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**Datasheet for the decision
of 28 March 2022**

Case Number: T 1585/19 - 3.5.05

Application Number: 10768066.2

Publication Number: 2483826

IPC: G06F19/00

Language of the proceedings: EN

Title of invention:

GENERIC METHOD OF HANDLING DICOM STRUCTURED REPORTING CONTENTS

Applicant:

Koninklijke Philips N.V.

Headword:

DICOM measurements to local measurements/PHILIPS

Relevant legal provisions:

RPBA Art. 12(4)

EPC Art. 56

Keyword:

Late-filed request - admitted (no) - submitted with the
statement of grounds of appeal

Inventive step - (no)

Decisions cited:

T 2324/14, T 1091/17



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Case Number: T 1585/19 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 28 March 2022

Appellant: Koninklijke Philips N.V.
(Applicant) High Tech Campus 52
5656 AG Eindhoven (NL)

Representative: Philips Intellectual Property & Standards
High Tech Campus 52
5656 AG Eindhoven (NL)

Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 17 December
2018 refusing European patent application No.
10768066.2 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair A. Ritzka
Members: E. Konak
E. Mille

Summary of Facts and Submissions

- I. The appeal is against the examining division's decision to refuse the application. The examining division decided that claim 1 of the main request and auxiliary requests 1 to 3 then on file did not involve an inventive step (Article 56 EPC) over a notoriously known general-purpose computer. According to the contested decision, auxiliary requests 4 and 5 were not admitted into the examination proceedings since they did not *prima facie* meet the requirements of Article 56 EPC.

- II. With its statement setting out the grounds of appeal, the appellant filed a main request and auxiliary requests 1 to 5, whereby the main request and auxiliary requests 1, 2 and 4 correspond respectively to the main request and auxiliary requests 2, 4 and 5 on which the contested decision is based. It requested that the decision be set aside, that a patent be granted on the basis of one of these requests and, as an auxiliary measure, that oral proceedings be scheduled.

- III. In its preliminary opinion issued in preparation for oral proceedings, the board communicated that it was minded not to admit auxiliary requests 3 and 5 and raised objections under Article 56 EPC against the remaining requests.

- IV. Oral proceedings were held before the board. The appellant's final requests were that the decision under appeal be set aside and that a patent be granted on the basis of the set of claims of the main request or, alternatively, of any of auxiliary requests 1 to 5, all

of which were filed with the statement setting out the grounds of appeal.

V. Claim 1 of the main request reads as follows:

"A method for mapping standard measurements to local measurements, comprising:
reading a structured report information object;
matching the standard measurements from the structured report information object to corresponding existing local measurements from a local measurement database;
generating a summary page including the matched standard measurements and the corresponding existing local measurements and further including unmatched standard measurements that do not correspond to local measurements; and
matching the unmatched standard measurements by:
 creating a new local measurement; or
 selecting an existing local measurement from the local measurement database."

VI. Claim 1 of auxiliary request 1 differs from claim 1 of the main request in that it has the following additional text at the end:

"and
storing the matching of the unmatched standard measurements in the local measurement database."

VII. Claim 1 of auxiliary request 2 differs from claim 1 of auxiliary request 1 as follows (with the deletions ~~struck through~~ and the additions underlined):

"A method for mapping ~~standard~~ Digital Imaging and Communications in Medicine (DICOM) measurements to local measurements, comprising:

reading a structured report information object;
matching the ~~standard~~ DICOM measurements from the structured report information object to corresponding existing local measurements from a local measurement database;
generating a summary page including the matched ~~standard~~ DICOM measurements and the corresponding existing local measurements and further including unmatched ~~standard~~ DICOM measurements that do not correspond to local measurements;
matching the unmatched ~~standard~~ DICOM measurements by:
 creating a new local measurement; or
 selecting an existing local measurement from the local measurement database; and
storing the matching of the unmatched DICOM ~~standard~~ measurements in the local measurement database."

VIII. Claim 1 of auxiliary request 3 reads as follows:

"A method for mapping Digital Imaging and Communications in Medicine (DICOM) measurements to local measurements, comprising:
reading a structured report information object, which is received from a sender that encoded local measurements of the sender to DICOM measurements, by a receiver;
matching the DICOM measurements from the structured report information object to corresponding existing local measurements of the receiver from a local measurement database of the receiver;
generating a summary page including the matched DICOM measurements and the corresponding existing local measurements of the receiver and further including unmatched DICOM measurements that do not correspond to local measurements of the receiver;
matching the unmatched DICOM measurements by:

creating a new local measurement of the receiver;
or

selecting an existing local measurement of the receiver from the local measurement database; and storing the matching of the unmatched DICOM measurements in the local measurement database of the receiver."

IX. Claim 1 of auxiliary request 4 differs from claim 1 of auxiliary request 2 as follows (with the deletions ~~struck through~~ and the additions underlined):

"A method for mapping Digital Imaging and Communications in Medicine (DICOM) measurements from a structured report information object to medically-related local measurements, comprising:
storing, using a processor, existing medically-related local measurements in a local measurement database in a memory;
reading, using the processor, a the structured report information object, wherein the structured report information object includes medical image data transferred via a DICOM protocol into the DICOM measurements;
matching, using the processor, the DICOM measurements from the structured report information object to corresponding existing medically-related local measurements from a the local measurement database;
storing, using the processor, the matched existing medically-related local measurements and the corresponding DICOM measurements in the measurement database;
generating, using the processor, a summary page including the matched DICOM measurements and the corresponding existing medically-related local measurements and further including unmatched DICOM

measurements that do not correspond to existing medically-related local measurements;
matching the unmatched DICOM measurements by:
 creating a new medically-related local measurement;
or
 selecting an existing medically-related local measurement from the local measurement database; and
storing, using the processor, the matching of the unmatched DICOM measurements in the local measurement database."

X. Claim 1 of auxiliary request 5 reads as follows:

"A method for mapping Digital Imaging and Communications in Medicine (DICOM) measurements from a structured report information object, which is sent by a sender that encoded local measurements of the sender to the DICOM measurements and which is received by a receiver, to medically-related local measurements, comprising:
storing, using a processor of a receiver, existing medically-related local measurements of the receiver in a local measurement database in a memory of the receiver;
reading, using the processor, the structured report information object, wherein the structured report information object includes medical image data transferred via a DICOM protocol into the DICOM measurements;
matching, using the processor, the DICOM measurements from the structured report information object to corresponding existing medically-related local measurements of the receiver from the local measurement database;
storing, using the processor, the matched existing medically-related local measurements of the receiver

and the corresponding DICOM measurements in the measurement database;
generating, using the processor, a summary page including the matched DICOM measurements and the corresponding existing medically-related local measurements of the receiver and further including unmatched DICOM measurements that do not correspond to existing medically-related local measurements of the receiver;
matching the unmatched DICOM measurements by:
 creating a new medically-related local measurement of the receiver; or
 selecting an existing medically-related local measurement of the receiver from the local measurement database; and
storing, using the processor, the matching of the unmatched DICOM measurements in the local measurement database."

Reasons for the Decision

1. Admissibility of auxiliary requests 3, 4 and 5 (Article 12(4) RPBA 2007)
 - 1.1 In accordance with Article 12(4) RPBA 2007, the board has discretion not to admit requests which could have been presented or which were not admitted in the examination proceedings.
 - 1.2 Auxiliary requests 3 and 5, which were filed for the first time with the statement setting out the grounds of appeal, include amendments based on the description that were never presented before the examining division. However, the primary object of the appeal proceedings is to review the decision under appeal in a

judicial manner, not to continue the examination. Therefore, the board informed the appellant in its preliminary opinion that these requests could and should have been filed before the examining division and the board was minded not to admit them. At the oral proceedings, the appellant submitted that it did not have any comments in this respect. Under these circumstances, the board saw no reason to change its preliminary opinion and did not admit auxiliary requests 3 and 5 into the appeal proceedings (Article 12(4) RPBA 2007).

- 1.3 Although the contested decision states that auxiliary request 4 (then auxiliary request 5) was not admitted into the examination proceedings since it did not *prima facie* fulfil the requirements of Article 56 EPC, the examining division did examine this request for inventive step, just as it examined the other requests (see points 42-46 of the contested decision). The decision leaves no doubt that the examining division found this request to be deficient under Article 56 EPC with the same degree of conviction as the higher-ranking requests. Thus, the examining division did not limit its examination of this auxiliary request to *prima facie* considerations.

Therefore, although the examining division appears to have believed not to have admitted auxiliary request 4, it did in fact implicitly admit it (see T 2324/14, points 2.4 to 2.6 of the Reasons).

2. Main request and auxiliary requests 1, 2 and 4 - Inventive step (Article 56 EPC)
 - 2.1 Since claim 1 of the main request and of auxiliary requests 1, 2 and 4 was drafted so as to include

incrementally more features, the appellant agreed to discuss inventive step based on claim 1 of auxiliary request 4.

2.2 The contested decision came to the conclusion that claim 1 of auxiliary request 4 (then auxiliary request 5) lacked an inventive step over a notoriously known general-purpose computer. However, in view of the prior-art method of mapping DICOM measurements to local measurements as described in paragraphs [0001] to [0003] of the description as filed, which the appellant accepted as being prior art in its submissions during the examination proceedings, the board considers this to be a promising starting point.

2.3 Accordingly, the board took as the closest prior art the prior-art method described in the application, which the appellant agreed with. Paragraphs [0001] and [0002] of the description describes this method as follows:

"[0001][...] measurements [...] that are transferred via DICOM protocol are bundled in a software object called a structured report information object (SR Object). The SR Object is transferable through DICOM protocol from an SR Sender [...] to SR Receivers [...]."

"[0002] Specifically, the SR Sender converts/encodes local measurements to DICOM measurements using DICOM templates and codes. Upon receiving the DICOM measurements, the SR Receiver must convert/decode the DICOM measurements to local measurements according to the DICOM templates and codes. Mapping files are a set of hard-coded files that ship with the medical device/system, which handle mappings between DICOM

measurements and local measurements. For the SR Sender, the mapping file determines how to convert the local measurements to DICOM measurements. For the SR Receiver, the mapping file indicates how to convert the DICOM measurement to its local measurement for use by the end-user. The SR Receiver may include a set of mapping files, one mapping file corresponding to each target SR Sender system from which it may receive DICOM measurements."

2.4 The appellant argued that unlike the prior-art method, claim 1 of auxiliary request 4 did not require a mapping file. However, as the passage cited above from paragraph [0002] of the description states and as the appellant also explained at the oral proceedings, the function of a mapping file is to serve as a dictionary matching DICOM measurements to their corresponding local measurements. The file named "local measurement database" in claim 1 also stores "existing medically-related local measurements" and "the corresponding DICOM measurements" and serves the same function. Therefore, the board is not convinced that the method of claim 1 has a distinguishing feature in this respect. The claim merely uses different nomenclature for a mapping file.

2.5 Therefore, the board concludes that this prior-art method discloses all of the features of the method of claim 1 of auxiliary request 4 except the following:

"generating, using the processor, a summary page including the matched DICOM measurements and the corresponding existing medically-related local measurements and further including unmatched DICOM measurements that do not correspond to existing medically-related local measurements;

matching the unmatched DICOM measurements by:

creating a new medically-related local measurement;

or

selecting an existing medically-related local measurement from the local measurement database; and storing, using the processor, the matching of the unmatched DICOM measurements in the local measurement database."

- 2.6 The board indicated in its preliminary opinion that the summary page according to claim 1 was a presentation of information and did not contribute to the technical character of claim 1. The appellant argued in its letter of reply that the claimed generation step did not constitute a presentation of information. At the oral proceedings, the board drew the appellant's attention to the fact that the technical effect that it argued to be present, namely prompting the user to interact with the system to avoid a technical malfunction, was based on the assumption that the summary page was displayed. Furthermore, the ensuing step of matching unmatched measurements was described in the description, in particular in paragraph [0021], as being initiated by a user selection from the summary page, which required the summary page to be displayed. The appellant then elaborated that what it meant was that it did not matter how the summary page is displayed, but how it is generated and thus what is displayed to the user, which was technical information regarding matched and unmatched DICOM measurements. However, features describing what is presented to the user, in the present case those describing what the summary page includes, indisputably involve a presentation of information (see T 1091/17, point 1.6 of the Reasons).

- 2.7 The test employed in the case law to judge whether a presentation of information might exceptionally contribute to the technical character of the invention is to assess whether it credibly assists the user in performing a technical task by means of a continued and guided human-machine interaction process (see T 336/14, Headnote, and T 1802/13, page 10, second full paragraph). The appellant itself referred to these decisions to argue that the case at hand passes this test.
- 2.8 An example of a summary page generated by claim 1 and presented to the user is given in Fig. 3 of the application. As described in paragraphs [0019] and [0020] of the description, a blank node in the last row of the last column of the presented table indicates an unmatched DICOM measurement. The appellant argued that this blank node visually indicates a technical malfunction of the system to the user and assists them in addressing the technical malfunction by means of a continued and guided human-machine interaction process, as required by the test. However, the blank node in Fig. 3 does not give the user any guidance on how to address the malfunction. It is up to the user to come up with the solution to the malfunction, depending on their assessment of the information presented in other fields. Therefore, the board is not convinced that the summary page according to claim 1 passes the required test and produces any technical effect.
- 2.9 Nor do the subsequent steps of matching unmatched DICOM measurements, which involves a user entering a matching for any unmatched DICOM measurement in a graphical user interface, and storing the matching entered by the user, contribute to a technical effect of the claimed subject-matter. They involve merely data input and

storage. The appellant argued that it was not beyond reasonable doubt that these steps were notoriously known in their context on the date of priority of the application and the term "notorious" had to be interpreted narrowly. However, in the absence of any technical effect, it is of no relevance whether or not a particular feature was notorious for the skilled person.

2.10 For these reasons, neither claim 1 of auxiliary request 4 nor, *a fortiori*, claim 1 of the main request or of auxiliary requests 1 and 2 involves an inventive step (Article 56 EPC).

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated