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**Datasheet for the decision
of 3 June 2025**

Case Number: T 0689/23 - 3.5.05

Application Number: 14864984.1

Publication Number: 3092836

IPC: H04W4/18, H04W4/00, H04W4/14,
H04W28/06

Language of the proceedings: EN

Title of invention:
Method and apparatuses for delivering a trigger report for
machine type communications

Patent Proprietor:
Alcatel Lucent

Opponent:
Guangdong OPPO Mobile Telecommunications Corp., Ltd.
(opposition withdrawn)

Headword:
MTC trigger report/ALCATEL

Relevant legal provisions:
EPC Art. 100(c), 123(2)

Keyword:
Added subject-matter - all claim requests (yes)



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

Case Number: T 0689/23 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 3 June 2025

Appellant: Alcatel Lucent
(Patent Proprietor) Site Nokia Paris Saclay
Route de Villejust
91620 Nozay (FR)

Representative: Cohausz & Florack
Patent- & Rechtsanwälte
Partnerschaftsgesellschaft mbB
Bleichstraße 14
40211 Düsseldorf (DE)

Former Respondent: Guangdong OPPO Mobile Telecommunications Corp.,
(Former Opponent) Ltd.
No. 18 Haibin Road
Wusha Chang'an
Dongguan Guangdong 523860 (CN)

Representative: Hoffmann Eitle
Patent- und Rechtsanwälte PartmbB
Arabellastraße 30
81925 München (DE)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 8 February 2023
revoking European patent No. 3092836 pursuant to
Article 101(3) (b) EPC.**

Composition of the Board:

Chair K. Bengi-Akyürek
Members: P. Tabery
F. Bostedt

Summary of Facts and Submissions

- I. The appeal is directed against the opposition division's decision to revoke the European patent. The opposition division found that the subject-matter of all claim requests extended beyond the original disclosure (Article 100(c)/123(2) EPC).
- II. The respondent-opponent requested that the appeal be dismissed, but withdrew its opposition after submitting its written reply to the statement of grounds of appeal.
- III. Oral proceedings before the board were held on 3 June 2025.

The final requests of the appellant-proprietor ("the proprietor") were that the appealed decision be set aside and that the opposition be rejected (**main request**). Alternatively, it requested that the patent be maintained in accordance with one of **auxiliary requests 0, 1, 1a, 2, 2a, 3, 3a, 4, 4a, 5, 5a, 6, 6a, 7, 7a, 8 and 8a**.

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

- IV. Claim 1 as granted (**main request**) reads as follows (board's feature labelling):
- 1) "A method of trigger report delivery for Machine Type Communication, MTC, wherein the method comprises:
 - 2) generating (S206), by a User Equipment, UE, according to a trigger message originated from an

- originator, trigger response information corresponding to the trigger message,
- 3) wherein the trigger response information provides information on MTC application layer;
 - 4) characterized in that the trigger response information includes whether trigger payload data is accepted by a MTC application that receives the trigger payload data and in that the method further comprises:
 - 5) sending (S207), by the UE, a trigger report message containing the trigger response information and a confirmation of receiving the trigger message originated from the originator, to a first Network Element, NE;
 - 6) extracting, by the first NE, the trigger response information from the trigger report message, and
 - 7) sending the trigger response information to the originator."

Claim 1 of **auxiliary request 0** differs from claim 1 of the main request in that feature 5) is amended as follows (board's labelling and appellant's underlining):

- 5') "sending, by the UE, a trigger report message containing both the trigger response information and a confirmation of receiving the trigger message originated from the originator, to a first Network Element, NE."

Claim 1 of each of the **auxiliary requests 1, 2, 5, 6 and 7** also includes the disputed feature 5) of claim 1 of the main request.

In claim 1 of each of **auxiliary requests 3, 4 and 8**, feature 5) of claim 1 of the main request is amended as follows (appellant's underlining, deletions not shown):

5*) "sending (S207), by the UE, a trigger report message containing the trigger response information and information about whether the trigger message that originated from the originator was delivered, to a first Network Element, NE."

In **auxiliary requests 1a to 8a** (i.e. all auxiliary requests with an "a" after the number), the amendment contained in claim 1 of auxiliary request 0 (i.e. "both") is applied to claim 1 of the respectively numbered auxiliary requests 1 to 8.

Reasons for the Decision

1. The present patent concerns MTC (machine-type communication) application level signalling in 3GPP networks. In particular, it is supposed to solve the problem of informing the originator of a trigger message not only whether the message has been received by the recipient device, but also that it has been received by the device's MTC application layer.
2. Main request
 - 2.1 Added subject-matter (Article 100(c)/123(2) EPC)
 - 2.1.1 It is common ground that **feature 5)** of claim 1 encompasses the case that the "trigger report message" contains two elements, i.e. the "trigger response information" and the "confirmation of receiving the

trigger message". According to the preceding feature 4), the trigger response information includes whether trigger payload data is accepted by an MTC application.

- 2.1.2 Page 3, lines 11-14, of the description as originally filed specifies that "the delivery report may [...] also include whether the payload data is accepted by the MTC application". Irrespective of whether a "delivery report" is supposed to be equated with a "trigger report message", this corresponds almost *verbatim* to the definition of the "trigger response information" given in feature 4) and thus discloses the first element of the message specified in feature 5). However, this passage fails to disclose directly and unambiguously that the "confirmation of receiving the trigger message" according to feature 5) is to be combined in a *single* delivery report with the "trigger response information". Rather, said passage merely discloses several options of what "may can also" be provided in that "delivery report". Thus, which of the possible combinations are indeed disclosed depends on the understanding of the skilled reader. Since it is evident that sending "MTC application layer information" relating to the "trigger data" implies that the trigger data has actually been received, the board considers that it would be immediately apparent to the skilled reader that a distinct "confirmation of receiving the trigger message" is redundant when sending such MTC application layer information. This is in line with page 5, lines 1-4, of the description as filed, according to which the "trigger report message" containing "trigger response information" is sent "instead of" separate messages containing the "trigger response information" and "confirmation of receiving the trigger data". Therefore, the board concurs with

the opponent that the combination specified in feature 5) of claim 1 is not directly and unambiguously derivable from page 3, lines 11-14, of the original description.

2.1.3 Moreover, page 5, lines 25-28, of the description as filed discloses the claimed combination, but as properties of a "delivery report". Since it is not evident that this "delivery report message" is indeed identical to the claimed "trigger report message", this passage does also not lend itself to unambiguously deriving feature 5) of claim 1.

2.1.4 The same applies analogously to page 3, lines 7-14, of the description as filed, which thus also fails to disclose feature 5) of claim 1.

2.1.5 Hence, the description as originally filed fails to disclose the interpretation of claim 1 which the appellant itself considers as being the only appropriate interpretation. This is, moreover, in line with the expert opinion provided in its statement of grounds of appeal. In consequence, it is not decisive whether or not the other interpretation adopted by the opposition division is permissible. Therefore, there is no need to decide whether the expert opinion should be admitted into the appeal proceedings.

2.2 In view of the above, the **main request** is not allowable under Article 100(c) in conjunction with Article 123(2) EPC.

3. Auxiliary requests

3.1 The amendment to claim 1 of **auxiliary request 0** (i.e. "both") cannot overcome the objection under

Article 123(2) EPC raised in point 2.1 above with respect to claim 1 of the main request. In that instance, the board already interpreted the subject-matter of claim 1 in line with the present amendment.

- 3.2 In claim 1 of each of **auxiliary requests 1, 2, 5, 6 and 7**, the disputed **feature 5**) remains unamended. Thus, the objection under Article 123(2) EPC raised in point 2.1 above with respect to claim 1 of the main request applies equally to those auxiliary requests.
- 3.3 As to claim 1 of **auxiliary requests 3, 4 and 8**, the board considers that, for the reasons identified in point 2.1 above, the combination of the "trigger response information" and the "information about whether the trigger message [...] was delivered" is not directly and unambiguously derivable from the original description.
- 3.4 Having regard to **auxiliary requests 1a to 8a** (i.e. all requests with an "a" after the number), the objection under Article 123(2) EPC raised in point 2.1 above likewise applies (see the reasons provided in points 3.1 and 3.3 above).
- 3.5 In view of the above, and irrespective of admittance considerations, **none of the auxiliary requests 0, 1, 1a, 2, 2a, 3, 3a, 4, 4a, 5, 5a, 6, 6a, 7, 7a, 8 and 8a** is allowable under Article 123(2) EPC.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



B. Brückner

K. Bengi-Akyürek

Decision electronically authenticated