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Datasheet for the decision of 10 November 2011

Case Number: T 0885/08 - 3.2.08

Application Number: 01122248.6

Publication Number: 1188421

IPC: A61F 2/28, A61F 2/30, G06F 19/00, G06T 17/00

Language of the proceedings: EN

Title of invention:
Artificial bone template selection, display and storage system and recording medium

Patent Proprietor:
FUJIFILM Corporation

Opponent:
Hectec GmbH

Headword:
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Relevant legal provisions:
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Relevant legal provisions (EPC 1973):
EPC Art. 56

Keyword:
"Inventive step - no"

Decisions cited:
-

Catchword:
-

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Case Number: T 0885/08 **-** 3.2.08

D E C I S I O N
of the Technical Board of Appeal 3.2.08
of 10 November 2011

Appellant: (Patent Proprietor)
FUJIMFILM Corporation
26-30, Nishiazabu 2-chome
Minato-ku
Toyko (JP)

Representative:
Klunker . Schmitt-Nilson . Hirsch
Destouchesstraße 68
D-80796 München (DE)

Respondent: (Opponent)
Hectec GmbH
Erlenweg 12
D-84183 Niederviehbach (DE)

Representative:
von Puttkamer, Nikolaus
von Puttkamer - Berngruber
Patentanwälte
Türkenstrasse 9
D-80333 München (DE)

Decision under appeal:
Decision of the Opposition Division of the European Patent Office posted 29 January 2008 revoking European patent No. 1188421 pursuant to Article 101(3)(b) EPC.

Composition of the Board:

Chairman: T. Kriner
Members: P. Acton
U. Tronser

Summary of Facts and Submissions

I. The appellant (patent proprietor) filed a notice of appeal received at the EPO on 28 March 2008 against the opposition division's decision posted on 29 January 2008 revoking the European patent No. EP 1 188 421. The appeal fee was paid simultaneously and the statement of grounds was received on 28 May 2008.

II. The following document played a role for the present decision:

D4: Domenico Bongini, Monica Carfagni, Lapo Governi, "Hippin: a semiautomatic computer program for selecting hip prosthesis femoral components", Computer Methods and Programs in Biomedicine 63 (2000) 105-115

III. The appellant requested that the decision under appeal be set aside and the patent be maintained on the basis of claims 1 to 3 according to the request submitted with letter dated 7 October 2011.

The respondent requested that the appeal be dismissed.

IV. Claim 1 reads:

"An artificial bone template selection system comprising: a template data storage means (10) in which template data representing a plurality of templates representing a plurality of artificial bones of different shapes is stored, and a bone shape measuring means (20) which measures the shape of bone (9) to be supplemented by artificial bone on the basis of bone

image data representing an image including the bone to be supplemented by artificial bone, characterised by a prospective template selection means (30) which selects, as prospective templates, a plurality of templates the shape of which substantially conforms to the shape of the bone to be supplemented by artificial bone as measured by the bone shape measuring means (20) out of the plurality of templates represented by the template data; a display means (40) which displays the bone image representing the shape of the bone to be supplemented by the artificial bone and an image of the prospective templates selected by the prospective template selection means (30) and a display control means (60) which causes the display means (40) to display the bone image and the image of the prospective templates superposed one on another,

wherein a display area is set for each of said prospective templates and a superimposed image is displayed in each display area (feature A)."

The designation "feature A" has been introduced by the board.

V. The respondent's arguments can be summarised as follows:

D4 disclosed all features of claim 1 apart from feature A. In principle, only two alternatives existed: either the images are disclosed one after the other or side by side. Since it was generally known in the technical field of medical equipment to display several images in different display areas in order to facilitate the comparison between them, it would be obvious for the skilled person to apply this technique to the system

according to D4 in order to solve the problem of facilitating the comparison of the images. Hence the subject matter of claim 1 did not involve an inventive step.

VI. The appellant's arguments can be summarised as follows:

D4 did indeed disclose all features of claim 1 apart from feature A. This document disclosed a method for displaying the superimposed images of several preferred templates with the bone one after the other.

Starting from D4 the object to be achieved was the provision of a system which allowed a user-optimised comparison of the superimposed images for the different templates.

Since the solution of this problem by the provision of a separate display area for the superimposed image of each template and the bone was neither disclosed in nor suggested by D4, the subject matter of claim 1 involved an inventive step.

Reasons for the Decision

1. The appeal is admissible

2. Inventive step

The system for selecting an artificial bone according to D4 undisputedly discloses a system comprising all features of claim 1 apart from feature A.

In order to support the selection of the template, the system according to this document suggests different alternative templates which may fit with the bone and display each superimposed image of the bone and of the preferred templates individually on a screen. Furthermore, all the relevant numerical data calculated by the system for the different templates is summarised in a table (see Figure 11) which offers a simultaneous comparison of all alternatives (see page 114, top of left column).

Starting from the system for selecting an artificial bone template according to D4, the object to be achieved by the subject matter of claim 1 is the provision of a system which allows a more user-friendly selection of the preferred template.

In principle only two possibilities exist for displaying a series of images: either they are shown in sequence one after the other, or they are shown simultaneously side by side.

Moreover, it is well known to the skilled person working in the field of medical technologies, that the

comparison of graphical information is facilitated by representing it on different display areas, whereby these might be either different screens or different sections of one single screen.

Therefore, it would be obvious to apply this display functionality to the system according to D4 in order to solve the problem posed, hence arriving at the subject matter of claim 1.

This is even more the case since D4 itself already suggests a side by side representation of the different images in Figure 10, and discloses a simultaneous comparison of the data calculated by the system for the different templates.

Therefore, the subject matter of claim 1 does not involve an inventive step.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

V. Commare T. Kriner