

This document includes some recent decisions of the EPO in 2011 with regards to software related inventions and shows relevant extracts from the respective decisions.

T 1995/07, 4.2.2011

Carrying case for a handheld device and methods thereof

Inventive step – yes

<http://www.epo.org/law-practice/case-law-appeals/pdf/t071995eu1.pdf>

The invention relates to a method for alerting a user of a handheld device of a possible risk of losing the handheld device, the method comprising: determining that said handheld device is not secured to a carrying case of said handheld device and that at least a predefined or programmable amount of time has passed since a last activation of said handheld device; and consequently, transmitting a signal from said handheld device to said carrying case over a wireless communication link to cause said carrying case to activate one or more of its user interface elements in order to alert said user of said risk. It further relates to a handheld device which is able to execute the claimed method.

The closest prior art concerns a handheld electronic device which is normally held in a carrying case, called a holster, and discloses a method for alerting the user that the device is at risk of being lost. According to this method, it is determined that the device is not secured to the holster and consequently, an interface element of the holster is activated to alert the user of this risk (by way of an audible or vibrating alert). The alert can be silenced or defeated in situations where the user intentionally removes the device from the holster in order to use it. To achieve this, the user may have to activate the device, in which case a signal is transmitted from the device to the holster over a wireless communication link.

The central difference between the prior art and the invention is that risk of loss is determined in different situations. The prior art is concerned with the risk of inadvertent removal or theft, where the implicit assumption is that the user can be relied on. The invention, in contrast, is specifically concerned with the risk that the user might forget to put the device back into the carrying case and then lose it. The board considers that the objective **technical problem** solved by the invention in view of the prior art is to further **reduce the risk that the device may be lost**.

All in all the board considers that while it is possible to **extract a relevant teaching** from a **further piece of prior art**, this is **only apparent in the knowledge of the claimed invention**. The board agrees with the appellant that it is the result of **ex post facto argumentation**.

Application number: 05106171.1

IPC Class: G06F 1/16

Applicant name: RESEARCH IN MOTION LIMITED

T 1164/08, 03 February 2011

Secure streaming of digital audio/visual content

Inventive step (all requests): no

Sufficiency of disclosure: no

<http://www.epo.org/law-practice/case-law-appeals/pdf/t081164eu1.pdf>

One aspect of the discussion on inventive step was that the prior art did not disclose what happens when a specific check indicates an erroneous data packet. The present application claims the stop of replaying digital content as an essential feature of the invention. The appellant argued that stopping playback was an inventive alternative over the usual methods like dumping or retransmitting the invalid data.

The Board came to the conclusion that **simply stopping a technical process that is producing erroneous results is in the absence of exceptional circumstances a trivial measure**. What is achieved in the present case by stopping the playback is some protection against tampering of data, but at the price of a needless and annoying interruption when the invalid data is due to a harmless transmission error, eg caused by noise. **Advantages achieved by an invention do not support an inventive step if they are obtained at the price of significant disadvantages which are simply accepted.**

Thus, the Board judges that the claimed methods do not meet the requirement of inventive step.

Application number: 99967804.8
IPC Class: G06F 12/14, G06F 1/00
Applicant name: Audible, Inc.

T 0813/07, 21 January 2011

Respirator selection program

Lack of clarity and of inventive step - auxiliary request (yes)"

An interesting aspect of this case relates to the vagueness of terms often used in software related applications. This can easily result in clarity issues if the terms are not clearly defined in the application.

The description of the present application uses the **expression "non-standards based engine"** several times, but **fails to give a clear definition** of what exactly has to be understood by it for the purpose of defining the subject-matter of the independent claims. The board agrees with the decision under appeal that it is **not an established term of art**. If the

applicant uses **terms which are not known**, the description **must contain a concrete definition** of what has to be understood by them. It is disclosed that the expression means that the selection component is "non-rules based" and "contains substantially none of the standards". The **term "substantially" renders the definition unclear**, because the **skilled reader does not know, which standards may be part of the engine** and which not.

Using an **unclear expression** in the independent claims which **neither** has an established meaning in the art **nor** can be clearly **understood with reference to the description** has the effect that the meaning of the **claims cannot be understood from the wording of the claim alone**.

Application number: 97922672.7

IPC Class: G06F 19/00

Applicant name: MINNESOTA MINING AND MANUFACTURING COMPANY

Cited decisions: J 0010/07, T 0409/91, T 1194/97

T 1841/06, 21.1.2011

Integrated multilingual browser

Inventive step (all requests): no

<http://www.epo.org/law-practice/case-law-appeals/pdf/t061841eu1.pdf>

The invention is directed to a method of automatically providing to a user via an electronic communications network, **translations of source documents, in any of a plurality of source languages, into target documents in a target language** selected by the user. A prior art document was disclosing most of the claimed features and the Board considered the **differentiating features** over the prior art machine translation system that a **to be translated web page** is retrieved from the World Wide Web, **translated** into a target language, and **cached in a cache** on a web server before being sent to the user.

In the **prior art**, at the time the translation process is invoked the translation system adds a header line including a translation button to the original data and sends them to the web browser. The browser renders the original data and a menu which **allows the user to request the translation after having seen the original web page**.

The **object** of the invention is at best the result of **balancing various mental preferences of the user** but it is per se **not a technical problem**. Having the option of choosing between an original language and the preferred language might be felt as an inconvenience by one user but as an advantage by another. The invention brings about a **mental simplification** and subjective advantage for some users but it does **not provide any objective** advantage nor any technical advance in any field of technology. Such purely subjective preferences like any

other non-technical aspects of an invention do **not** form a **valid basis for a technical and inventive contribution** over the prior art.

The computer implementation of the claimed methods **requires only minor changes** to the machine translation system of the prior art. **Only the step of sending** the original data need be **omitted**. These changes to the prior art system do **not involve any inventive step**.

Application number: 96944191.4
IPC Class: G06F 17/28
G06F 17/21
Applicant name: America Online, Inc.

T 1658/06, 14.1.2011

Publishing digital content within a defined universe such as an organization in accordance with a digital rights management (DRM) system

Subject-matter excluded under Art. 52(2) and (3) EPC (no)
Obvious on the basis of notorious prior art (no)
Remittal for further prosecution (yes)

<http://www.epo.org/law-practice/case-law-appeals/pdf/t061658eu1.pdf>

It is the established case law of the Boards of Appeal (see G 3/08 (to be published) 10.13) that claimed subject-matter specifying at least one feature not falling within the ambit of Article 52(2) EPC is not excluded from patentability by the provisions of Articles 52(2) and (3) EPC. In this case claims 1 to 9 are all method claims which specify that the method is carried out by "computing devices". Claim 10 is a claim to a "computer-readable medium". Neither of these two features fall under the exclusions of Article 52(2) EPC and hence the claimed subject-matter of the present request is not excluded from patentability by the provisions of Articles 52(2) and (3) EPC (see T 258/03, Hitachi (OJ EPO 2004, 575) and T 424/03, Microsoft).

The examining division took a position which is now quite clearly incompatible with the case law of the Boards of Appeal. However its actions were not in contradiction to the Guidelines for Examination of the time and it is arguable that T 258/03, which had been decided and which was repeatedly referred to by the appellant during the examination procedure, was not entirely established case law at the time of the refusal.

The claims use some **terms more familiar in a contractual or intellectual property** setting, in particular "**license**" and "**terms and conditions**". However in the full **context** of the claimed subject-matter the board considers that **these terms clearly refer to technical matters** - the "license" is a **set of control data** sent from one computer to another and the "terms and conditions" refer to the **state of the device** associated with the user, said user either being identified with the device or (in the case of a multi-user device) with identification data within said device.

The claims refer to a "**trusted component**" of the requesting computing device. "Trusted component" is certainly a term of the art known to the skilled person, but the board considers that it **has little limiting effect**. The application states that "The trusted component 18 typically has a license evaluator ..., the license evaluator 20 is trusted in the DRM system 10 to carry out ... the rules and requirements in the license 16, and the user should not be able to easily alter such trusted element for any purpose, nefarious or otherwise," (description page 16 line 28 to page 17 line 4). However, the **degree of trust clearly depends on the ease with which the element may be altered in fact**, which in turn **depends on the effort and expenditure which the designer is prepared to put in**. The board considers that in the **context** of the present claims "**trusted**" **merely means that the component carries out the actions defined in the claims**, i.e. rendering content according to the license, and by implication not allowing rendering when the license conditions are not satisfied, and not allowing rendering of a type not allowed by the license

The claimed subject-matter concerns the control of a computer - a user requests an action and the action either takes place or does not according to the state of the user's device and to a set of control data obtained from another device (the data being called a "license" in the application). **One computer controlling another computer is a technical effect going beyond the effects observed when any computer program is run** and therefore all the claimed means involved in achieving that effect **have to be taken into account when assessing the novelty and inventive step** of the claimed invention (T 641/00, COMVIK (OJ EPO 2003, 352), Headnote I)

The board considers that the **combination of features claimed** - inter alia the user's request to render some digital content triggering a communication with another system, the communication containing certain control data which is replaced by other control data and returned - **cannot be dismissed as common knowledge of such notoriety that it cannot be challenged** (in contrast to earlier requests in appeal which could be seen as lacking an inventive step with respect to the notorious prior art of computer networks). There has **not** been **any search of the prior art carried out in the procedure** which led to the present appeal. Thus the board has **no basis** on which to **make a judgment** of the **novelty and inventive step** of the claimed subject-matter and therefore finds it appropriate to remit the case for further prosecution in accordance with the appellant's request.

Application number: 04001954.9

IPC Class: G06F 1/00

Applicant name: MICROSOFT CORPORATION

Cited decisions: G 0010/93, G 0003/08, T 0641/00, T 0258/03, T 0424/03

T 1359/08, 14.1.2011

Versioning of elements in a configuration model

Inventive step (all requests): no

<http://www.epo.org/law-practice/case-law-appeals/pdf/t081359eu1.pdf>

The invention is directed to a method for defining a configuration model for a configurable product and for updating subcomponents thereof. As explained in the description, a "configuration model is generally some collection of ... information that is needed to configure the product". The configuration model includes components, subcomponents, and elements which define characteristics of the product as for example prices, costs, colours etc.

Defining a configuration model and its components and subcomponents is thus a **form of information modeling**, which is, as such, **not an invention** for the purposes of Article 52(1). The **same** holds for the management of **information models during their life cycle**. In general, **abstract activities in the field of information management are per se not patentable**, and to the extent that they do not interact with technical features to contribute to the technical solution of a technical problem they **cannot establish novelty or inventive step**.

In particular, setting versions of the model to an active or inactive state is primarily part of the abstract concept of managing the update process and not per se a genuine technical feature of the computer implementation.

Although **terms like link and rerouting** point to **computer-implemented functions**, the **claim definitions and the description** of the application **do not force such an interpretation** on these features. On the **mere conceptual level**, a product list on paper with name references to items of another product list, identified by version numbering and subject to **manual update changes**, would **fully meet** the claim definitions.

The present **application does not provide any specific information about the computer implementation of the method at all**. Even from the drawings, **no details of the implementation can be derived**. Only from the acknowledgement of the background art and from general statements at the end of the application, can it be understood that the computer implementation is a possibility for carrying out the invention.

Application number: 04030049.3

IPC Class: G06F 17/60

Applicant name: SAP AG

T 1712/06, 17.11.2010

Elektronisches Gerät, vorzugsweise ein elektronisches Buch

Erfinderische Tätigkeit - nein

<http://www.epo.org/law-practice/case-law-appeals/pdf/t061712du1.pdf>

Die Erfindung ist gerichtet auf ein „Elektronisches Buch, wie es aus dem Stand der Technik bekannt ist, wobei sich die Erfindung von Stand der Technik dadurch unterscheidet,

a) dass eine einzige Anzeige mit der Größe einer Seite eines Buches vorgesehen ist,

b) dass ein Empfangsmodul eine GSM- und/oder GPRS- und/oder EDGE-Kommunikationseinheit umfasst,

c) dass das Empfangsmodul eine SIM-Karte umfasst, mit der die Identifikation des Benutzers für das jeweilige Funknetz erfolgt, und

d) dass die Abrechnung über die SIM-Karte erfolgt.

Merkmale a einerseits und Merkmalen b-d andererseits lösen, nach Ansicht der Kammer, voneinander **völlig unabhängige Probleme**. Dementsprechend ist es gerechtfertigt, die erfinderische Tätigkeit für beide Fälle **unabhängig voneinander zu betrachten**.

Elektronische Bücher mit einseitigen Anzeigen sind aus dem SdT bekannt. Des Weiteren sind **Vor- und Nachteile einseitiger Anzeigen** im Unterschied zu zweiseitigen für den Fachmann **offensichtlich**. Somit ist es für den Fachmann naheliegend, nach Abwägung der bekannten Vor- und Nachteile, das elektronische Buch aus dem SdT nur mit einer einseitigen Anzeige zu versehen.

Der Zugang zu GSM gemäß der Erfindung löst das **objektive technische Problem**, die **Mobilität** des elektronischen Buchs aus dem SdT zu verbessern.

Die Verwendung von GSM für mobile digitale Endgeräte war vor dem Anmeldetag grundsätzlich bekannt, nicht jedoch aber GPRS und EDGE die besser für die mobile Datenübertragung geeignet sind.

Geräte werden jedoch naturgemäß **vor ihrer Herstellung konzipiert** und entwickelt. Ob und wann ein Gerät, dessen Entwicklung abgeschlossen ist, tatsächlich hergestellt und vermarktet wird, hängt von weiteren Umständen ab. So mag es ein, dass ein Hersteller nach Abwägung von erforderlicher und verfügbarer Bandbreite davon Abstand genommen hätte, ein elektronisches Buch mit GSM tatsächlich zu vermarkten, und stattdessen entschieden hätte, auf die umfassende Einführung von GPRS, EDGE oder UMTS zu warten. Derartige **Überlegungen können für den wirtschaftlichen Erfolg eines Produkts entscheidend** wichtig sein. Sie betreffen aber nicht die Frage, ob die Entwicklung des Geräts selbst für den Fachmann aufgrund von technischen Überlegungen nahegelegen hätte und **sind** daher für die **Bewertung der erfinderischen Tätigkeit unerheblich**. Damit wäre der Fachmann nach Ansicht der Kammer ohne erfinderisches Tun auf den Gedanken gekommen, die Mobilität des Geräts aus dem SdT dadurch zu erhöhen, das anstelle des Festnetzes ein Mobilfunknetz verwendet wird. Dies impliziert ein SI-Modul (SIM), das typischerweise als Karte realisiert ist, und mit dem der Benutzer beim Funknetz identifiziert wird.

Die Beschreibung nimmt sogar an, dass das **Konzept der Abrechnung per SIM-Karte** sowie dessen mögliche technische Umsetzungen zum **allgemeinen Fachwissen** gehören. Das ist nach Ansicht der Kammer sachgerecht. Dementsprechend würde ein Fachmann, der aus den oben genannten Gründen in das elektronische Buch aus dem SdT eine SIM-Karte integriert hätte, deren Eignung für die Abrechnung ohne Weiteres erkennen und sie auf die übliche Weise **ohne eine erfinderische Tätigkeit** zu nutzen wissen.

Application number: 99903576.9

IPC Class: G06F 15/02

Applicant name: MONEC Mobile Network Computing Ltd.

T0740/06 - 3.5.01, 17 November 2010

Verfahren und Vorrichtung zur Handhabung von Kennzeichnungsdaten einer Mehrzahl von Komponenten eines Produktes

Erfinderische Tätigkeit – verneint

<http://legal.european-patent-office.org/dg3/pdf/t060740du1.pdf>

Das Patent strebt eine speicherschonende Handhabung von Kennzeichnungsdaten von Komponenten eines zu fertigenden Produkts an. Resultierende Stücklisten sollen eine Kontrolle auf Vollständigkeit der zu einem Produkt gehörenden Komponenten vereinfachen. Das Patent schlägt vor, dass Kennzeichnungsdaten der Komponenten als Knoten in mehreren hierarchischen Ebenen gespeichert werden, wobei die Knoten benachbarter Ebenen durch Verknüpfungsoperatoren einander zugeordnet sind. Die Verknüpfungsoperatoren geben ferner an, in welcher Anzahl die jeweilige Komponente in der nächsthöheren Ebene benötigt wird. Der geänderte Anspruch 1 fasst die ursprünglichen Ansprüche 1 bis 3 zusammen und ergänzt sie um das Merkmal, dass **die Knoten in Teiledateien und die Verknüpfungsoperatoren in Strukturdateien gespeichert** sind.

Im Hinblick auf den anzustellenden Vergleich mit dem Stand der Technik legt die Kammer folgende Merkmale des Anspruchs 1 breiter als die Beschwerdeführerin aus. Die **Pluralform** des Anspruchsmerkmals "[wobei] die Knoten (K) in Teiledateien gespeichert sind" **lässt offen, wie viele Knoten pro Teiledatei gespeichert sind**. Daher kann die Beschwerdeführerin sich nicht auf etwaige Vorteile stützen, die sich aus einer 1:1-Zuordnung von Knoten und Teiledateien ergeben würden.

Der Anspruchswortlaut schließt nicht aus, dass eine Teiledatei zugleich eine Strukturdatei ist. Daher ist auch Stand der Technik relevant, bei dem Teiledateien (Stücklisten) zugleich Strukturdaten (hierarchische Verknüpfungen) enthalten.

Anspruch 1 lässt die Anzahl der Verknüpfungsoperatoren pro Knoten offen und umfasst daher die Möglichkeit, dass für jede Produktvariante ein eigener Verknüpfungsoperator vorgesehen ist. Die in der Beschwerdebegründung geltend gemachte Speicherersparnis wird somit nicht im gesamten beanspruchten Bereich erzielt.

Als **Unterschied** des Anspruchs 1 gegenüber dem nächsten **Stand der Technik** sieht die Kammer **nur** das Merkmal, dass **jeder Verknüpfungsoperator** beinhaltet, in welcher **Anzahl die im jeweiligen Knoten definierte Komponente in der nächsthöheren Ebene benötigt** wird.

Zugunsten der Beschwerdeführerin geht die Kammer davon aus, dass **grundsätzlich eine technische Wirkung erzielbar ist, wenn eine Datenbank um Datenfelder erweitert wird, die zusätzliche Daten (hier: Varianten eines Produkts) in recherchierbarer und**

abrufbarer Form bereitstellen. Allerdings ist diese Erweiterung aus dem Stand der Technik bekannt. Eine Abspeicherung von Produktvarianten in den Knoten eines hierarchischen Produktmodells für den bekannten Zweck (Stücklistenstellung) liegt daher nahe.

Sobald eine **Datenbank** für das Produkt, seine Komponenten und Varianten **zur Verfügung steht**, ist auch die **Teilaufgabe mitgelöst**, dass eine Kontrolle auf Vollständigkeit der zu einem Produkt gehörenden Komponenten und Varianten auf einfache Weise möglich ist, indem eine oder mehrere Stücklisten ausgegeben werden.

Auch auf der **Implementierungsebene** lässt die anspruchsgemäße Vorrichtung mit (Datenbank-)Speicher eine **erfinderische Bereicherung der Technik durch die Berücksichtigung von Produktvarianten nicht erkennen**.

Anmeldenummer: 97115525.4

IPC Klasse: G06Q10/00

Anmelder: Volkswagen Aktiengesellschaft

T 0353/07, 28.10.2010

Method and apparatus for concurrent DBMS table operations

<http://www.epo.org/law-practice/case-law-appeals/pdf/t070353eu1.pdf>

The invention relates to a method for unloading database tables comprising the steps of:

determining a plural number of export directories, each export directory being located on a separate storage device;

launching a number of threads limited to the number of export directories to process the database tables;

unloading the tables to create respective export files, including:

assigning each of the tables to a corresponding one of said threads, using a best fit algorithm in which each thread checks all of the export directories and chooses and claims the smallest available directory that can accommodate the export file; and

unloading the respective database tables by processes of the corresponding threads into the corresponding export directories.

In one claim, the reference to an "**SQL*Loader process**" has been **replaced by** reference to a "**structured query language loader process**". The original term "SQL*Loader" refers to an Oracle utility, i.e. a specific piece of software which has been in use over many years in several different versions. The description discloses that, instead of SQL*Loader, other databases may be used, as well as other programs "capable of reading ... and loading [table] data". The **description does not disclose**, however, that such **other databases** or programs

must be based on "structured query language", i.e. SQL.

The board thus finds that the **term "structure query language loader process"** constitutes an **intermediate generalization** of the term "SQL*Loader" which is **not directly and unambiguously derivable from the description** and thus the claim violates Article 123(2) EPC.

It is **established terminology** in the art that **"parallel" processing implies actual simultaneity**, and the description conforms with this interpretation when it discloses that "parallel processes run simultaneously" or that "tables [are] to be unloaded/loaded at the same time". **However**, the use of **multiple threads alone** does **not achieve a speed-up** unless several processors actually operate in parallel. In the board's view, therefore, the **subject matter** of claim 1 does **not achieve the express goal of the invention** and is, therefore, **not supported** by the description as required by Article 84 EPC.

The closest piece of available prior art discloses database reorganization and concurrent unloading of tables. The invention differs at least in that the prior art teaches concurrent unloading of table partitions as opposed to entire tables and in that the prior art does not disclose a best-fit analysis to choose a suitable export directory for unloading a table. The board agrees with the appellant that there is a **relevant difference between entire tables and table partitions**. The load balancing algorithm of the prior art makes crucial assumptions about relative and absolute sizes of partitions which do not hold for entire tables.

The prior art discloses concurrent unloading for "partitioned" tables and that the extent of partitioning affects the performance of the unloading process, but **does not explain how to speed up unloading of a table that is not partitioned**. In view of this, the board considers as an appropriate **objective technical problem the adaptation of the method of the prior art to other types of tables**. The prior art does not contain any specific hint towards the solution of this problem, even where it discloses general considerations concerning optimal resource utilisation in view of the available system resources.

Moreover, the prior art **directly teaches away from a best-fit analysis** when it discloses that several partitions are assigned to the same task.

The board accepts that the **best-fit algorithm is well-known** as a heuristic optimization algorithm. It is **not apparent** to the board however, whether the examining division also **considered the best-fit algorithm - in general or as claimed** - to be well-known in the context of database processing or for which kinds of operations. The board cannot find any of these stronger allegations self-evident, nor are they implied or hinted at by any of the available prior art documents.

The best-fit algorithm is based on the idea that a large resource should not be wasted on a small item if a small resource could be used instead, because this large resource might be needed later for a larger item. In the given context this means that **a small table should not block a large export directory, if a smaller one is available, since this might delay the unloading of a large table**. Accordingly, the **best-fit algorithm has a clear, if only heuristic, impact on overall speed** of the unloading process.

The board tends to agree that, on some level of abstraction, the best-fit algorithm according to

the invention is used as it is meant to be used. This implies for example that the **skilled person, when instructed to put the invention into practice, would know how to adapt the best-fit algorithm** to the claimed case.

However, neither the fact that the **best-fit algorithm is well-known per se, nor** the fact that it is **straightforward to adapt** the algorithm to the parallel unloading of database tables, is, in the board's view, sufficient to show that it would be obvious for the skilled person to use the best-fit algorithm to modify the method of the prior art as claimed.

Application number: 99961787.1

IPC Class: G06F 9/46

Applicant name: Computer Associates Think, Inc.

T 1203/08, 28.10.2010

Data transfer and synchronization system

Inventive step - use of universal format to enable synchroniser to work with data from different applications (No - routine design)

<http://www.epo.org/law-practice/case-law-appeals/pdf/t081203eu1.pdf>

This appeal is part of a series of appeals (also including T 1262/08, T 1263/08 and T 1266/08) from related applications that tackle the problems of synchronising information for a user having a PC and various portable devices, such as a laptop computer and a personal digital assistant (PDA), or mobile phone.

An important aspect of the invention as defined in the original and present claims is that when application data is to be synchronised, only the items that have changed are transmitted instead of the entire data. This is achieved using a data synchroniser in a first system that extracts the application data into an "application object" and uses a delta module to calculate the difference between the current value of the AO and the value at the time of the last synchronisation as stored in the AO store. The differences are output via a network to a similar data synchroniser in the second system, which receives the difference data and converts it to that system's application data format. Transmitting only data that has changed has the effect of reducing the required bandwidth and thus increasing the speed of the synchronization.

A prior art system essentially in the same way as the invention, namely by transmitting only modifications detected in the client data since the last synchronisation by comparing the data with a "before-image". Thus the prior art discloses the main aspect of the invention, which is what led the examining division to refuse the application under Article 56 EPC 1973, correctly, in the Board's view.

It is common ground that the **synchroniser of the invention** differs from that of the prior art essentially by an **immediate conversion into a "universal" format**. In the Board's view the problem of providing a flexible synchroniser based on the prior art would immediately

translate into the practical problem of how to implement the technique of the prior art in an object-oriented language. In the Board's view, **all the features** of the first and second data synchronisers of the invention **follow immediately from an inevitable use of a common data structure** in the synchroniser program. The difference engine would calculate differences using data in this format and the second data synchroniser would perform the inverse operation. **The existence of a technically meaningful alternative does not imply that the other involves an inventive step.** That is, even if the skilled person were to use APIs to access the applications' data, and if he would still provide a separate difference engine for each application appropriate to its structure and store the before-image data in the application itself in its own structure, it would not help.

Application number: 01300674.7
IPC Class: G06F 9/46, G06F 17/60, G06F 17/30
Applicant name: fusionOne, Inc.

T 0288/07 - 3.5.05, 20 October 2010

Touchscreen controlling medical equipment from multiple manufacturers

Inventive step - yes (after amendments)

<http://www.epo.org/law-practice/case-law-appeals/pdf/t070288eu1.pdf>

The patent claims a medical communication and control system, which is characterized by a touchscreen that displays an exact replica of a control interface particular to at least one of remotely controllable surgical devices and thereby is displaying a status of the at least one remotely controllable surgical device. The system further has a database accessible by the controller for storing the replica control interfaces of various surgical devices. The database stores an image replicating the control interface particular to the remotely controllable surgical device. When the remotely controllable surgical device is connected, the controller queries the database for the image replicating the control interface particular to the remotely controllable surgical device for display on the touchscreen to receive inputs and to display a status of the remotely controllable surgical device. If the controller does not locate the image on the database, the controller automatically downloads over a network connection and stores the image on the database for use with the touchscreen.

“The prior art shows a networking infrastructure for an operating room, wherein surgical devices are connected to a single network and may be controlled by the surgeon through a web-like interface or browser displayed on a touch panel. Each surgical device includes a ROM storing control forms specific to the device and written in the html language. The control forms may be chosen by the user according to his needs for display on a touch-sensitive flat panel of the device, thereby enabling local control of the device by the user. Upon connecting a surgical device to the network, its control forms in ROM are sent to all other devices in the network to establish remote control of the surgical device. In particular the same control form may be shown locally for that device's local display and on another connected surgical device.”

The board considered the differentiating features:

(a) the touchscreen displays an exact replica of a control interface of the remotely controllable surgical device;

(b) the system comprises a database for storing replica control interfaces of various surgical devices, and the controller, upon connection of the remotely controllable surgical device, queries the database for the replica control interface corresponding to the device and, if it is not located, automatically downloads over a network connection and stores the corresponding replica control interface on the database.

The technical character questions for feature (a) was not finally answered because the feature would have been obvious in view of the prior art anyway.

“The **technical effects** achieved by feature (b) are that the **images replicating control interfaces of surgical devices are stored in the system in a database which may be automatically updated** (e.g. from the internet), instead of being stored in read-only memories of the devices as in D3.

The objective **technical problem** can thus be formulated as **how to enable the system to adapt to new devices or to existing devices having a new control interface**.

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