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**Datasheet for the decision  
of 19 August 2021**

**Case Number:** T 2833/18 - 3.5.05

**Application Number:** 07000931.1

**Publication Number:** 1777862

**IPC:** H04L1/16, H04L1/18, H04L29/08

**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\_Status\_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, T 2829/18



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Case Number: T 2833/18 - 3.5.05

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.05**  
**of 19 August 2021**

**Appellant:** Innovative Sonic Limited  
(Applicant) 2nd Floor, The Axis  
26 Cybercity  
Ebene 72201 (MU)

**Representative:** Hoefler & Partner Patentanwälte mbB  
Pilgersheimer Straße 20  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 13 July 2018  
refusing European patent application No.  
07000931.1 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 13 July 2018 refusing European patent application No. 07000931.1.
- II. The application under scrutiny is a divisional application of earlier (parent) application EP 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 Article 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 **D1** is also referred to as document **E1** and 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 either the main request or the auxiliary request.

VI. In a communication pursuant to Article 15(1) RPBA, the board set out its preliminary opinion on the case. The board concurred with the appellant that claim 3 was clear. On the other hand, the board considered that claim 2 contravened Article 76(1) EPC. The board further concurred with the appellant that claim 4 was novel over document **D2**. However, the board concurred with the examining division that the main request did not meet the requirements of Article 56 EPC. As for the auxiliary request, the board considered that it did not meet the requirements of Articles 56 and 76(1) EPC.

VII. In a reply dated 19 July 2021, the appellant submitted a new main request and new auxiliary requests 1 and 2.

VIII. In view of the developments in parallel case T 2829/18, the board informed the appellant about its updated preliminary opinion by letter dated 4 August 2021.

IX. Oral proceedings were held on 19 August 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).

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

A method for handling a Timer\_Status\_Periodic timer in a Radio Link Control Acknowledged Mode, called RLC AM hereinafter, entity in a wireless communication system,

(1.1) wherein the Timer\_Status\_Periodic timer is started when the RLC AM entity is created, and

(1.2) when the timer expires the transmission of a status report shall be triggered and the timer shall be restarted,

comprising:

(1.3) starting the `Timer_Status_Periodic` timer in the RLC AM entity;

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

characterized by

(1.5) not stopping the `Timer_Status_Periodic` timer in response to the reception of a RESET PDU or a RESET ACK PDU.

### **Reasons for the Decision**

1. The application concerns the handling of a "`Timer_Status_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 that of the main request considered in the impugned decision in that claims 2 and 4 have been deleted.  
  
Since deleting entire claims furthers procedural economy, the board decided to admit the sole request into the proceedings.
3. Clarity (Article 84 EPC)  
  
In the impugned decision, the examining division concluded that former dependent claim 3 (which is identical to present claim 2) lacked clarity due to the contradicting features it mentioned. In particular, "*maintaining a value of the ... timer*" had to be interpreted as "*not stopping*". Since "*not stopping*" was already mentioned in claim 1 (on which former claim 3 was dependent), this feature was redundant. The claims and the description did not provide any other meaning.

In the statement setting out the grounds of appeal, the appellant essentially argued that the step of "*maintaining*" was equivalent to "*not stopping the timer*" but was more specific as it stated that the "*value and operation*" were to be maintained.

The board considers that, in the context of document **D2**, a timer is set by assigning it an absolute time in the future, i.e. the time at which it will expire, as evident from page 104, 3rd SDL block:

```
"Set(NOW+timer_durations!status_periodic,  
Timer_Status_Periodic)"
```

Hence, "*maintaining a value of a timer*" and "*maintaining operation of the timer*" claimed in current claim 2 may be understood as constituting sub-steps of the "*not stopping a timer*" claimed in claim 1. The board thus finds that **claim 2** is clear.

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

An objection regarding added subject-matter was raised with respect to claim 2 during the appeal proceedings. As the current set of claims does not include this claim, the objection no longer applies.

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 (1.5) 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 subject-matter of **claim 1** 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 argued that document **D1** should be regarded as the closest prior art rather than document **D2**, adding that document **D1** superseded the preceding versions of the same standard, including document **D2**. It argued that the skilled person would not start from an older version since doing so would put them at risk of not complying with the standard.

In the impugned decision, the examining division adhered to 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 point 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 inventive step on the basis of 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 what remains to be established is 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\_Status\_Periodic timer during and following a reset procedure"*.

The appellant argued that the cited prior art disclosed that this timer was reset during a reset procedure (see document **D2**, item b) in section 9.1.2 on page 18) and thus stopped. The appellant added that other mechanisms for implementing a transmission of a status report were also disclosed (see document **D2**, section 9.7.2 on page 35). Therefore, compared with the solution in document **D2**, in which the timers are reset, the technical effect achieved by the distinguishing feature was that the status report is transmitted earlier. The resulting objective technical problem was *"how to modify the known reset procedure such that status reports are transmitted 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 the appellant has argued, the board considers that the objective technical problem may be formulated as *"avoiding an undue status report transmission delay in the context of a reset procedure"*.

## 6.3 Obviousness

The appellant argued that since document **D2** disclosed causing a transmission of a status report without using

a timer at all, the skilled person was not prompted to act against the teaching of document **D2** whereby all timers are to be reset/stopped during a reset procedure. Therefore, the skilled person would not arrive at the distinguishing feature without exercising inventive skill.

The board considers that the skilled person could have recognised that, when performing the reset procedure, it was only necessary to reset specific timers in order to synchronise 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\_Status\_Periodic*" timer, either in addition or as an alternative to the other ways of effecting 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 (1.5). In view of the above, the skilled person would not arrive at the distinguishing feature without exercising 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 **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 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 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 by the appellant with their letter dated 19 July 2021, description and drawings to be adapted.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated