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D E C I S I O N
of 20 March 1996

Case Number: T 0772/94 - 3.5.1

Application Number: 88308507.8

Publication Number: 308204

IPC: H04Q 7/04

Language of the proceedings: EN

Title of invention:
Car telephone equipment having automatic calling function

Applicant:
KABUSHIKI KAISHA TOSHIBA

Opponent:
-

Headword:
-

Relevant legal provisions:
EPC Art. 52(1), 56

Keyword:
"Inventive step (no)"

Decisions cited:
T 0024/81

Catchword:
-



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Boards of Appeal

Chambres de recours

Case Number: T 0772/94 - 3.5.1

D E C I S I O N
of the Technical Board of Appeal 3.5.1
of 20 March 1996

Appellant:

KABUSHIKI KAISHA TOSHIBA
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Kawasaki-shi Kanagawa-ken 210 (JP)

Representative:

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Decision under appeal:

Decision of the Examining Division of the
European Patent Office dated 6 April 1994
refusing European patent application
No. 88 308 507.8 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: P. K. J. van den Berg
Members: A. S. Clelland
C. Holtz

Summary of Facts and Submissions

I. European patent application No. 88 308 507.8, publication No. 308 204, was refused by a decision of the Examining Division dated 6 April 1994.

II. The reason given for the refusal was that the subject-matter of claim 1 lacked an inventive step, Articles 52(1) and 56 EPC, having regard to the disclosure of the following documents:-

D1: PATENT ABSTRACTS OF JAPAN, vol. 10, No. 61, E-387, 2118

D4: DE-A-3 608 497

III The Appellant (Applicant) lodged an appeal against this decision and in a statement of grounds received on 8 August 1994 argued that new claims of a main and an auxiliary request filed with the statement of grounds were allowable. Oral proceedings were requested in lieu of any adverse decision. In a communication from the Board dated 8 August 1995 the Rapporteur referred to the above documents and to the following additional documents from the pre-grant proceedings:-

D2: DE-A-3 049 049

D3: PATENT ABSTRACTS OF JAPAN, vol. 6, No. 140, E-121, 1018

The Rapporteur took the preliminary view that claim 1 of both requests lacked an inventive step having regard to the disclosure of D4 and the common general knowledge represented by D1, D2 and D3.

- IV. In a submission received on 15 December 1995 the Appellant filed new claims of a main request and maintained the auxiliary request. It was argued that the subject-matter of the claims of both requests involved an inventive step.
- V. Following a further communication from the Board, appointing oral proceedings, the Appellant withdrew the request for oral proceedings but argued that the claims were allowable. The Appellant was informed that the Board intended to maintain the oral proceedings.
- VI. Oral proceedings were held on 20 March 1996 in the absence of the Appellant. The Appellant's main request was that the Examining Division's decision be set aside and, implicitly, that the application be remitted to the first instance for continued examination on the basis of the following documents:-

Claims: 1 to 4 as received on 15 December 1995

Description: Pages 1 and 4 to 13 as received on
24 February 1993
Pages 2 and 3 as received on 22 October
1993

Drawings: Sheets 1 to 6 as received on 8 November
1988

In accordance with the auxiliary request the above claims are replaced by claims 1 to 4 of the auxiliary request received on 8 August 1994.

VII. Claim 1 of the main request reads as follows:-

"A car telephone equipment installed on an automobile to be coupled with a base station disposed at a predetermined location through a radio communication circuit, characterized in that said equipment comprises:

means for detecting an off-hook state and an on-hook state of a handset;

voice input means (402) for inputting, while said handset is in the off-hook state, a telephone number of a destination party and, a time period after passage of which a call is initiated or a specific time at which a call is initiated;

voice recognizing means (5,6) for recognizing the telephone number, said time period and said specific time inputted by the voice input means;

timer means (11);

means for setting, at the timer means (11), if said time period is inputted, the time period recognized by the voice recognizing means (5,6) in response to detection of the on-hook state;

means (15) for comparing a clock signal and said specific time, if said specific time is inputted;

time-out detection means (15) for detecting a time-out state of said timer means (11), if said time period is inputted, or said comparing means (15), if said specific time is inputted; and

automatic calling means (2,3) for establishing said radio communication circuit between said base station and the equipment in response to a detection output of said time-out detection means and for performing an automatic calling operation using said destination party telephone number recognized by the voice recognizing means."

Claim 1 of the auxiliary request differs in substance from that of the main request in not including as an alternative the initiation of a call at a specific time.

Reasons for the Decision

1. The appeal is admissible.
2. The only issue to be decided is that of inventive step.
3. *The state of the art*
 - 3.1 The application is concerned with a car telephone incorporating voice-recognition equipment which enables the driver to initiate a call without the need to operate a keypad. Such a car telephone is known per se from D4, which is acknowledged in the application and was published one day before the claimed priority date. The object of the invention is said to be to facilitate phoning by enabling the driver, in addition to initiating a call by means of spoken commands, also to program a call to take place either at a predetermined time or after a predetermined interval, by spoken command. The programming of a phone to initiate a call automatically after a predetermined time or interval is hereinafter referred to as "delayed call set-up".
 - 3.2 As indeed acknowledged in the application, delayed call set-up per se was at the claimed priority date known in the art; in addition to document JP-A-60-214126 - acknowledged in the revised introduction to the description - and its english-language abstract, D1, reference is directed to D2 and D3, both of which also show systems in which a timer is used. Although D2 is explicitly concerned with absolute time and suggests the

use of a long-wave standard clock for synchronising timing, D1 and D3 do not make wholly clear whether an actual time or a time interval is envisaged. It is noted that in the application the acknowledgement of the JP original of D1 refers to initiating a call "after a predetermined time" implying that an interval is meant, whilst D3 refers to a "collation circuit" by means of which "time information stored in [a storage] circuit ... is collated with a present time", implying an actual time.

3.3 The Board accordingly concludes from the disclosure of D1, D2 and D3, together with the prior art acknowledgement in the application, that delayed call set-up per se was at the claimed priority date well known in the art. Indeed, in the Board's view, the existence of three disparate documents suggests that this knowledge was sufficiently widespread as to form part of the general knowledge which the skilled man could be expected to bring to bear on any technical problem arising in the art.

3.4 It is noted that the Examining Division's decision to refuse the application contains at page 3 the implication that D2 is not relevant to inventive step because it must be read at its publication date of 1980, voice recognition systems not being widely available at that date. However, it is the established jurisprudence of the Boards that for assessing inventive step a document forming part of the state of art must be assessed from the point of view of the man skilled in the art at the time of priority relevant for the application, see for example T 24/81, OJ EPO 1983, 133, Headnote II and point 14.

4. *Inventive step (main request)*
- 4.1 D4 discloses a car telephone in accordance with the preamble of claim 1. This document moreover discloses means for detecting an off-hook state, (see column 6, lines 19 to 23), voice input means for inputting a telephone number (M in Figure 1), voice recognizing means for recognising the telephone number (C, SR, DS, SPES in Figure 1) and automatic calling means for establishing a radio communication circuit after a preset time using the recognised telephone number (column 6, lines 42 to 46).
- 4.2 Although the Appellant questioned whether document D4 was the appropriate starting point for an assessment of inventive step, the Board notes that the description of the application, both as originally filed and revised, goes out from analogous prior art. Moreover, D4 is the only document cited in the proceedings which gives explicit details of voice recognition equipment for use in a car telephone. Thus, this document is in the Board's view the correct starting-point to adopt as regards inventive step.
- 4.3 Against the background of D4, the problem to be solved is the provision of delayed call set-up in the D4 phone using voice control. It is observed that this formulation of the problem is, with the exception of the reference to D4, in essence that which the Appellant himself puts forward at page 2, lines 9 to 14 of the revised description and which is referred to at point 3.1 above. No invention can be seen in the mere formulation of this problem since, as already noted above, the feature of delayed call set-up was at the claimed priority date well known per se in the telephone art. The skilled person, given the disclosure of D4 and desiring to implement delayed call set-up, would learn

from documents D1 to D3 how this can best be done. The only remaining question is whether he would use the existing keypad or would seek to extend the existing voice recognition facility. Leading him in the latter direction is firstly the imperative of road safety as discussed in the application, (revised description, paragraph bridging pages 1 and 2), and secondly the disclosure of D2, which as noted above explicitly refers to inputting the time at which a call is to be made by means of a microphone. The Board accordingly considers that the skilled person, given the disclosure of D4 and aware of the background art as represented by D1, D2 and D3, would find it obvious to implement delayed call set-up using the existing voice recognition facility.

4.4 Once the skilled man has decided to follow this path all the remaining features of claim 1 follow as a matter of course. Whether time is measured in absolute or in relative terms is purely a matter of convenience. It therefore appears that the subject-matter of claim 1 of the main request lacks an inventive step.

5. *Inventive step (auxiliary request)*


5.1 Claim 1 of this request is limited to call set-up using a relative measurement of time, i.e. one of the two alternatives contained in claim 1 of the main request. As noted at point 3.2 above this is acknowledged in the amended description as known per se and is in any case one of only two possibilities open to the skilled person. Since the subject-matter of claim 1 of the main request has been found to lack an inventive step it is clear that claim 1 of the auxiliary request must suffer the same fate.

Order

For these reasons it is decided that:


The appeal is dismissed

The Registrar:



M. Kiehl

The Chairman:



P. K. J. van den Berg

OK
EV