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**Datasheet for the decision
of 4 December 2018**

Case Number: T 0967/13 - 3.5.02

Application Number: 09004919.8

Publication Number: 2178062

IPC: G08G1/0967, G08G1/0969,
G01C21/26

Language of the proceedings: EN

Title of invention:

Telematics terminal and method for controlling vehicle using
the same

Applicant:

LG Electronics Inc.

Relevant legal provisions:

EPC Art. 84, 123(2), 111(1)

Keyword:

Claims - clarity after amendment (yes)

Amendments - allowable (yes)

Appeal decision - remittal to the department of first instance
(yes)



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Case Number: T 0967/13 - 3.5.02

D E C I S I O N
of Technical Board of Appeal 3.5.02
of 4 December 2018

Appellant: LG Electronics Inc.
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 19 November
2012 refusing European patent application No.
09004919.8 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman R. Lord
Members: G. Flyng
R. Cramer

Summary of Facts and Submissions

I. The applicant's appeal concerns the examining division's decision to refuse the European patent application number 09 004 919.8, which was published as EP 2 178 062 A2.

II. In the contested decision, the examining division considered the applicant's main request and first to third auxiliary requests, all of which were filed with a letter dated 31 August 2012.

The examining division refused the application for the reasons that the two independent claims of each request did not fulfill the requirements of Article 84 EPC regarding clarity and Article 123(2) EPC regarding added subject-matter.

In an *obiter dictum* the examining division expressed the view that the independent claims of all requests lacked an inventive step, Article 56 EPC, starting from document D7 (see document references in the contested decision) and using only the teachings of document D4 or document D5 and common practice and general knowledge of the person skilled in the art. For the second auxiliary request reference was also made to documents D10 and D11.

III. With the grounds of appeal the appellant (applicant) filed amended claims according to a main request and first to third auxiliary requests and an amended description page 1e. The appellant requested that the decision under appeal be set aside and a patent be granted on the basis of one of these requests. For the

case that the Board was not prepared to grant a patent the appellant requested oral proceedings.

IV. **Independent claim 1** of the main request reads as follows:

"1. A method for controlling a vehicle with a telematics terminal (100) installed in or on the vehicle, comprising:

- receiving (S101; S102; S201; S202), by the telematics terminal, information related to the occurrence of an event from a server when the event has occurred;
- setting a geo-fence area by using the information related to the event occurrence received from the server, wherein the geo-fence area is associated with a map data of the telematics terminal;
- displaying (S103), on a display, visually the geo-fence area;
- determining (S104) whether or not the vehicle is located within the geo-fence area or is on a route that will intercept the geo-fence area; and
- if the vehicle is determined to have entered into the geo-fence area, displaying (S105; S106; S107; S108; S109; S110), on the display, information for guiding a control of the vehicle to meet predetermined drive requirements previously set for the geo-fence area,

wherein a range of the previously set geo-fence area is enlarged or reduced if information related to the additional occurrence of an event after the certain event took place is received from the server."

Independent claim 8 of the main request reads as follows:

"8. A telematics terminal (100) configured to be installed in a vehicle, the telematics terminal (100) further comprising a position-location device (120) configured to recognize a location of the vehicle and a wireless communication device, the telematics terminal (100) comprising:

- a controller (190) operatively connected to the position-location module (120) and the wireless communication device (110), the controller (190) having means to receive information related to the occurrence of an event from a server via the wireless communication device when the event has occurred, to set a geo-fence area by using the information related to the event occurrence received from the server, wherein the geo-fence area is associated with a map data of the telematics terminal, to determine whether or not the vehicle is located within the geo-fence area or is on a route that will intercept the geo-fence area, to display visually the geo-fence area on a display, and if the vehicle is determined to have entered into the geo-fence area, to display information for guiding a control of the vehicle on the display to meet the predetermined drive requirements previously set for the geo fence area, wherein the controller (190) is further configured to enlarge or reduce a range of the previously set geo-fence area if information related to the additional occurrence of an event after the certain event took place is received from the server.

V. In a communication dated 30 August 2018, the Board invited the appellant to confirm whether or not oral

proceedings were requested in the event that the Board was minded to set aside the contested decision and remit the case to the department of first instance for further prosecution in accordance with Article 111(1) EPC. In a reply dated 8 November 2018 the appellant confirmed that if the Board was not prepared to grant a patent, they agreed to the case being remitted to the department of first instance without oral proceedings.

Reasons for the Decision

1. The appeal is admissible
2. Articles 84 and 123(2) EPC
 - 2.1 The claims considered in the contested decision were directed to the embodiment in which a telematics terminal receives from a server coordinates of a geo-fence area corresponding to an event. The examining division considered that the requirements of Articles 84 (clarity) and 123(2) EPC were not met because this feature:
 - (a) ruled out some of the other embodiments described (see grounds for the decision, point 2.2, first paragraph); and
 - (b) was not disclosed in combination with the feature that "a range of the geo-fence area is ... if a second event associated with the first event is received from the server" (see grounds for the decision, point 2.2, second and third paragraphs).
 - 2.2 In response to these objections the independent claims of the requests filed on appeal have been amended such that they are directed to the alternative embodiment in

which the telematics terminal receives from the server information related to the occurrence of an event and sets a geo-fence area by using the information related to the event occurrence received from the server. This evidently overcomes the above objections.

2.3 The independent claims have also been amended to clarify that the range of the previously set geo-fence area is enlarged or reduced "if information related to the additional occurrence of an event after the certain event took place is received from the server".

2.4 This feature has a basis in the paragraph spanning pages 25 and 26 of the application as filed.

2.5 Furthermore, the Board considers that this feature deals with the objections raised in point 2.3 of the reasons for the decision. The examining division objected that:

- (a) it was not clear what could be meant by "a second event associated with the first event";
- (b) claim 1 failed to define what such a second associated event might be;
- (c) claim 1 did not clearly provide the link between the range change and the event; and
- (d) claim 1 did not state what happened when no second event is received.

2.6 The objections (a) and (b) are overcome because the claim no longer refers to "a second event associated with the first event". Furthermore, the fact that the claims do not define what the first and second events might be makes the claims broad, but not unclear. The same is true for objection (c): the fact that the claims do not specify what events lead to what change in the geo-fence area is a matter of claim breadth, not

clarity. Considering objection (d), it seems implicit that if no second event is received nothing particular happens to the geo-fence area. It does not seem to be important to the alleged invention what happens in this situation.

2.7 Concerning the objection to term "event" (cf. grounds for the decision, point 2.1) the Board is persuaded by the appellant's argument that as used in the present context is not unclear. As set out in page 2, third paragraph and page 17, first paragraph of the application as filed, the term "event" covers a wide variety of occurrences in factors such as traffic accidents, pollution, weather, and human activity that may affect traffic or vehicle operations. Again here, this is broad, but not unclear.

2.8 For these reasons the Board considers that the amended claims according to the main request filed on appeal overcome the objections raised under Articles 84 and 123(2) EPC in the contested decision.

3. Article 111(1) EPC

The Board has considered the examining division's *obiter dictum* on inventive step (pages 8 to 10 of the supplemental sheets annexed to the decision). In view of the amendments made to the claims on appeal and the rather brief nature of the reasons given in section 1.3 of the *obiter dictum*, the Board considers it appropriate to set aside the contested decision and remit the case to the department of first instance for further prosecution in accordance with Article 111(1) EPC. The appellant has confirmed that they agreed to the case being remitted to the department of first instance without oral proceedings being held.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the department of first instance for further prosecution.

The Registrar:

The Chairman:



U. Bultmann

R. Lord

Decision electronically authenticated