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**Datasheet for the decision
of 25 July 2019**

Case Number: T 1869/14 - 3.5.02

Application Number: 03010419.4

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Language of the proceedings: EN

Title of invention:

Service provision to a vehicle entertainment and information device

Applicant:

Harman Becker Automotive Systems GmbH

Relevant legal provisions:

EPC Art. 54

Keyword:

Novelty - all requests (no)



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Case Number: T 1869/14 - 3.5.02

D E C I S I O N
of Technical Board of Appeal 3.5.02
of 25 July 2019

Appellant: Harman Becker Automotive Systems GmbH
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 3 March 2014
refusing European patent application No.
03010419.4 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman R. Lord
Members: C. Vassoille
R. Cramer

Summary of Facts and Submissions

- I. The applicant (appellant) filed an appeal against the decision of the examining division to refuse European patent application no. 03 010 419.4.
- II. In the decision under appeal, the examining division, setting out their grounds, came to the conclusion that the subject-matter of the claim 1 of the main request as well as that of the auxiliary request lacked clarity in the sense of Article 84 EPC and further lacked novelty in the sense of Article 54 EPC.
- III. With the statement setting out the grounds of appeal, the appellant submitted a main request as well as new auxiliary requests 1 to 3, the main request corresponding to the main request underlying the decision under appeal.
- IV. The following document cited in the proceedings before the examining division is relevant for the present decision:

D1: US 6,535,743 B1
- V. In a communication under Article 15(1) RPBA the board informed the appellant of its preliminary opinion that claim 1 of the main request fulfilled the requirements of Article 84 EPC but that its subject-matter did not seem to be new in the sense of Article 54 EPC in view document D1. Furthermore, the board expressed doubts as to whether the auxiliary requests 1 to 3 fulfilled the requirements of the EPC.
- VI. The appellant did not reply in substance to the board's preliminary opinion, but with letter of 3 July 2019

informed the board that the appellant would not attend the oral proceedings.

- VII. Oral proceedings before the board were held on 25 July 2019 in the absence of the appellant.

The appellant had requested in writing that the examining division's decision be set aside and that a patent be granted on the basis of the first allowable request out of the main request and the auxiliary requests 1 to 3, in that order.

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

"A method for execution by a vehicle entertainment and information processing device for providing services to a user of the entertainment and information processing device by executing service code modules which employ related service data, comprising the steps of:
detecting at least one readable and writable storage medium accessible by the entertainment and information processing device,
detecting services provided by the at least one storage medium,
detecting services provided by at least one service provider via a wireless data channel,
generating, in response to the detection of the services, a list of services available at the at least one storage medium and the at least one service provider,
displaying the list of available services to the user using a browser interface, wherein the browser interface allows a selection of services available from the at least one storage medium and the service provider,

selecting a service from the list of available services, and
providing the selected service to the user,
wherein providing the selected service comprises reading service data from the at least one storage medium and/or transferring the service data from the at least one service provider, and
wherein, in case of a selection of a service available from the at least one service provider, providing the selected service further comprises downloading a service code module corresponding the selected service from the at least one service provider for execution."

Claim 1 of the auxiliary request 1 adds to the main request the following features:

"wherein each service code module is an executable program, and
wherein the service data is preferably one of a user's address book, navigation data in a navigation database, and a speech database"

Claim 1 of the auxiliary request 2 adds to the main request the following features:

"wherein each service code module is an executable program, and
wherein the services to be provided by the vehicle entertainment and information processing device to the user comprise at least one of: address book management, navigation, text-to-speech, and the respectively related service data is a user's address book, navigation data in a navigation database, and a speech database"

Claim 1 of the auxiliary request 3 adds to the main request the following features:

"wherein each service code module is an executable program, and
wherein the services to be provided by the vehicle entertainment and information processing device to the user comprise navigation, and the related service data is at least one of: geographic location or coordinates (e.g. longitude and latitude), the name of a point of interest or a hotel, their address, information on prices of hotels, motels, bars or restaurants, information to display a street map to the user"

IX. The appellant's arguments as far as they are relevant for the present decision were as follows:

Document D1 neither explicitly nor implicitly disclosed the feature of "detecting at least one readable and writable storage medium". Document D1 disclosed that a mobile unit 12 comprises a single memory 40, which contains information used by the mobile unit 12 to perform its functions (see column 4, lines 51 to 52). Consequently, even if the memory 40 was removable from the mobile unit 12, the presence of the single memory 40 would be a prerequisite to the functioning of the mobile unit. In other words, only when the single memory 40 was present, was the mobile unit 12 capable of performing the stored functions, such that it would be superfluous to a skilled person to prescribe additional detection for the same single memory each time it performed a method for providing services.

Document D1 did not explicitly or implicitly disclose the feature of "detecting services provided by the at least one storage medium". Since the "applications"

stored in memory 40 were prestored and always remained the same, it would be superfluous for a skilled person to prescribe detection of prestored, non-changing "applications" on the single memory 40 each time it performed a method for providing services. The feature of detecting services provided by the storage medium therefore could not be considered as being implicitly disclosed by D1.

Document D1 neither explicitly nor implicitly taught the feature of "detecting services provided by at least one service provider via a wireless data channel".

Document D1 failed to disclose further details as to what had to be understood as "applications" which the mobile unit 12 used remotely via voice network 18 and NSC 14 (see column 4, lines 23 to 25). Furthermore, document D1 neither explicitly nor implicitly taught that the remote "applications" could change, thus necessitating their detection by the mobile unit 12. Consequently, it was not immediately apparent to the skilled person that the "applications" must be detected by the mobile unit 12 in document D1.

Document D1 did not disclose the feature of "generating, in response to detection of the services, a list of services available at the at least one storage medium". In document D1, the "hierarchical menu structures 84" did not refer to local or remote applications in the sense of detecting services provided by a storage medium and by a service provider, respectively. Instead, the cited reference of document D1 taught that "Menu structures 84 comprise a hierarchical arrangement of static or dynamic menu options that facilitate requesting enhanced services from service centers 16, [...] and performing any of the features and functions of mobile unit 12" (see

column 5, lines 34 to 38), which was technically unrelated to the applications, in particular, to the cited "remote applications". Accordingly, the cited items belonged to different embodiments of document D1, the combination of which was not permissible.

Document D1 did not disclose the feature of a "browser interface [which] allows for a selection of services available from the at least one storage medium and the service provider". The passage in column 13, lines 5 to 8 of D1 merely taught that "an operator of mobile unit 12 may establish a communication session directly with a particular service provider 16, such as an Internet website, using an on-line or off-line browser". However, establishing the direct communication session to a particular service provider 16 required that the mobile unit 12 has previously selected the particular service provider 16 to provide an enhanced service. Hence, the on-line or off-line browser of document D1 did not explicitly or implicitly allow for a selection of services as defined in claim 1. Furthermore, the on-line or off-line browser was disclosed in document D1 as alternative means for an interface when establishing a direct communications session (see column 13, lines 5 to 8).

Finally, document D1 did not disclose the feature of "downloading a service code module corresponding to the selected service from the at least one service provider for execution". The transceiver 42 of document D1 included number assignment module (NAM) 88 designated for providing enhanced services (see column 5, lines 63 to 67). The transceiver 42 included a separate program memory to store data and instructions for operation (see column 5, lines 59 to 60). Accordingly, since operation of (specifically the instructions for) the

transceiver 42 were not changed during update of the "hierarchical menu structure", there was no technical basis for assuming that the same "hierarchical menu structure" included an "executable service code module" that executes the enhanced service call. Furthermore, the "textual directions in the data file" of document D1 could not be equated with an "executable code module" of claim 1 because, in the context of document D1 as a whole, the "textual directions in the data file" was data related to a service (see column 17, lines 55 to 59). Further, the mere fact that the "textual directions in the data file" required translation into "audio voice signals" (see column 17, lines 59 to 63) did not make them executable code.

Reasons for the Decision

1. The appeal is admissible.
2. *Non-attendance of the oral proceedings*

The appellant did not reply to the board's communication under Article 15(1) RPBA and, due to their absence at the oral proceedings, the appellant is treated as relying on their written case only (Article 15(3) RPBA).

3. *Main request*

- 3.1 *Novelty (Article 54 EPC)*

- 3.1.1 The subject-matter of claim 1 is not new in the sense of Article 54 EPC. As has been found by the examining division in the decision under appeal, document D1 either explicitly or implicitly discloses all the

features of claim 1 (see point 2.1 of the reasons for the decision under appeal).

- 3.1.2 The appellant has contested that document D1 implicitly discloses the feature of claim 1 of:

"detecting at least one readable and writable storage medium accessible by the entertainment and information processing device".

The board notes that document D1 in column 4, lines 46 to 49 discloses: "Memory 40 comprises ... removable memory devices, or any other device that allows storage or retrieval of data". While the appellant did not contest the presence of a readable and writable storage medium in D1, they argued that an additional detection in D1 would be superfluous, since the mobile unit 12 was only capable of performing the stored functions when the single memory was present.

The board does not find this argument convincing. The use of a removable storage medium clearly implies that a detection step is required, in order to verify whether a storage medium is present or not. The board therefore agrees with the examining division on this point (see section 2.2 of the reasons for the decision under appeal).

- 3.1.3 The appellant has contested that document D1 implicitly discloses the feature of claim 1 of:

"detecting services provided by the at least one storage medium".

The board is not convinced by the appellant's argument that it is not necessary to detect "applications" which

are prestored and unchanged "applications" on the storage medium.

Rather, since in D1 the storage medium may be removable (see D1 in column 4, lines 46 to 49), it is evident that a detection of services provided by the respective storage medium must necessarily be performed at some stage before the method is executed. Otherwise, the entertainment and information processing device would not know which programs are provided by a respective new storage medium.

Therefore, D1 at least by providing a removable storage medium implicitly discloses a detection of services provided by the at least one storage medium.

3.1.4 The appellant has contested that document D1 discloses the feature of:

"detecting services provided by at least one service provider via a wireless data channel"

Document D1 in column 4, lines 23 to 30 discloses in particular the following: "Platform 24 comprises a communications platform that supports multiple applications that operate locally at mobile unit 12 and remotely using voice network 18 and NSC 14." The fact that the platform 24 via the communications platform provides remote access to multiple applications clearly implies that these remote services provided by a "service provider" must necessarily be detected via a wireless data channel.

The fact that D1 fails to disclose further details on what has to be understood as an "application" does not change the board's view in this respect, since the

general meaning of the term "services" in any case includes "applications" according to D1.

Consequently, D1 also discloses the feature of detecting services provided by at least one service provider via a wireless data channel.

3.1.5 The appellant has contested that document D1 discloses the feature of:

"generating, in response to the detection of services, a list of services available at the at least one storage medium and the at least one service provider"

The appellant has acknowledged that document D1 in column 5, lines 33 to 46 discloses the provision of menu structures comprising a hierarchical arrangement. It is evident that these structures are not technically unrelated to the applications, as has been argued by the appellant. To the contrary, menu structures without adaptation to the available and thus detected services make no sense, because a selection of the available services would not then be possible. The hierarchically arranged menu structures are also described in document D1 with respect to the same embodiment as the remote detection of services at the service provider (see D1 in column 5, lines 33 to 46).

Document D1 therefore at least implicitly discloses the feature of generating, in response to the detection of services, a list of services available at the at least one storage medium and the at least one service provider.

3.1.6 The appellant has further contested that document D1 discloses that:

"the browser interface allows a selection of services available from the at least one storage medium and the service provider"

The appellant did not contest that document D1 in column 13, lines 1 to 20 explicitly discloses a browser interface to establish a communication session directly with a particular service provider. The board has doubts as to whether the term "particular" used there can be interpreted in the sense that a service provider is selected prior to the establishment of a communication session, as has been argued by the appellant. Notwithstanding these doubts, the board is of the opinion that selecting a particular service provider before establishing a direct communication session with that particular service provider is not excluded by the wording of claim 1. The appellant's argument in this respect is therefore irrelevant.

Document D1 therefore discloses the feature of a browser interface allowing for a selection of services available from the at least one storage medium and the service provider.

3.1.7 The appellant has further contested that document D1 discloses:

"downloading a service code module corresponding to the selected service from the at least one service provider for execution"

According to D1 in column 27, lines 6 to 9, data sent to the mobile unit may include software updates, which

clearly correspond to executable service code modules in the sense of claim 1. These executable service code modules are further downloaded corresponding to a selected service (see D1 in column 26, line 56: "service message").

Document D1 therefore also discloses the feature of downloading a service code module corresponding to the selected service from the at least one service provider for execution.

3.1.8 In conclusion, document D1 discloses all the features of claim 1, the subject-matter of which is therefore not new in the sense of Article 54.

4. *Auxiliary requests 1 to 3*

4.1 *Novelty (Article 54 EPC)*

4.1.1 With respect to the auxiliary requests, the appellant in the statement of grounds of appeal has merely stated that the independent claims of auxiliary requests 1, 2 and 3 included the same limitation as the main request. Specifically, the independent claims included the limitation of downloading a "service code module" in addition to the reading/transferring of "service data". Moreover, both terms "service code module" and "service data" had been clarified to emphasize the difference there between.

The appellant further made the general finding that the prior art documents D1 and D2 failed to disclose, among other things, the downloading of a "service code module" as defined in the independent claims 1, 17, and 20.

4.1.2 The board observes that claim 1 of auxiliary request 1 includes additional optional features, and is intended to clarify the meaning of the term "service code module" to be an executable program. The board does not consider this amendment to provide any substantive restriction of claim 1, since the claim already refers to "executing service code modules", thereby implying that the service code modules comprise executable programs. The amendment therefore does not distinguish the subject-matter of claim 1 from the teaching of document D1 and the board consequently concludes that the subject-matter of claim 1 is not new for the reasons set out above.

4.1.3 Claim 1 of auxiliary request 2 essentially specifies the type of service to be provided by the vehicle entertainment and information processing device to comprise at least one of: address book management, navigation, text-to-speech, and the respectively related service data is a user's address book, navigation data in a navigation database, and a speech database.

The provision of at least some of the services specified in claim 1 is already known from D1, such as navigation services, see for example column 22, lines 25 to 30: "... if service center 16 provides direction services, then database 360 may store maps, geographical coordinates, or other geographical information...". The amendment therefore does not distinguish the subject-matter of claim 1 over D1.

4.1.4 Claim 1 of the auxiliary request 3 further specifies the type of service to be provided by the vehicle entertainment and information processing device to comprise navigation, and the related service data is at

least one of: geographic location or coordinates (e.g. longitude and latitude), the name of a point of interest or a hotel, their address, information on prices of hotels, motels, bars or restaurants, information to display a street map to the user.

As the board has found with respect to claim 1 of auxiliary request 2, the provision of navigation services and related service data is already known from D1. The amendment therefore does not distinguish the subject-matter of claim 1 over D1.

4.1.5 The subject-matter of claim 1 of each of the auxiliary requests 1 to 3 is therefore not new in the sense of Article 54 EPC.

4.2 *Conclusion*

Since none of the appellant's requests was allowable, the appeal had to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



U. Bultmann

R. Lord

Decision electronically authenticated