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**Datasheet for the decision
of 28 July 2021**

Case Number: T 2829/18 - 3.5.05

Application Number: 10012440.3

Publication Number: 2273750

IPC: H04L29/06, H04L12/56, H04L1/16,
H04L1/18

Language of the proceedings: EN

Title of invention:

Method for handling timers after an RLC reset or re-establishment in a wireless communications system

Applicant:

Innovative Sonic Limited

Headword:

Handling of a "Timer_Poll_Periodic" timer for an RLC of a UMTS wireless communications system

Relevant legal provisions:

EPC Art. 54(2), 56

Keyword:

Novelty - state of the art
Inventive step - after amendment

Decisions cited:

T 2330/10, T 0113/00



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Case Number: T 2829/18 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 28 July 2021

Appellant: Innovative Sonic Limited
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 11 July 2018
refusing European patent application No.
10012440.3 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair A. Ritzka
Members: P. Tabery
E. Mille

Summary of Facts and Submissions

- I. The appeal is directed against the examining division's decision dated 11 July 2018 refusing European patent application No. 10012440.3.
- II. The application under scrutiny is a divisional application of earlier application 07000930.3 filed on 17 January 2007. This earlier (parent) application is a divisional application of an even earlier (grandparent) application 03005944.8 filed on 17 March 2003.
- III. The examining division decided that the application did not fulfil the requirements of Articles 54(2) and 56 EPC (main request and auxiliary request) as well as Articles 76(1) and 84 EPC (main request).
- IV. The documents referred to by the examining division included:
- D1** ETSI: "Universal Mobile Telecommunications System (UMTS), RLC Protocol Specification (3GPP TS 25.322 V5.1.0 Release 5)", June 2002, XP002262982
- D2** ETSI: "Universal Mobile Telecommunications System (UMTS), RLC Protocol Specification (3GPP TS 25.322 V3.2.0 Release 1999)", March 2000, XP014008727
- In the impugned decision, document **D2** is also referred to as document **E7**.
- V. In its statement setting out the grounds of appeal, the appellant (applicant) requested that a patent be

granted on the basis of the claims of the main request or the auxiliary request.

VI. In a communication pursuant to Article 15(1) RPBA, the board set out its provisional opinion on the case. The board concurred with the examining division that the main request did not meet the requirements of Articles 56 and 76(1) EPC. With respect to the auxiliary request, the board considered that it did not meet the requirements of these articles either.

VII. In a reply dated 28 June 2021, the appellant submitted a new main request and new auxiliary requests 1 to 3.

VIII. Oral proceedings were held on 28 July 2021. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims submitted as auxiliary request 2 (sole request).

IX. **Claim 1** of the **sole request** comprises the following features (as labelled by the board):

A method for handling timers in a wireless communication system according to the Universal Mobile Telecommunications System specification of the European Telecommunications Standards Institute, the method comprising:

(1.1) starting a Timer_Poll_Periodic timer for a Radio Link Control Acknowledge Mode, hereinafter called as RLC AM, entity; and

(1.2) not stopping the Timer_Poll_Periodic timer in response to the reception of a RESET PDU.

Claim 2 of the **sole request** reads as follows:

A method for handling timers in a wireless communication system according to the Universal Mobile Telecommunications System specification of the European

Telecommunications Standards Institute, the method comprising:

(2.1) starting a `Timer_Poll_Periodic` timer for a Radio Link Control Acknowledge Mode, hereinafter called as RLC AM, entity;

(2.2) performing a reset procedure for the RLC AM entity;

(2.3) restarting the `Timer_Poll_Periodic` timer in response to the `Timer_Poll_Periodic` timer expiring prior to the completion of the reset procedure; and

(2.4) not stopping the `Timer_Poll_Periodic` timer in response to the reception of a RESET ACK PDU.

Reasons for the Decision

1. The application concerns the handling of a "`Timer_Poll_Periodic`" timer for a Radio Link Control Acknowledge Mode (RLC AM) entity of a UMTS wireless communications system.

2. Admissibility (Article 13(1) RPBA)

The set of claims according to the sole request differs from the set of claims considered in the impugned decision in that claims 1, 3, 4 and 6 have been deleted.

Since deleting entire claims furthers procedural economy, the board decides to admit the sole request into the proceedings.

3. Clarity (Article 84 EPC)

The board notes that the impugned decision raised an objection of lack of clarity with respect to claim 3.

Since claim 3 is not in the set of claims under scrutiny, this objection is now irrelevant.

4. Added subject-matter (Article 76(1) EPC)

Objections regarding added subject-matter were raised with respect to claims 3, 4 and 6 during the proceedings. As these claims are not in the present set of claims, the objections no longer apply.

5. Novelty (Article 54(1) EPC)

In line with the impugned decision and as argued by the appellant, the board holds that document **D2** fails to disclose feature (1.2) of claim 1, which thus constitutes the distinguishing feature. The board finds that document **D2** explicitly discloses that the *"RESET PDU is used ... to reset all ... protocol timers"* (see item b) in section 9.1.2 on page 18), which is clearly different from *"not stopping"* the timer.

The same applies by analogy to feature (2.4) of claim 2, since the receiving of the RESET ACK PDU mentioned there concerns, in the context of the reset procedure, the entity corresponding to the entity which received the RESET PDU.

The subject-matter of **claims 1 and 2** is therefore novel.

6. Inventive step (Article 56 EPC)

6.1 Closest prior art

In the statement setting out the grounds of appeal, the appellant argues that document **D1**, rather than document **D2**, should be regarded as the closest prior art, adding that document **D1** supersedes the preceding versions of the same standard, including document **D2**. It argues that the skilled person would not start from an older version, since this would put them at risk of not complying with the standard.

In the impugned decision, the examining division followed the reasoning provided by the board of appeal in section 9.2.5 of decision T 2330/10 concerning the grandparent application.

This board is not convinced by the appellant's argument and confirms the reasoning provided on the same question in decision T 2330/10. In particular, this board considers that the skilled person would assume that any standard document issued by ETSI on the subject at issue would be a promising starting point. The board notes that standardisation bodies might revert to a superseded version of a standard if later developments turn out to be disadvantageous.

Furthermore, the board notes that *"the state of the art shall be held to comprise everything made available to the public ... before the date of filing of the European patent application"* (Article 54(2) EPC).

Therefore, what is claimed may also be examined for an inventive step based on an earlier prior-art document, such as document **D2** (in line with decision T 0113/00, item 3.7).

As a consequence, the board considers that it has to be established whether the claimed subject-matter would have been obvious to the skilled person in view of either of documents **D1** and **D2**.

6.2 Technical effect and objective technical problem

In the impugned decision, the examining division formulated the technical problem to be solved starting from document **D2** as *"how to effectively operate the Timer_Poll_Periodic timer during and following a reset procedure"*.

The appellant argues that the cited prior art discloses that this timer is reset during a reset procedure (see document **D2**, item b) in section 9.1.2 on page 18) and

thus stopped. The appellant adds that other mechanisms for implementing a poll are also disclosed (see document **D2**, section 9.7.1 on page 35). Thus, compared to the solution of document **D2**, where the timers are reset, the technical effect achieved by the distinguishing feature is that pending PDUs are considered earlier. The resulting objective technical problem is *"how to modify the known reset procedure such that pending PDUs are considered earlier"*.

The board notes that document **D2** indeed discloses that, during a reset procedure, all timers are reset (see document **D2**, item b) in section 9.1.2 on page 18), which implies stopping them, i.e. terminating their operation. Even if the timer were restarted immediately after the reset, it would in any case expire later than if it had not been stopped, in accordance with the claimed solution. Essentially, in line with what has been presented by the appellant, the board considers that the objective technical problem may be formulated as *"avoiding undue polling delay in the context of a reset procedure"*.

6.3 Obviousness

The appellant argues that, since document **D2** discloses causing a poll without using a timer at all, the skilled person has no motivation to act against the teaching of document **D2** that all timers are to be reset/stopped during a reset procedure. Therefore, the skilled person would not arrive at the distinguishing feature without employing inventive skill.

The board considers that the skilled person could have recognised that, when performing the reset procedure, it is only necessary to reset specific timers in order to achieve synchronisation of the RLC entities, which is described as being the purpose of the RLC reset procedure. Moreover, the skilled person could have

realised the existence of the above problem and considered solving it by not stopping the "*Timer_Poll_Periodic*" timer, in addition or as an alternative to the other ways of effectuating a poll disclosed in document **D2**. However, document **D2** does not give the skilled person any pointer towards this problem or towards the claimed solution. On the contrary, document **D2** discloses resetting the timer, which implies stopping it, i.e. the opposite of distinguishing feature (1.2). In view of the above, the skilled person would not arrive at the distinguishing features without employing inventive skill. Therefore, the subject-matter of claim 1 involves an inventive step over what is known from document **D2**.

- 6.4 Since the feature distinguishing the subject-matter of claim 1 from document **D2** also distinguishes it from document **D1**, and as **D1** likewise fails to mention any pointer towards the claimed solution, the board finds that the subject-matter of claim 1 involves an inventive step over what is known from document **D1** as well.
- 6.5 Similarly, the subject-matter of claim 2 involves an inventive step over what is known from the cited prior art since it contains the same distinguishing feature as claim 1.
- 6.6 In view of the above, the **sole request** is allowable.
7. Consequently, the appeal is allowable.

Order

For these reasons it is decided that:

The decision under appeal is set aside and the case is remitted to the examining division, with the order to grant a patent on the basis of claims 1 and 2 of auxiliary request 2 filed with the appellant's letter dated 28 June 2021, description and drawings to be adapted.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated