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Datasheet for the decision of 13 July 2023

Case Number: T 1447/20 - 3.5.07

Application Number: 16002327.1

Publication Number: 3171283

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Language of the proceedings: EN

Title of invention:
Information processing apparatus, file monitoring system, control method of information processing apparatus, a control program, and recording medium

Applicant:
Canon Kabushiki Kaisha

Headword:
File monitoring system/CANON

Relevant legal provisions:
EPC Art. 56, 123(2)
RPBA 2020 Art. 12(4), 12(6), 13(1)

Keyword:

Amendments - main request and auxiliary request 0A - added subject-matter (yes)
Inventive step - auxiliary requests 0B and 0C - (no)
Late-filed auxiliary requests - auxiliary requests 1, 1A, 1B, 1C, 2, 2A, 2B and 2C - not admitted

Decisions cited:

T 0787/17

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Case Number: T 1447/20 - 3.5.07

D E C I S I O N
of Technical Board of Appeal 3.5.07
of 13 July 2023

Appellant: (Applicant)	Canon Kabushiki Kaisha 30-2, Shimomaruko 3-chome Ohta-ku Tokyo (JP)
Representative:	WESER & Kollegen Patentanwälte PartmbB Radeckestraße 43 81245 München (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 20 December 2019 refusing European patent application No. 16002327.1 pursuant to Article 97(2) EPC**

Composition of the Board:

Chair	J. Geschwind
Members:	R. de Man
	P. San-Bento Furtado

Summary of Facts and Submissions

I. The applicant appealed against the decision of the examining division refusing European patent application No. 16002327.1.

II. The examining division decided that the subject-matter of claim 1 of both the main request and the auxiliary request lacked inventive step over the following document:

D3: JP 2015 104069 A, 4 June 2015.

III. With its statement of grounds of appeal, the appellant replaced the requests considered in the decision under appeal with a new main request and new auxiliary requests 1 and 2.

IV. In a communication accompanying the summons to oral proceedings, the board expressed the preliminary view that the main request did not comply with Articles 84 and 123(2) EPC, that the subject-matter of its claim 1 lacked an inventive step over document D3, and that auxiliary requests 1 and 2 should not be admitted into the appeal proceedings.

V. With a letter filed in preparation for the oral proceedings, the appellant filed new auxiliary requests 0A, 0B, 0C, 1A, 1B, 1C, 2A, 2B and 2C.

VI. Oral proceedings took place as scheduled. At the end of the oral proceedings, the Chair announced the board's decision.

VII. 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 claims of the main request or, in the alternative, of one of auxiliary requests 0A, 0B, 0C, 1, 1A, 1B, 1C, 2, 2A, 2B and 2C, in that order.

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

"A file monitoring system including a multifunction peripheral (103) capable of performing FAX communication of image data with a FAX device, and communicably connected to a server (102) configured to store files using folders and an information processing apparatus (101) communicably connected to the server,

the multifunction peripheral comprising:

a transfer means for transferring a received FAX data as a file to a transfer destination folder in the server, wherein the transfer means is adapted to transfer the received FAX data according to transfer settings such that said file is transferred to a sub-folder of the transfer destination folder and such that the name of that sub-folder shows a reception date of the received FAX data;

the information processing apparatus comprising:

a setting means (303, 701) for obtaining setting information (S401) on the transfer destination folder in the server as a root folder to be monitored (706) from a setting operation performed by a user operating the setting means;

a determination means (301) for determining (S501) the root folder to be monitored based on the setting information (702) obtained by the setting means;

a detection means (305) for detecting (S513) that the transferred file is newly added to the

determined root folder by monitoring the determined root folder; and

a notification means (303) for notifying (S514) about the newly added file, when detected by the detection means;

characterized in that

the setting information obtained by the setting means further includes a first setting (703) indicating whether or not sub-folders of the root folder shall be monitored by the detection means, and a second setting (704) indicating a number of days as a monitoring condition for the monitoring according to the first setting;

and in that, if sub-folders of the root folder shall be monitored according to the setting information (S502:YES),

the determination means further determines (S505) whether a folder name of a sub-folder of the determined root folder shows a date,

wherein, if the folder name of this sub-folder shows a date, it is determined based on the setting information whether the date indicated in the folder name of this sub-folder satisfies the monitoring condition, wherein the monitoring condition is that the date indicated in the folder name of this sub-folder is within the number of days according to the second setting from the current date, and if the date indicated in the folder name of this sub-folder satisfies the monitoring condition, the detection means is instructed to perform the monitoring (S506) for this sub-folder of the determined root folder."

IX. Claim 1 of auxiliary request 0A differs from claim 1 of the main request in that the first paragraph has been replaced with:

"A file monitoring system including a multifunction peripheral (103) capable of performing FAX communication of image data with a FAX device, a file server (102) communicably connected to the multifunction peripheral and configured to store files using folders, and an information processing apparatus (101) communicably connected to the file server,"

and in that, in the "transfer means" and in the "setting means" features, the term "server" has been replaced with "file server".

X. Claim 1 of auxiliary request 0B reads as follows:

"A file monitoring system including a multifunction peripheral (103) capable of performing FAX communication of image data with a FAX device, a file server (102) communicably connected to the multifunction peripheral and configured to store files using folders, and an information processing apparatus (101) communicably connected to the file server,

the multifunction peripheral comprising:

a transfer means for transferring a received FAX data as a file to a transfer destination folder in the file server, wherein the transfer means is adapted to transfer the received FAX data according to transfer settings such that said file is transferred to a sub-folder of the transfer destination folder and such that the name of that sub-folder shows a reception date of the received FAX data;

the information processing apparatus comprising:

a setting means (303, 701) for obtaining setting information (S401, S501) on a folder in the file server that is specified in advance, denoted in the following as the specified folder, from a setting operation performed by a user operating the setting

means, wherein said setting information includes a first setting (702) that indicates whether or not the specified folder is to be monitored;

a determination means (301) for determining (S501) whether the specified folder is to be monitored based on the setting information (702) obtained by the setting means;

a detection means (305) for detecting (S513), if the determination means determines that the specified folder shall be monitored (S401:YES, S501), that a file is newly added to the specified folder by monitoring the specified folder; and

a notification means (303) for notifying (S514) about the newly added file, when detected by the detection means;

characterized in that

the setting information obtained by the setting means further includes a second setting (703) indicating whether or not sub-folders of the specified folder shall be monitored by the detection means, and a third setting (704) indicating a number of days as a monitoring condition for the monitoring according to the second setting; and

the determination means is further configured to determine (S502) whether or not sub-folders of the specified folder shall be monitored based on the setting information obtained by the setting means;

and in that, if the determination means determines that sub-folders of the specified folder shall be monitored according to the setting information (S502:YES),

the determination means further determines (S505) whether a folder name of a sub-folder of the specified folder shows a date,

wherein, if the folder name of this sub-folder shows a date, it is determined based on the setting

information whether the date indicated in the folder name of this sub-folder satisfies the monitoring condition, wherein the monitoring condition is that the date indicated in the folder name of this sub-folder is within the number of days according to the third setting from the current date, and if the date indicated in the folder name of this sub-folder satisfies the monitoring condition, the detection means is instructed to perform the monitoring (S506) for this sub-folder of the specified folder."

XI. Claim 1 of auxiliary request 0C reads as follows:

"A file monitoring system including a multifunction peripheral (103) capable of performing FAX communication of image data with a FAX device, a file server (102) communicably connected to the multifunction peripheral and configured to store files using folders, and an information processing apparatus (101) communicably connected to the file server,

the multifunction peripheral comprising:

a transfer means for transferring a received FAX data as a file to a transfer destination folder in the file server, wherein the transfer means is adapted to transfer the received FAX data according to transfer settings such that said file is transferred to a sub-folder of the transfer destination folder and such that the name of that sub-folder shows a reception date of the received FAX data;

the information processing apparatus comprising:

an interface device (207) for communicating with the file server;

a file information acquisition means (304) for acquiring file and folder information stored in the file server through the interface device;

a setting means (303, 701) for obtaining setting information (S401, S501) on a folder in the file server that is specified in advance, denoted in the following as the specified folder, from a setting operation performed by a user operating the setting means, wherein said setting information includes a first setting (702) that indicates whether or not the specified folder is to be monitored;

a monitoring information storage means (306) for storing (S406, S515) setting information obtained by the setting means and file and folder information acquired by the file information acquisition means;

a determination means (301) for determining (S501) whether the specified folder is to be monitored based on the setting information (702) stored by the monitoring information storage means;

a detection means (305) for detecting (S513), if the determination means determines that the specified folder shall be monitored (S401:YES, S501), that a file is newly added to the specified folder by monitoring the specified folder, wherein in said monitoring, the detection means compares file and folder information regarding the specified folder that is acquired by the file information acquisition means with file and folder information regarding the specified folder at a time of a last monitoring execution that is stored by the monitoring information storage means (306) on a regular basis to determine a file newly added to the specified folder; and

a notification means (303) for notifying (S514) about the newly added file, when detected by the detection means;

characterized in that

the setting information obtained by the setting means further includes a second setting (703) indicating whether or not sub-folders of the specified

folder shall be monitored by the detection means, and a third setting (704) indicating a number of days as a monitoring condition for the monitoring according to the second setting; and

the determination means is further configured to determine (S502) whether or not sub-folders of the specified folder shall be monitored based on the setting information stored by the monitoring information storage means;

and in that, if the determination means determines that sub-folders of the specified folder shall be monitored according to the setting information stored by the monitoring information storage means (S502:YES),

the determination means further determines (S505) whether a folder name of a sub-folder of the specified folder shows a date on the basis of a list of sub-folders one folder level under the specified folder acquired by the file information acquisition means,

wherein, if the folder name of this sub-folder shows a date, it is determined based on the setting information stored by the monitoring information storage means whether the date indicated in the folder name of this sub-folder satisfies the monitoring condition, wherein the monitoring condition is that the date indicated in the folder name of this sub-folder is within the number of days according to the third setting from the current date, and if the date indicated in the folder name of this sub-folder satisfies the monitoring condition, the detection means is instructed to perform the monitoring (S506) for this sub-folder of the specified folder."

XII. Claim 1 of auxiliary request 1, 1A, 1B and 1C differs from claim 1 of the main request, auxiliary request 0A, 0B and 0C in that the word "and" has been deleted from

"and in that, if ..." and in that the following text has been added at the end of the claim:

"and in that the second setting (704) indicates a number of days between 1 and 5".

XIII. Claim 1 of auxiliary request 2, 2A, 2B and 2C differs from claim 1 of the auxiliary request 1, 1A, 1B and 1C in that the word "and" has been deleted from "and in that the second setting" and in that the following text has been added at the end of the claim:

"in that the determination means is further configured to determine whether a current time of the information processing apparatus is in the vicinity of a date change, and

in that the determination means is adapted

to determine, if the current time is before a date change, whether or not the date indicated in the folder name of a sub-folder satisfies the monitoring condition by determining whether or not the date indicated in the folder name of this folder is within a number of days, which is a number having one day added to the predetermined number of days, from a next day after the current date and time, and

to determine, if the current time is after the date change, as the monitoring range a range of a number of days, which is a number having one day added to the predetermined number of days, from the current date and time."

XIV. The appellant's arguments, where relevant to this decision, are discussed in the detail below.

Reasons for the Decision

1. The application relates to a file monitoring system.

Main request and auxiliary requests 0A, 0B and 0C

2. *Admission into the appeal proceedings*

2.1 The main request corresponds to the auxiliary request considered in the decision under appeal with two editorial amendments which do not raise any new issues. The board has no objection to its admission under Article 12(4) RPBA 2020.

2.2 Auxiliary requests 0A, 0B and 0C are based on the main request with amendments addressing clarity and added-matter objections raised for the first time in the board's communication. Their admission into the appeal proceedings is therefore justified by exceptional circumstances (Article 13(2) RPBA 2020).

Main request and auxiliary request 0A

3. *Added subject-matter*

3.1 Claim 1 of the main request includes the following two features:

(a) a setting means for obtaining setting information on the transfer destination folder in the server as a root folder to be monitored from a setting operation performed by a user operating the setting means;

(b) a determination means for determining the root folder to be monitored based on the setting information obtained by the setting means.

Claim 1 of auxiliary request 0A includes the same two features, but with the word "file" inserted before "server".

3.2 Since feature (a) refers to "setting information on the transfer destination folder in the server as a root folder to be monitored", and since the determination means of feature (b) uses this setting information to determine "the root folder to be monitored", the "setting information" is information that somehow specifies the "root folder" (or "transfer destination folder"). For example, it may be a folder name or a path name.

However, the application as filed does not disclose any "setting means" of an information processing apparatus by which the user can enter a folder or path name or otherwise specify the root folder. It follows that features (a) and (b) have no basis in the application as filed.

3.3 The appellant did not contest that the application provided no basis for a "setting means" allowing the user to specify the root folder, but it submitted that the board's interpretation of features (a) and (b) was not correct. Feature (a) was not intended to indicate that the root folder was specified by the user through the setting means; rather, it expressed that the settings for that folder were specified by the user. Feature (b) had been introduced because in order for the file monitoring application to work, the application had to know which folder had to be monitored. The application had to determine not only which folder was the root folder but also whether or

not that folder was to be monitored, and this was the determination that was claimed.

However, feature (b) is not concerned with determining "whether or not" the root folder is to be monitored. Its wording leaves no doubt that it is "the root folder to be monitored" which is determined on the basis of the setting information. The appellant's arguments are therefore not convincing.

3.4 Hence, the main request and auxiliary request 0A do not meet the requirements of Article 123(2) EPC.

Auxiliary request 0B

4. *The invention as defined by claim 1*

4.1 Claim 1 of auxiliary request 0B is directed to a file monitoring system including:

- a multifunction peripheral (MFP),
- a file server communicably connected to the MFP, and
- an information processing apparatus communicably connected to the file server.

4.2 The file server is configured to store files using folders.

4.3 The MFP is capable of performing FAX communication of image date with a FAX device. It includes a transfer means for transferring received FAX data as a file to a transfer destination folder in the file server according to transfer settings such that the file is transferred to a sub-folder of the transfer destination folder, the sub-folder having a name showing the reception date of the received FAX data.

4.4 The information processing apparatus includes a setting means, a determination means, a detection means and a notification means.

4.4.1 The setting means allows a user to input "setting information" on a predetermined "specified folder" in the file server. The setting information includes:
- a first setting indicating whether or not the specified folder is to be monitored;
- a second setting indicating whether or not sub-folders of the specified folder are to be monitored;
- a third setting indicating a number of days as a monitoring condition.

4.4.2 Based on the setting information, the determination means determines whether the specified folder is to be monitored.

If the specified folder is to be monitored, the detection means monitors the specified folder to detect that a file is newly added to it.

4.4.3 Based on the setting information, the determination means also determines whether or not sub-folders of the specified folder are to be monitored.

If sub-folders of the specified folder are to be monitored, the determination means further determines whether a folder name of a sub-folder shows a date and, if so, whether the date satisfies the monitoring condition, i.e. whether it is within the number of days according to the third setting from the current date. If the date indicated in a folder name of a sub-folder

satisfies the monitoring condition, the detection means is instructed to monitor the sub-folder.

4.4.4 The notification means notifies about the newly added file.

5. *Inventive step*

5.1 Document D3 discloses a file monitoring system comprising a multifunction peripheral (MFP) 101, a file server 102 and an information processing apparatus ("client PC") 103, all connected to a LAN 100 (see Figure 1 and paragraph [0015]).

5.2 The file server is configured to store files using folders (see paragraphs [0053] to [0056]).

5.3 The MFP 101 is capable of performing fax communication of image data with a fax device (paragraph [0016]). It comprises a transfer unit 412 as part of a native function unit 410 for transferring received fax data as a file to the file server 102 in accordance with transfer settings (paragraphs [0034], [0037] to [0040]). The transfer destination folder of the file server is configured by means of a file server setting screen 700 of the MFP (paragraphs [0067] to [0069] and Figure 6A).

5.3.1 In a "standard mode", the MFP stores the file under a subfolder in a hierarchy of subfolders configured by means of a folder path setting screen 900 (paragraphs [0083], [0084] and [0086] to [0095] and Figure 7A).

5.3.2 According to paragraph [0088], the user selects the type of information to be used as the folder name of the highest hierarchical level of subfolders from among

the candidates "registered name", "fax number" and "date". Hence, paragraph [0088] discloses an embodiment in which subfolders one folder level below the specified folder have a name showing the reception date of the fax data.

5.4 The information processing apparatus includes a folder monitoring application 2010 comprising a folder monitoring unit 2011 and a notification unit 2012 (paragraphs [0051] and [0052]).

The folder monitoring unit 2011 monitors the status of files in a specified folder on the file server 102, and the notification unit 2012 notifies the user of any changes, including newly added files (paragraphs [0053] to [0056] and [0219] to [0226]).

The folder monitoring unit includes a setting means for allowing the user to specify setting information which includes the name of the root folder to be monitored (paragraph [0218]) and implicitly disclosed determination and detection means for determining the settings included in the setting means and carrying out monitoring in accordance with the settings (paragraphs [0218] to [0225]).

5.5 The board considers the disclosure of document D3, and in particular the embodiment disclosed in paragraph [0088] and discussed in point 5.3.2 above, to be a suitable starting point for assessing inventive step and will therefore refer to this embodiment as the closest prior art.

5.6 The subject-matter of claim 1 differs from the closest prior art in that the setting information includes:

- a first setting indicating whether or not the specified folder is to be monitored;
- a second setting indicating whether or not sub-folders of the specified folder are to be monitored;
- a third setting indicating a number of days as a monitoring condition;

and in that the determination and detection means are adapted to determine these settings and to carry out monitoring in accordance with these settings as set out in points 4.4.2 and 4.4.3 above.

In the closest prior art, received FAX data is stored as a file in a sub-folder of the specified folder, where the name of the sub-folder shows the reception date of the FAX, and the file monitoring application of the information processing apparatus monitors the sub-folders of the specified folder. However, monitoring of the sub-folders is not limited to those sub-folders which show a date that is within a certain number of days from the current date.

5.7 The appellant submitted that the objective technical problem to be solved was that of modifying the file monitoring system known from document D3 to reduce processing load and to improve convenience for the user.

5.7.1 The background section of the application describes a prior-art file monitoring technology in which a new file is detected and notified by means of an operating-system (OS) event (see paragraph [0002]). Since this technology cannot be applied to a file system not having such an OS-event-based mechanism, an alternative technology had been introduced which obtained the list of files or attribute information of the files in a

monitoring folder and compared this information with the same information obtained in an earlier monitoring step (paragraph [0003]).

5.7.2 The board accepts that, if the monitoring mechanism described in paragraph [0003] of the application is employed, limiting monitoring to sub-folders corresponding to recent dates, as opposed to monitoring all sub-folders, reduces processing load. However, the board has doubt that processing load is also reduced if the monitoring mechanism described in paragraph [0002] is used. Since claim 1 of auxiliary request 0B does not specify the monitoring mechanism, it can therefore be questioned whether the alleged effect is indeed achieved over the whole scope of the claim.

Nevertheless, since claim 1 of auxiliary request 0C does limit the monitoring mechanism of the claimed system to that described in paragraph [0003], for reasons of expediency the board will now assume that processing load is indeed reduced over the closest prior art as a result of limiting monitoring to sub-folders satisfying the "monitoring condition".

5.7.3 In its decision, the examining division argued that the selection of the folders to be monitored was based on criteria not selected based on technical considerations but according to user preferences and that these criteria could therefore be given, in the form of constraints to be met, to the skilled person tasked with their implementation.

However, in the board's view, reducing processing load by transferring files to a sub-folder of the specified folder corresponding to the current date and limiting monitoring to the sub-folders corresponding to the most

recent days is not devoid of technical considerations, in particular relating to hierarchical file systems.

5.7.4 The board does not agree with the appellant that the distinguishing features provide a technical effect in the form of improved user convenience. In this respect, the appellant argued that different users may want to set the third setting to different numbers of days depending on their circumstances. However, this argument rather points to a subjective, rather than a technical, advantage of allowing a user to select the number of days.

5.8 Hence, compared to the closest prior art, the claimed invention solves the objective technical problem of reducing processing load. The distinguishing features contributing to solving this problem are the third setting, specifying the monitoring condition, and the associated modifications of the determination and detection means.

5.8.1 As mentioned above, in the closest prior art, received FAX data is stored as a file in a sub-folder of the specified folder, where the name of the sub-folder shows the reception date of the FAX, and the file monitoring application of the information processing apparatus monitors the sub-folders of the specified folder. As described in paragraphs [0219] to [0225] of document D3, monitoring of a folder is performed by acquiring the list of files present in the folder at predetermined intervals and comparing the newly acquired list with a previously acquired list.

5.8.2 In the board's view, the skilled person, faced with the problem of reducing processing load, would realise that, since, in the closest prior art, a newly received

FAX data is always stored as a file in a sub-folder showing the reception date of the FAX, it is unnecessary to monitor sub-folders corresponding to a date prior to the last time that lists of files present in the sub-folders being monitored were acquired, and that the processing load can be reduced by reducing the number of sub-folders which are being monitored in the manner described in paragraphs [0219] to [0225]. The skilled person would therefore decide to limit monitoring of sub-folders to sub-folders showing a date within a range of a suitable number of days from the current date without exercising inventive skill.

5.8.3 In this context, allowing the user to configure the range by means of the third setting, rather than automatically deriving a suitable range from the duration of the predetermined intervals at which the lists of files are acquired, is an obvious possibility only having the expected disadvantage that the user may choose a setting that is too long, resulting in a suboptimal reduction of processing load, or too short, resulting in newly arrived files not being detected. This aspect therefore cannot contribute to an inventive step, either.

5.9 The remaining distinguishing features, relating to the first and second settings, allow the user of the information processing apparatus to disable monitoring of the specified folder and of the sub-folders. Since allowing a user to optionally enable and disable functionality in accordance with the user's needs is well known in the art, these features also cannot support an inventive step.

5.10 The appellant argued that, in document D3, the folder structure was set up at the MFP and could therefore

change at any moment. In order to deal with a changing folder structure, document D3 disclosed a "cooperation mode" in addition to the "standard mode". In the "cooperation mode", a shortcut to newly received data was stored in a preset notification folder on the file server. By always monitoring this single preset folder, the information processing apparatus could monitor the file server for newly added files irrespective of a changed folder structure for storing the received data. The skilled person would not ignore the "cooperation mode" described in document D3, and this solution did not point to the claimed solution.

However, the board's inventive-step reasoning starts from the "standard mode" embodiment disclosed in paragraph [0088] and discussed in point 5.3.2 above. Even if this embodiment is not an embodiment resistant to changes in the folder structure, it is part of the disclosure of document D3, and its choice as the starting point for the assessment of inventive step needs no further justification (see decision T 787/17, Reasons 5.1). The fact that document D3 also describes a different "cooperation mode" having certain advantages does not invalidate the board's reasoning, regardless of whether the "cooperation mode" represents an alternative solution to the problem posed.

5.11 The appellant further argued that the skilled person would have used the file system data attributes maintained by the file server to implement monitoring more efficiently.

While it is true that more efficient solutions can be conceived, in particular if the file server provides suitable functionality, the existence of a more

efficient solution cannot render the claimed obvious solution non-obvious.

5.12 In view of the above, the board concludes that the subject-matter of claim 1 of auxiliary request 0B lacks an inventive step (Article 56 EPC).

Auxiliary request 0C

6. *Inventive step*

6.1 Claim 1 of auxiliary request 0C essentially adds to claim 1 of auxiliary request 0B that the information processing apparatus includes:

- an interface device for communicating with the file server;
- a file information acquisition means for acquiring the file and folder information stored in the file server through the interface device; and
- a monitoring information storage means for storing setting information obtained by the setting means and file and folder information acquired by the file information acquisition means.

In addition, it specifies that the file and folder information regarding the specified folder is stored in the monitoring information storage means on a regular basis and that monitoring the specified folder by the detection means involves comparing newly acquired file and folder information regarding the specified folder with previously stored file and folder information to determine a file newly added to the specified folder.

Furthermore, whether a folder name of a sub-folder of the specified folder shows a date is determined on the basis of a list of sub-folders one folder level under

the specified folder. In other words, the sub-folders with names showing the reception date of FAX data are one folder level below the specified folder.

The remaining changes made to claim 1 bring the wording of the claim in line with these added details.

6.2 The information processing apparatus 103 of document D3 includes:

- an interface device for communicating with the file server in the form of network 315 (see paragraphs [0026], [0027] and [0031], and Figure 2B);
- a file information acquisition means for acquiring the file and folder information stored in the file server through the interface device (paragraph [0219]); and
- a monitoring information storage means for storing setting information obtained by the setting means and file and folder information acquired by the file information acquisition means in the form of HDD 314 (paragraphs [0218] and [0221]).

6.3 In addition, in document D3 the file and folder information regarding the specified folder is stored in the monitoring information storage means on a regular basis (paragraph [0219]), and monitoring the specified folder by the detection means involves comparing newly acquired file and folder information regarding the specified folder with previously stored file and folder information to determine a file newly added to the specified folder (paragraphs [0219] to [0225]).

6.4 Furthermore, in the closest prior art, subfolders one folder level below the specified folder have a name showing the reception date of the fax data (see point 5.3.2 above).

6.5 Hence, the features added to claim 1 of auxiliary request 0C in comparison with claim 1 of auxiliary request 0B are disclosed in document D3. Since the appellant's arguments in support of inventive step have already been discussed in point 5. above, the board concludes that the subject-matter of claim 1 of auxiliary request 0C lacks an inventive step, too (Article 56 EPC).

Auxiliary requests 1, 1A, 1B, 1C, 2, 2A, 2B and 2C

7. Claim 1 of auxiliary request 1 adds to claim 1 of the main request that the second setting indicates a number of days between 1 and 5.

Claim 1 of auxiliary request 2 further adds that:

- the determination means is further configured to determine whether a current time of the information processing apparatus is in the vicinity of a date change, and
- the determination means is adapted
  - to determine, if the current time is before a date change, whether or not the date indicated in the folder name of the sub-folder satisfies the monitoring condition by determining whether or not the date indicated in the folder name of this folder is within a number of days, which is a number having one day added to the predetermined number of days, from a next day after the current date and time, and
  - to determine, if the current time is after the date change, as the monitoring range a range of a number of days, which is a number having one day added to the predetermined number of days, from the current date and time.

These added features correspond to the additional features of dependent claims 2 and 4 of the main request.

8. Auxiliary requests 1A, 1B and 1C and auxiliary requests 2A, 2B and 2C are based on auxiliary requests 1 and 2, with the same amendments as those made in auxiliary requests 0A, 0B and 0C.

9. *Admission into the appeal proceedings*

9.1 Auxiliary requests 1 and 2 were filed for the first time with the statement of grounds of appeal. Their admission into the appeal proceedings is therefore at the board's discretion (Article 12(4), second sentence, RPBA 2020).

9.2 Contrary to Article 12(4), third sentence, RPBA 2020, the statement of grounds of appeal did not provide reasons for submitting these amendments only at the appeal stage. In its communication, the board observed that the amendments made in auxiliary requests 1 and 2 did not appear to be a reaction to late developments in the first-instance proceedings.

9.3 The appellant did not contest this but pointed out that the features added in auxiliary requests 1 and 2 had already been thoroughly discussed at the oral proceedings before the examining division. In view of this, the two requests did not substantially change the proceedings and did not imply any complex legal and factual issues which had not been addressed in the decision under appeal.

9.3.1 The minutes of the oral proceedings before the examining division confirm that a discussion took place on a "potential new request" incorporating the features of dependent claim 2 or dependent claim 4. This discussion concluded in the chairman of the examining division informing the appellant's representative that, *prima facie*, the hypothetical new request did not appear to be clearly allowable.

9.3.2 The board notes that a discussion of hypothetical amendments during the oral proceedings before the examining division cannot replace the formal filing of corresponding requests. Had such requests been filed timely during the first-instance proceedings, they would have been the subject of the decision under appeal. By not filing them, the appellant prevented the examining division from deciding on them.

9.3.3 Nevertheless, the board understands the apparent futility of requesting time during the oral proceedings before the examining division to prepare the filing of requests on which the examining division had already expressed a preliminary negative opinion, all the more so given that the examining division likely would not have admitted the requests for being (late-filed and) not clearly allowable.

9.3.4 The board therefore considers the fact that the amendments made in auxiliary requests 1 and 2 had been discussed during the oral proceedings before the examining division to be an argument neither in favour nor against the admission of these requests into the appeal proceedings.

9.4 Still, the fact remains that auxiliary requests 1 and 2, uncontestedly not being a reaction to late

developments in the first-instance proceedings, could and should have been filed in advance of the oral proceedings before the examining division. Since the appellant did not bring forward circumstances of the appeal which nevertheless would justify their admission, the board does not admit auxiliary requests 1 and 2 into the appeal proceedings (Article 12(4) and (6) RPBA 2020).

9.5 As the auxiliary requests 1A, 1B, 1C, 2A, 2B and 2C include the amendments made in auxiliary requests 1 and 2, they are not admitted into the appeal proceedings, either (Articles 12(4) and (6) and 13(1), second sentence, RPBA 2020).

10. Since none of the requests admitted into the proceedings is allowable, the appeal is to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chair:

S. Lichtenvort J. Geschwind

Decision electronically authenticated