

**Internal distribution code:**

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

**Datasheet for the decision  
of 2 April 2019**

**Case Number:** T 1983/15 - 3.5.05

**Application Number:** 08718633.4

**Publication Number:** 2149100

**IPC:** G06F19/00

**Language of the proceedings:** EN

**Title of invention:**  
DETECTING ABNORMAL TIME INTERVALS

**Applicant:**  
British Telecommunications public limited company

**Headword:**  
Established node/BT

**Relevant legal provisions:**  
EPC Art. 84

**Keyword:**  
Claims - clarity (no)

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
**Chambres de recours**

Boards of Appeal of the  
European Patent Office  
Richard-Reitzner-Allee 8  
85540 Haar  
GERMANY  
Tel. +49 (0)89 2399-0  
Fax +49 (0)89 2399-4465

Case Number: T 1983/15 - 3.5.05

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.05**  
**of 2 April 2019**

**Appellant:** British Telecommunications public limited  
(Applicant) company  
81 Newgate Street  
London EC1A 7AJ (GB)

**Representative:** British Telecommunications public limited  
company  
Intellectual Property Department  
Ground Floor, Faraday Building  
1 Knightrider Street  
London EC4V 5BT (GB)

**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 3 June 2015  
refusing European patent application No.  
08718633.4 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chair** A. Ritzka  
**Members:** E. Konak  
D. Prietzel-Funk

## Summary of Facts and Submissions

- I. The appeal is against the decision of the examining division to refuse the patent application in suit.
- II. The examining division decided that the claims lacked, *inter alia*, clarity (Article 84 EPC).
- III. The appellant requested that the decision be set aside and a patent be granted based on the claims of the sole request on file. It requested oral proceedings as an auxiliary measure.
- IV. In its preliminary opinion annexed to the summons to oral proceedings, the board raised objections, *inter alia*, under Article 84 EPC.
- V. The appellant did not reply to the board's preliminary opinion in substance. It informed the board, however, that it would not attend the oral proceedings.
- VI. The oral proceedings were held in the absence of the appellant.
- VII. Claim 1 reads as follows:

"A system for determining if a time period after a sensing node (60, 62, 64 or 66) has sensed an occurrence of an event exceeds a threshold value, including

- establishing means (112) for establishing a plurality of reference threshold values, wherein each reference threshold value is associated with a set of reference inter-event time intervals or metrics statistically derived therefrom,

- calculating means (112) for calculating a set of preliminary time periods or metrics statistically derived therefrom, based on lengths of time between occurrences of events sensed by the sensing node,
- comparing means for comparing the set of preliminary inter-event time periods or metrics statistically derived therefrom, with each set of reference inter-event time intervals or metrics statistically derived therefrom,
- identifying means for identifying the reference threshold value associated with the set of reference inter-event time periods or metrics statistically derived therefrom, being the closest match to the set of preliminary inter-event time periods or metrics statistically derived therefrom, and
- determining means for determining if, upon the sensing node sensing a further occurrence of an event, the time period after the sensing node has sensed the further occurrence of the event exceeds the identified reference threshold value before a yet further occurrence of an event is sensed by the sensing node or an associated sensing node."

### **Reasons for the Decision**

1. In the annex to the summons to oral proceedings, the board held that the term "establishing [reference threshold values]" in claim 1 was ambiguous and hence lacked clarity (Article 84 EPC). The board further notified the appellant that the clarification of this term and the related concept of an "established node" was crucial for a meaningful assessment of inventive step. The appellant's submission in its statement setting out the grounds of appeal (see page 2, first paragraph), that the specification discussed several prior-art methods to establish threshold values, was

not sufficient to address this lack of clarity for the following reasons:

- 1.1 One of the two prior-art methods discussed in the specification was determining a fixed threshold value for a sensor at the outset, either factory-set or set by the parties installing the sensors at the dwellings (page 3, first full paragraph). The board asked the appellant to clarify whether such a sensor, which is not adaptive, i.e. which does not undergo any learning or training period, but merely stores a predetermined threshold value, should also be understood as an "established node". This interpretation was plausible in view of page 4, lines 24 to 26 and lines 32 to 34 of the description. If this interpretation were correct, even copying the predetermined, factory-set threshold value of one node to a newly-installed node would fall within the scope of "establishing [reference threshold values]". Such an embodiment, however, did not fit in with the appellant's submissions in its statement setting out the grounds of appeal with respect to inventive step.
- 1.2 The submissions in the statement setting out the grounds of appeal instead gave the impression that an "established node" should be understood as an adaptive node, which, as described e.g. in page 6, lines 13 to 15, has *"already gone through a full learning or training period and which already has associated with it established threshold values for reference by the newly-installed nodes"*.
- 1.3 The board added that, even if the term "established node" were to be understood in accordance with this passage, it still had to be clarified whether a threshold value being "established" meant that (i) it

was now fixed for the so-called "established node", its training period being over, or (ii) an "established node" still continued learning even after its training was over, its being "established" meaning instead that its threshold was accepted as a suitable reference for newly-installed nodes.

2. The appellant did not make any written submissions to clarify these open issues and did not attend the oral proceedings. Under these circumstances the board sees no reason to change its opinion in the annex to the summons to oral proceedings and judges that the claims lack clarity (Article 84 EPC).
3. Since there is no allowable request on file, the appeal is not allowable.

## Order

### **For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chair:



C. Spira

A. Ritzka

Decision electronically authenticated