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

**Case Number:** T 0872/24 - 3.5.05

**Application Number:** 19168104.8

**Publication Number:** 3537785

**IPC:** H04W56/00

**Language of the proceedings:** EN

**Title of invention:**

User apparatus and uplink transmission timing control method

**Applicant:**

NTT DOCOMO, INC.

**Headword:**

Timing control for uplink transmissions/NTT

**Relevant legal provisions:**

EPC Art. 76(1)

RPBA 2020 Art. 12(6), 12(8)

**Keywords:**

Added subject-matter - main, 1st and 2nd auxiliary requests  
(yes): unallowable intermediate generalisation  
Admittance of claim request filed on appeal - 3rd auxiliary  
request - (no): should have been filed earlier + no *prima*  
*facie* allowability



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Case Number: T 0872/24 - 3.5.05

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

**Appellant:**  
(Applicant)

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**Decision under appeal:**

**Decision of the Examining Division of the  
European Patent Office posted on 12 April 2024  
refusing European patent application  
No. 19168104.8 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chair** K. Bengi-Akyürek  
**Members:** K. Schenkel  
F. Blumer

## Summary of Facts and Submissions

I. The appeal is against the decision of the examining division to refuse the present European patent application.

The refusal was based on the ground that a main request and a first and second auxiliary request did not comply with Articles 76(1) and 84 EPC. The examining division did not admit a third auxiliary request (Rule 137(3) EPC) into the proceedings for lack of *prima facie* allowability under Articles 76(1) and 84 EPC.

II. With its statement setting out the grounds of appeal, the appellant requested that the appealed decision be set aside and that a patent be granted on the basis of the **main request** or one of **auxiliary requests 1 to 3**, the main request and auxiliary requests 1 and 2 underlying the appealed decision and auxiliary request 3 filed for the first time with the statement of grounds of appeal.

III. In a communication under Article 15(1) RPBA, the board expressed its preliminary view that the main request and auxiliary requests 1 and 2 did not comply with Article 76(1) EPC and that it was not minded to admit auxiliary request 3 into the appeal proceedings.

IV. In a letter of reply, the appellant indicated that it would not be attending the arranged oral proceedings and that the "request for oral proceedings is herewith withdrawn". It did not submit any comments on the substance of the board's communication.

V. Oral proceedings were then cancelled (cf. Article 12(8) RPBA).

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

- M1) "A user apparatus comprising:
- M2) a signal transmission unit (102) configured to transmit an uplink signal to a communication apparatus;
- M3) a signal reception unit (101) configured to receive a downlink signal from the communication apparatus; and
- M4) a timing adjustment unit (105) configured to perform timing control for shifting transmission timing of the uplink signal to the communication apparatus transmitted from the signal transmission unit on the basis of reception timing of the downlink signal from the communication apparatus received by the signal reception unit,
- M5) characterized in that the timing adjustment unit is configured to, irrespective of differences of frame structures in cells that form a Timing Advance Group, perform the timing control on the cells using a same offset value for the cells."

VII. Claim 1 of **auxiliary request 1** differs from claim 1 of the main request in that feature M5) is now phrased as follows (board's labelling and underlining of added text):

- M5') "characterized in that the timing adjustment unit is configured to, irrespective of differences of duplex modes in cells that form a secondary Timing Advance Group, perform the timing control on the cells using a same offset value for the

cells, irrespective of presence or absence of an uplink component carrier, UL CC, of the cells, and irrespective of activation/deactivation state in the cells."

VIII. Claim 1 of **auxiliary request 2** differs from claim 1 of auxiliary request 1 in that feature M5') is now phrased as follows (board's labelling and underlining of added text):

M5'') "characterized in that the timing adjustment unit is configured to, irrespective of differences of duplex modes in cells that form a secondary Timing Advance Group, perform the timing control on the cells using a same offset value for the cells, irrespective of presence or absence of an uplink component carrier, UL CC, of the cells, and irrespective of activation/deactivation state in the cells, the duplex modes being time division duplex, TDD, and frequency division duplex, FDD."

IX. Claim 1 of **auxiliary request 3** differs from claim 1 of the main request in that feature M5) is now phrased as follows (board's labelling):

M5''') "characterized in that the timing adjustment unit is configured to perform the timing control on secondary cells, sCells, forming a secondary Timing Advance Group, sTAG, wherein a primary secondary cell, PSCell, is not included in the sTAG, an sCell of a duplex mode different from that of other sCells is set in the same sTAG, and a duplex mode comprises frequency division duplex, FDD, and time division duplex, TDD, irrespective of presence or absence of an

uplink component carrier, UL CC, of each sCell, and irrespective of activation/deactivation state, using a same NTAoffset value for the cells."

## Reasons for the Decision

### 1. Background of the invention

The present invention refers to the timing control of uplink transmission from a user equipment (UE) to a communication apparatus. Independent claims 1 and 2 refer to a "user apparatus" and a "method" respectively.

### 2. Main request - Article 76(1) EPC

2.1 The examining division found in its appealed decision that **feature M5)**, for several reasons, extended beyond the parent application as filed (see Reasons 1.3, **features a) to e)**).

2.2 The appellant, after setting out the technical background in its statement of grounds of appeal, argued with reference to page 6, lines 15 to 33 and page 13, lines 17 to 36 of the earlier description as filed that the proposed solution reduced the problem of uplink interferences of different UE by using the same offset value irrespective of FDD and TDD cells corresponding to the respective frame structures. The features reflecting this "concept" were provided in claims 1 and 2 of the main request. The present application would discuss further implementations throughout pages 11 to 17 of which pages 14 to 17 referred to the case in which a "PSCell" was not

present in the sTAG and in which four "condition examples" could be applied. However, the underlying concept was the "concept discussed above". Therefore, "the features (a) to (e) as mentioned by the Examining Division [could not] be inextricably linked". There was thus no unallowable intermediate generalisation.

2.3 The board is not convinced by these arguments.

According to the appellant, page 6, lines 15 to 33 and page 13, lines 17 to 36 discloses the claimed underlying "concept". However, page 6 in fact belongs to the section "PROBLEM TO BE SOLVED BY THE INVENTION" and describes the prior art and its problems, namely that different "offset values" are applied depending on the duplex mode and that, according to the conventional technique, activation/deactivation of an SCell in an sTAG and presence/absence of a UL CC was not considered and different UEs could apply different timing alignment shift values leading to UL interferences. Yet, no feature of claim 1 which is supposed to provide a solution to this problem and which, to the contrary, teaches using the "same offset value" is disclosed therein. Rather, the passage at page 13, lines 17 to 36 referring to the present invention distinguishes between an example in which a PSCell is included in an sTAG and an example in which no PSCell is included (page 13, lines 17 to 20). For the latter case (line 25: "In this case") in the "present embodiment", the "following control is performed" (line 30) which is then described at page 13, last line to page 14, line 11, based on the mentioned "condition examples 1 to 4".

In that regard, first, it is to be noted that the control methods described on pages 13 to 17 all refer

to the example in which no PSCell is included. This feature (i.e. **feature e**) in the appealed decision) has an effect on the calculation of the "offset value" since, if a PSCell is included, its duplex mode sets the "offset value" (see page 11, lines 29 to 33). Hence, that feature is inextricably linked to the respective embodiment, and omitting it thus leads to an unallowable intermediate generalisation.

Further, the present description according to page 13, last line to page 14, line 10, which refers to all four "condition examples", describes cases in which "FDD and TDD coexist" in SCells (i.e. **feature a**) in the appealed decision). This is however not reflected in **feature M5**), either. Since this feature is taken into account for the calculation step, it is also inextricably linked to the claimed subject-matter. As a consequence, omitting it leads likewise to an unallowable intermediate generalisation.

2.4 The main request is consequently not allowable under Article 76(1) EPC.

3. Auxiliary requests 1 and 2 - Article 76(1) EPC

3.1 In claim 1 of **auxiliary request 1 and 2**, feature M5) has been further specified (cf. points VII and VIII above).

3.2 However, the added elements cannot remedy the objections raised in points 2.1 to 2.3 above, which therefore apply equally to claim 1 of auxiliary requests 1 and 2.

3.3 Hence, auxiliary requests 1 and 2 are not allowable under Article 76(1) EPC either.

4. Auxiliary request 3 - admittance (Article 12(6) RPBA)
- 4.1 **Auxiliary request 3** has been filed for the first time with the appellant's statement of grounds of appeal.
- 4.2 The appellant provides as reason for filing this claim request only in the appeal proceedings that, during the oral proceedings before the examining division, a new objection was raised (i.e. that the feature "wherein a [...], PSCell, is not included in the sTAG" was missing) and that the applicant has not been given reasonable time to react to that objection.
- 4.3 The board however notes that, according to the minutes of the hearing before the examining division, those oral proceedings ended at 13:00 hrs and that there was indeed sufficient time to react to the objection in the afternoon. Thus, the reasons for submitting the present auxiliary request only in the appeal proceedings are not convincing. Hence, this claim request should indeed have been filed already during the examination proceedings (see Article 12(6), second sentence, RPBA).
- 4.4 Further, as to *prima facie* allowability, in the embodiment described on pages 13 and 14 of the description as filed, which is said to provide the basis for the amendments, the specific "offset value" of 624Ts is always applied (i.e. **feature c**) in the appealed decision) which is however not included in amended **feature M5''**). The description and the claims of the parent application, however, consistently refer to a predetermined "offset value" according to the frame structure, i.e. the "duplex mode", which is either "0Ts" or "624Ts". Yet, a value for the offset *different* from these alternatives is not disclosed there. Rather, in the four "condition examples"

disclosed on pages 13 to 17, always one of these two values is applied. This is also affirmed by the summary provided at page 18, first paragraph, of the original description which refers to "applying/not-applying of NTAoffset=624Ts". Thus, this specific "offset value" is also inextricably linked to the respective embodiment, and omitting it leads again to an unallowable intermediate generalisation.

- 4.5 In view of the above, the board has decided not to admit auxiliary request 3 into the appeal proceedings.
5. In the absence of any allowable claim request, the present 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