltd.  
(Applicant) Huawei Administration Building  
Bantian  
Longgang District  
Shenzhen, Guangdong 518129 (CN)

**Representative:** Maiwald GmbH  
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Elisenstraße 3  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 6 December 2021  
refusing European patent application  
No. 17842599.7 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chair** K. Bengi-Akyürek  
**Members:** P. Cretaine  
R. Romandini

## Summary of Facts and Submissions

- I. This appeal is against the examining division's decision refusing the present European patent application. The application was refused for lack of clarity (Article 84 EPC) and lack of novelty (Article 54 EPC) and inventive step (Article 56 EPC).
- II. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of a **main request** filed for the first time with the statement setting out the grounds of appeal.
- III. A summons to oral proceedings was issued. In a communication pursuant to Article 15(1) RPBA, the board indicated that it was minded not to admit the main request into the appeal proceedings under Article 12(4) RPBA. Additionally, the board expressed the opinion that even if the main request were to be admitted into the appeal proceedings, it would not comply with Articles 84 and 54 EPC.
- IV. In response to the board's communication, the appellant informed the board that it would not be attending the scheduled oral proceedings.
- V. The oral proceedings were then cancelled.
- VI. Claim 1 of the **main request** reads as follows:  
  
"A data signal processing method, for a transmit end, wherein the method comprises:  
    obtaining (S301) an original data signal sequence and one or more resource units, wherein a subcarrier range of the resource unit is predefined and the

resource unit comprise data subcarriers and pilot subcarriers;

grouping (S302) the data subcarriers in the one or more resource units into a plurality of data subcarrier groups without the pilot subcarriers sequentially in frequency order, wherein the original data signal sequence is carried on a first data subcarrier group of lowest or highest frequency and a quantity of data subcarriers in each data subcarrier group is equal to a quantity of data subcarriers for carrying the original data signal sequence;

determining (S303) a corresponding target data signal sequence for each data subcarrier group based on the original data signal sequence, wherein the original data signal sequence is repeated as the target data signal sequence and phases of the target data signal sequence on the data subcarrier groups are not all the same with each other; and

sending (S304) the target data signal sequence on the plurality of the data subcarrier groups."

## **Reasons for the Decision**

1. Main request - admittance (Article 12 RPBA)
  - 1.1 The **main request** was filed for the first time with the statement setting out the grounds of appeal. The claims of these request were amended with respect to the claims of the sole request on which the decision was based.
  - 1.2 In view of the primary object of the appeal proceedings to review the decision under appeal in a judicial manner, an appellant's appeal case must be directed to the requests on which the decision under appeal was

based (Article 12(2) RPBA). Any part of an appellant's appeal case which does not meet this requirement is to be regarded as an "amendment" within the meaning of Article 12(4) RPBA, unless the appellant demonstrates that this part was admissibly raised and maintained in the proceedings leading to the decision under appeal. Any such amendment may be admitted only at the discretion of the board.

- 1.3 In the present case, the contested decision is not based on the present main request. Therefore, it represents an "amendment" within the meaning of Article 12(4) RPBA.
  
- 1.4 The appellant explained that it amended claim 1 to overcome the objections under Articles 54 and 56 EPC raised in the appealed decision. However, the examining division had already raised these objections in its communication accompanying the summons to the first-instance oral proceedings (see points 3 to 6 of that communication). Since the appellant, in response, only slightly amended the preamble of claim 1, the objections raised in the impugned decision (see Reasons 3 and 4) were the same. Thus, the appellant could and should have filed the amendments to claim 1 already in the examination proceedings (cf. Article 12(6), second sentence, RPBA).
  
- 1.5 The appellant also argued that the amendments made to dependent claims 2, 3, 5 and 6 were intended to overcome the clarity objections raised in the impugned decision. However, these clarity objections were also raised in the communication accompanying the summons to the oral proceedings at first instance. Thus, the appellant likewise could and should have filed those amendments to the dependent claims already during the

examination proceedings (Article 12(6), second sentence, RPBA).

- 1.6 For these reasons, the board has decided not to admit the main (and sole) request into the appeal proceedings under Article 12(6) RPBA.
2. There being no admitted 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