

Internal distribution code:

- (A) [-] Publication in OJ
- (B) [-] To Chairmen and Members
- (C) [-] To Chairmen
- (D) [X] No distribution

**Datasheet for the decision
of 22 July 2015**

Case Number: T 1604/12 - 3.5.05

Application Number: 04706946.3

Publication Number: 1593078

IPC: G06F19/00

Language of the proceedings: EN

Title of invention:
MEDICAL DATA COMMUNICATION NOTIFICATION AND MESSAGING SYSTEM
AND METHOD

Applicant:
Baxter International Inc.

Headword:
Healthcare computer network architecture/BAXTER

Relevant legal provisions:
EPC 1973 Art. 56

Keyword:
Inventive step - (no)

Decisions cited:

Catchword:



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

European Patent Office
D-80298 MUNICH
GERMANY
Tel. +49 (0) 89 2399-0
Fax +49 (0) 89 2399-4465

Case Number: T 1604/12 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 22 July 2015

Appellant: Baxter International Inc.
(Applicant) One Baxter Parkway,
DF3-2E
Deerfield,
Illinois 60015-4633 (US)

Representative: Potter Clarkson LLP
The Belgrave Centre
Talbot Street
Nottingham, NG1 5GG (GB)

Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 5 March 2012
refusing European patent application No.
04706946.3 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair A. Ritzka
Members: P. Cretaine
G. Weiss

Summary of Facts and Submissions

- I. The appeal is against the decision of the examining division, announced in the oral proceedings and posted on 5 March 2012, to refuse European patent application No. 04706946.3 on the grounds of lack of novelty or inventive step, having regard to the disclosure of
- D4:** US 6 406 426,
- with respect to a main request and first to twelfth auxiliary requests.
- II. Notice of appeal was received on 4 May 2012 and the appeal fee was paid on the same day. The statement setting out the grounds of appeal was received on 25 June 2012. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of a main request or any of first to fourth auxiliary requests filed with the statement setting out the grounds of appeal. The main request and the first to fourth auxiliary requests corresponded to the main request and to the fifth to eighth auxiliary requests, respectively, on which the decision under appeal was based. Oral proceedings were requested should the main request not be allowed. Furthermore, the appellant disputed the proper substantiation of the inventive step and novelty objections which led to the refusal decision. No request for reimbursement of the appeal fee has however been submitted.
- III. A summons to oral proceedings scheduled for 29 January 2015 was issued on 22 September 2014. In an annex to this summons, the board gave its preliminary opinion on the appeal pursuant to Article 15(1) RPBA. Objections of lack of inventive step under Article 56

EPC 1973 were raised with respect to all the requests on file, having regard to the disclosure of **D4** and taking into account the common general knowledge of the skilled person.

The board introduced into the proceedings, pursuant to Article 114(1) EPC, the following documents to illustrate the common general knowledge in the field of computer networks:

D5: Alex Berson, *Client/Server Architecture, Second Edition, Chapter 2 - Approach to Distribution, pages 35 to 70, McGraw-Hill, 1996,*

D6: Lenny Zeltser, *"Firewall Deployment for Multi-Tier Applications", 5 April 2002 Pearson InformIT,*
URL: [http://www.informit.com/articles/article.aspx?p=26254,](http://www.informit.com/articles/article.aspx?p=26254)

D7: US 2002/0038392,

D8: *"General Principles of Software Validation; Final Guidance for Industry and FDA Staff", pages 1 to 43, U.S. Department of Health and Human Services, 11 January 2002,*

D9: J. Wack, K. Cutler and J. Pole, *"Guidelines on Firewalls and Firewall Policy", pages 1 to 64, Special Publication 800-41, National Institute of Standards and Technology, January 2002.*

IV. In a communication dated 22 December 2014, the board announced that the oral proceedings had been rescheduled for 23 July 2015.

- V. With a letter dated 19 June 2015, the appellant filed a main request and first to third auxiliary requests to replace the main request and first to fourth auxiliary requests previously on file.
- VI. In a communication dated 21 July 2015, the board announced that the oral proceedings had been rescheduled for 22 July 2015, as agreed with the representative.
- VII. Oral proceedings were held on 22 July 2015. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the main request or one of the three auxiliary requests, all requests filed with letter dated 19 June 2015. At the end of the oral proceedings, the decision of the board was announced.
- VIII. Claim 1 of the **main request** reads as follows:

"A healthcare system (100) comprising;
a network (102);
a medical device (120) operably attached to the network (102);
a first central computer (109) operably attached to the network (102); and
a portable wireless remote device (118) operably attached to the network (102) that is accessible by a clinician;
said portable wireless device (118) being operable to generate a request for sending to the first central computer (109);
said first central computer (109) being operable to receive the request and to generate a response message in response thereto for sending to the portable wireless remote device (118);

a second central computer (108a) attached, via a communication link (103), to the first central computer (109) at least partially located within a health care facility, the second central computer including a pharmacy system interface configured to access drug library information and patient medical record information;

wherein the request generated by the remote device is received by the first central computer (109) and the second central computer (108a),

wherein a response message, including the drug library information and the patient medical record information accessed by the pharmacy system interface, is generated by the second central computer (108a) in response to the request generated by the portable wireless remote device (118), and

wherein the response message generated by the first central computer (109) comprises the response message provided by the second central computer (108a) and additional data added by the first central computer (109)."

Claim 1 of the **first auxiliary request** differs from claim 1 of the main request in that the wordings "drug library information" and "patient medical record information" are replaced by "drug information" and "patient information", respectively.

Claim 1 of the **second auxiliary request** reads as follows:

"A healthcare system (100) comprising;
a network (102);
a medical device (120) operably attached to the network (102);

a first central computer (109) operably attached to the network (102) and having a validated environment; a second central computer (108a) operably attached to the first central computer (109) via a separate communication link (103) isolated from the network (102) and having a non-validated environment; and a portable wireless remote device (118) operably attached to the network (102) that is accessible by a clinician;

said portable wireless device (118) being operable to generate a request for sending to the first central computer (109); and

said first central computer (109) being operable to receive the request and to generate a response message in response thereto for sending to the portable wireless remote device (118), the response message including validated information from the first central computer (109) and non-validated information from the second central computer (108a)."

Claim 1 of the **third auxiliary request** differs from claim 1 of the second auxiliary request in that the wording "via a separate communication link isolated from the network" is replaced by "via a separate communication link".

Reasons for the Decision

1. The appeal is admissible (see point II).

2. Main request

2.1 Document D4 discloses, using the wording of claim 1, a healthcare system (see Figure 1) comprising;

a network;

a medical device ("therapeutic device 12") operably attached to the network;

a first central computer ("central monitoring system 14") operably attached to the network; and
a portable wireless remote device ("remote access device 42") operably attached to the network that is accessible by a clinician ("caregivers");

said portable wireless device being operable to generate a request for sending to the first central computer (see column 9, lines 18 to 21; column 12, lines 30 to 32);

said first central computer being operable to receive the request and to generate a response message in response thereto for sending to the portable wireless remote device (see column 9, lines 18 to 21);

a second central computer ("auxiliary system 44") attached, via a communication link, to the first central computer at least partially located within a health care facility (see Figure 6 showing the connection between central monitor 14 and auxiliary device 44); the second central computer including an interface configured to access drug library medical information and patient medical record information (see

column 4, lines 36 to 52; column 13, lines 3 to 10;
column 15, lines 35 to 38);

wherein the request generated by the remote device is received by the first central computer (see column 9, lines 18 to 21 and Figure 11);

wherein the response message generated by the first central computer comprises data added by the first computer (column 9, lines 18 to 21).

It should be noted at this point that D4 in column 10, line 55, states that the auxiliary system 44 may lack a network interface. In the board's view, this is a clear disclosure that the auxiliary system 44, i.e. a second central computer in the wording of claim 1, may not be part of the network but may be attached to the first central computer via a communication link, as required by claim 1 and illustrated by Figure 3 of the present application.

2.2 The only differences between the subject-matter of claim 1 and the disclosure of D4 are that:

- the request generated by the portable wireless device is received also by the second central computer, and
- the response message generated by the first central computer comprises also a response message generated by the second central computer in response to this request.

The technical effect of these distinguishing features is that the functionality of responding to the request of the portable remote device is split into the first and second central computers. The underlying technical

problem can thus be formulated as how to distribute the computing task in the healthcare system.

The skilled person would immediately recognize that the auxiliary system 44 of D4 is performing tasks (see column 13, lines 3 to 10) which may assist the central monitoring system in responding to any request of the portable wireless device. Since there is a bidirectional link between the central monitoring system 14 and the auxiliary system 44, any request received by the central monitoring system can be further transmitted to the auxiliary system for performing partial tasks related to the request, and the response thereto can be sent back to the central monitoring system. The skilled person would use this possibility provided by the system of D4 in order to solve the problem, without the exercise of inventive skill.

2.3 For these reasons, the board judges that the main request is not allowable under Article 56 EPC 1973, having regard to the disclosure of D4.

3. First auxiliary request

Claim 1 differs from claim 1 of the main request only in that the words "drug library information" and "patient medical record" have been replaced by "drug information" and "patient information", respectively.

Since these amendments only lead to a broadening of the subject-matter of the claim, the reasoning detailed in paragraph 2.2 above applies *a fortiori*.

Therefore, the first auxiliary request is not allowable under Article 56 EPC 1973, having regard to the disclosure of D4.

4. Second auxiliary request

Claim 1 adds in substance to the subject-matter of claim 1 of the main request the features that:

- the communication link between the first and the second central computers is separate and isolated from the network, and

- the first and second central computers have a validated and a non-validated environment, respectively, the response message including validated information from the first central computer and non-validated information from the second central computer.

The first feature is known from D4, (see Figure 6 and column 10, lines 52 to 55).

The second feature relates solely to the legal administration of the healthcare system and is not of technical nature. Therefore, it cannot contribute to the inventive step.

For these reasons, the board judges that the second auxiliary request is not allowable under Article 56 EPC 1973, having regard to the disclosure of D4.

5. Third auxiliary request

Claim 1 differs from claim 1 of the second auxiliary request only in that the wording "via a separate communication link isolated from the network" has been replaced by "via a separate communication link".

Since this amendment only leads to a broadening of the subject-matter of the claim, the reasoning detailed in paragraph 4 above applies *a fortiori*.

Therefore, the third auxiliary request is not allowable under Article 56 EPC 1973, having regard to the disclosure of D4.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated