

Commissioner's Decision # 1399  
Décision du Commissaire # 1399

TOPIC: O-00 (Obviousness)  
SUJET: O-00 (Évidence)

Application No: 2,546,092  
Demande no: 2,546,092



IN THE CANADIAN PATENT OFFICE

DECISION OF THE COMMISSIONER OF PATENTS

Patent application 2,546,092, having been rejected under subsection 30(3) of the *Patent Rules*, has consequently been reviewed in accordance with paragraph 30(6)(c) of the *Patent Rules*. The recommendation of the Board and the decision of the Commissioner follow.

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## **INTRODUCTION**

- [1] This recommendation deals with a review of the rejection of Canadian patent application no. 2,546,092, filed in Canada on May 19, 2006, and entitled “*System and Method for Preventing the Lapse of a Recurring Event Using Electronic Calendar System*”. The Applicant is Research in Motion Limited.
- [2] The application was brought before the Patent Appeal Board on the grounds that the application is non-compliant with the *Patent Act* and *Rules* for obviousness, insufficient description, indefinite claims, and certain claim informalities.
- [3] For the reasons that follow, we recommend that the application be refused on the ground that the claims are obvious.

## **BACKGROUND**

- [4] The application relates to the field of electronic calendar programs typically used on personal wireless devices. These programs allow for the creation and management of events (including appointments, meetings or special dates), and incorporate a user interface to view the events by day, week, and month, or as an agenda format. These programs may allow for these events to recur regularly on a daily, weekly or monthly basis. The user interface allows for the setting of the frequency of recurrence, and for the start and end dates for a series of recurring events.
- [5] The present application discloses an electronic calendar system having the functionality of providing a reminder of the end date of a recurring event, and allowing the user to modify the end date from within the reminder interface without having to separately open a screen in the electronic calendar.

## **PROSECUTION HISTORY**

- [6] A Final Action was sent to the Applicant on July 17, 2013, rejecting the application based on obviousness, insufficient description and claim indefiniteness. The Applicant provided

a written response on October 17, 2013 including amended claims 1-22 (the claims on file) and arguments in favour of their allowance.

- [7] The rejected application was forwarded to the Patent Appeal Board (“the Board”) accompanied by a Summary of Reasons (SOR) explaining why the application was considered not to comply with the *Patent Act* and the *Patent Rules*. The SOR maintained the above three grounds. A formality defect in the amended claims was also identified.
- [8] This panel conducted a preliminary review of the application, and in a letter dated March 31, 2015, invited the Applicant to respond to several preliminary observations. A hearing was also offered to the Applicant.
- [9] In a letter dated May 4, 2015, the Applicant confirmed that a hearing was not required, and provided written submissions in response to the panel’s preliminary observations. The Applicant also provided proposed claims 1-18 for consideration by the panel, should claims 1-22 on file be found not to comply with the *Patent Act* and *Patent Rules*.

## **ISSUES**

- [10] Having considered the Final Action, the SOR, and the Applicant’s response to our letter, one of the four issues identified in the SOR is considered to be determinative of this review: are claims 1-22 on file obvious, and thus in contravention of section 28.3 of the *Patent Act*?
- [11] Of the remaining three issues, the issues of insufficiency and claim indefiniteness are resolved in the Applicant’s favour in our discussion on claim construction. The claim informalities defect is moot in view of our determination that the claims are obvious.

## **LEGAL PRINCIPLES**

### **Claim Construction**

- [12] In accordance with *Free World Trust v Électro Santé Inc*, 2000 SCC 66 [*Free World Trust*] essential elements are identified through a purposive construction of the claims

done by considering the whole of the disclosure, including the specification and drawings. (see also *Whirlpool Corp v Camco Inc*, 2000 SCC 67 at paras 49(f) and (g) and 52.) In accordance with the *Manual of Patent Office Practice* [MOPOP], Chapter 13.05 (June 2015), available at the CIPO website, the first step of purposive claim construction is to identify the person skilled in the art and their relevant common general knowledge (“CGK”). The next step is to identify the problem addressed by the inventors and the solution put forth in the application. Essential elements can then be identified as those required to achieve the disclosed solution as claimed.

### **Obviousness**

[13] Section 28.3 of the *Patent Act* provides that the subject-matter defined by a claim must be subject-matter that would not have been obvious on the claim date to a person skilled in the art or science to which it pertains, having regard to certain information:

- (a) information disclosed more than one year before the filing date by the applicant, or by a person who obtained knowledge, directly or indirectly, from the applicant in such a manner that the information became available to the public in Canada or elsewhere; and
- (b) information disclosed before the claim date by a person not mentioned in paragraph (a) in such a manner that the information became available to the public in Canada or elsewhere.

[14] A four-step approach for assessing obviousness was set out by the Supreme Court of Canada in *Apotex Inc v Sanofi-Synthelabo Inc*, 2008 SCC 61 [*Sanofi*], as follows:

1. (a) Identify the notional “person skilled in the art”; and  
(b) Identify the relevant common general knowledge of that person;
2. Identify the inventive concept of the claim in question or if that cannot readily be done, construe it;
3. Identify what, if any, differences exist between the matter cited as forming part of the “state of the art” and the inventive concept of the claim or the claim as construed;

4. Viewed without any knowledge of the alleged invention as claimed, do those differences constitute steps which would have been obvious to the person skilled in the art or do they require any degree of invention?

## ANALYSIS

### Claim Construction

#### *Person skilled in the art*

[15] Our letter of March 31 2015 characterized the person skilled in the art as a technician and programmer skilled in the fields of electronic calendar systems as well as general computer programming techniques, particularly for mobile handheld device applications. The Applicant did not raise any objections to this characterization, and we use it in our review.

#### *The common general knowledge of this person*

[16] In our letter we set out the general common knowledge (CGK) of the person skilled in the art. In its response of May 4, 2015, the Applicant raised a concern regarding one aspect of the panel's observations. Although agreeing that "the storage of an end date of a recurring event at a predetermined time" was CGK, the Applicant disputed the panel's preliminary observation that the feature of "the notification of the end date of a recurring event at a predetermined time" was part of the CGK of the skilled person.

[17] The panel agrees there may be a question as to whether or not the notification feature was CGK. However, in the Final Action and SOR this feature was identified as being disclosed in a document cited as D2 ("ACES User Manual"), and the Applicant did not dispute this. Therefore, we will consider this feature when we consider D2 as prior art in our obviousness analysis.

[18] Considering both the panel's preliminary observations and the Applicant's response, the relevant common general knowledge (CGK) of the person skilled in the art includes:

- a) Knowledge of generic wireless handheld (mobile) communication devices

comprising a housing, a display screen, a processor, a memory, a user interface and a radio frequency (RF) transceiver, with associated messaging and electronic calendar functionality;

- b) Knowledge of the basic electronic calendar functions for scheduling events (e.g. meetings), common event parameter details such as time, location, duration, etc.; the use of event reminders and notifications; the automatic transmission of event details, reminders, and notifications to selected attendees; and the concept of periodic recurring events, including the concepts of frequency of recurrence, having end dates, the notification of such recurring events, and the storage of the end date of a recurring event at a predetermined time; and
- c) Knowledge of mobile communication standards, client server technology, push/pull technology used to send and receive data from mobile devices, and common programming techniques applicable to electronic calendar programs and mobile device software.

### *Problem and solution*

- [19] In our letter, we identified the problem and solution as understood by the skilled person reading the specification. The Applicant did not provide any submission on this identification, and we use it in our review.
- [20] The problem is that recurring events with an end date may lapse without any notification to an organizer of the event, which leads to administrative problems such as room restrictions, attendee conflicts, or the inconvenience of reinstating the event with multiple attendees.
- [21] The proposed solution involves providing a user interface for: 1) notifying an organizer of the recurring event, at a predetermined time, of the end date of the recurring event; 2) by soliciting user response to a query, permitting the organizer to modify the end date or other event details within the same screen or user interface; and 3) storing the modifications to the event.



*Meaning of certain terms in the claims*

[22] The system as defined in independent claim 1 is illustrative of the invention:

A system for managing an electronic calendar system having the capability of establishing a recurring event having an end date, the system comprising:

a processor operative for generating, at a predetermined time, a reminder notification of the end of the recurring event;

a user interface operative for sequentially:

a) displaying a screen showing said reminder notification and showing a query as to whether the end date of the recurring event is to be modified with a new end date;

b) displaying, subsequent to receiving an affirmative response to said query, a screen for modifying the recurring event according to the new end date without having to launch the electronic calendar system and then locate and open the recurring event; and

c) storing modifications of the recurring event, said modifications including the new end date; and

a radio frequency (RF) transceiver operative with said electronic calendar system and said processor and operative for transmitting update notifications to event attendees, the update notifications indicating received modifications of the recurring event.

[23] A skilled person reading the claims in light of the CGK and the specification would not have any difficulty in understanding the meaning of most terms and expressions found in the independent claims. However, the following expression requires clarification:

- “displaying...a screen for modifying the recurring event according to the new end date, without having to launch the electronic calendar system and then locate and open the recurring event” (emphasis added)

[24] The Final Action and the SOR, citing indefiniteness, maintain that it is unclear from the claim how this step is implemented, specifically whether or not the calendar application must be opened or if calendar data is overwritten. It appears to the panel that, in part, the claim was considered indefinite because modifying the recurring event is defined by how it is *not* implemented (i.e., without having to launch the calendar). Furthermore, the Final

Action and SOR tied the lack of implementation details of this feature to the issue of insufficiency of the description. To paraphrase, since no implementation details are disclosed, the skilled person may be presumed to have the CGK necessary to implement the idea of “without having to launch the electronic calendar”; otherwise, the specification would be insufficient.

- [25] This expression (emphasized above) requires attention in order to understand its scope and meaning to the skilled person and permit the assessment of the indefiniteness and insufficiency defects identified in the SOR.
- [26] The claims do not define any specific manner or arrangement of how the functionality of “without having to launch...” is implemented. The skilled person would look to the specification and drawings (page 12 and figure 8), and find the following passages relevant to the implementation:
- line 6: allowing “*a user to modify the end date if necessary in an efficient manner...accomplished through a pop-up menu or an alarm*”;
  - line 12, using a “*simplified menu that allows only the editing of the end date, which is modified*”; and
  - line 17, “*This information is then transmitted to a host server or other means for transmitting to notifications to attendees.*”
- [27] Exactly how this functionality is implemented is not, from a fair reading of the specification, part of the claimed solution, nor is any particular implementation disclosed in the specification. Any underlying data exchange, application execution or additional interface means with an electronic calendar system necessary to implement the invention would necessarily, as indicated by the lack of disclosure, be apparent to the person skilled in the art; otherwise, the specification would be insufficient. Although the skilled person would understand that the modification of the end date data requires some data exchange with the electronic calendar system (for example, with the calendar system running in the background in real time, or running on a remote server, or by modifying the calendar data at a later time), the disclosure does not elaborate on any specific manner of implementation.

- [28] Considering the above factors, the panel considers that the skilled person would understand that the modification to the end date of a recurring event is made from within the same user interface as the reminder screen. The system automatically or seamlessly allows for the modification of the end date, without any additional user actions within the interface; for example, it is not necessary to perform the steps of launching the electronic calendar, then locating and opening the recurring even in order to modify it.
- [29] Therefore, a purposive construction of claim 1 implicitly includes the limitation that the modifications are made from within the same user interface as the reminder. The skilled person would construe this as an essential aspect of the disclosed solution. The feature of “without having to launch” the electronic calendar system to locate and open the event is not a feature that has a material effect on the system or method being claimed, but instead relates to an advantage or efficiency that results from the applicant’s solution of making modifications from within the same user interface. This construction was provided to the Applicant in our preliminary observations, and the Applicant did not disagree with this construction.
- [30] Regarding the issue of insufficient description raised in the Final Action pertaining to how the “without having to launch” feature is implemented, given the construction of claim 1 above, the skilled person would understand that how the functionality of the claims is implemented is not part of the invention; the implementation details are left to the skill and knowledge of the person of the art. As noted in the Applicant’s reply to the Final Action (page 3), “the details as to how the underlying data is stored, accessed or written would be evident to the person of ordinary skill in the art”. We agree with this submission. It follows that given that the implementation is left to the person skilled in the art, there is no insufficiency of disclosure.
- [31] Regarding the issue of indefiniteness, the Final Action stated it would be unclear how the feature of “without having to launch” would be achieved given the lack of disclosed implementation details. However, as the construction of claim 1 above indicates, claim 1 does not define any specific manner of how this feature is to be implemented. Furthermore, “without having to launch” is an advantage that flows from the making of

the modifications to the end date “from within the same user interface”. Given this construction, the skilled person would not find the claim 1 unclear or ambiguous, and the implementation details are left to their skill and knowledge.

*Essential elements of claim 1*

[32] Taking into account our construction above, the skilled person would identify the following features from claim 1 to be the essential elements necessary to provide the solution to the identified problem:

- a) Generating, at a predetermined time, a reminder notification at the end of a recurring event;
- b) Displaying a screen showing the reminder notification and showing a query as to whether the end date of the recurring event is to be modified with a new end date;
- c) Displaying, subsequent to receiving an affirmative response to the query, a screen for modifying the recurring event according to the new date, from within the same user interface as the reminder screen; and
- d) Storing in memory modifications of the recurring event, including the new end date.

[33] The two additional features in claim 1 (a capability of “establishing a recurring event”, and a transceiver for “transmitting update notifications to event attendees”) are features that are not material to the solution to the problem. Instead, these features would be considered by the skilled person to be the known and required background activities that occur prior to and after the claimed solution is performed.

*Essential elements of the remaining claims*

[34] Independent claims 7 and 13 define, respectively, a wireless device and a method corresponding to the features of the system of claim 1. The essential elements of claims 7 and 13 are therefore equivalent to claim 1. The Applicant’s letter of May 4, 2015 (page 2) acknowledges that claims 7 and 13 include similar elements as claim 1.

[35] Dependant claims 2-6, 8-12 and 14-18 and 20-22 set forth additional features, while

claim 19 pertains only to the non-essential transmitting step. The skilled person would consider the following additional features from the dependent claims as essential:

- Claims 2, 8 and 14: the end date of the event is displayed in the reminder screen;
- Claims 3, 9 and 15: the predetermined time is the number of days before the end date;
- Claims 4, 10 and 16: modifications of the event include at least one of a time, a duration, and a location of the event;
- Claims 5, 11 and 17: a further query can be displayed as to whether other event information is to be modified;
- Claims 6, 12 and 18: on affirmative of query in claim 5, a screen is displayed for further modifications; and
- Claims 20, 21, and 22: the screen showing the reminder is also the screen for modifying the end date of the event.

### **Obviousness**

*Step 1: Identify the notional “person skilled in the art” and the common general knowledge of that person*

[36] Both of these two steps have been addressed earlier with our construction of the claims (paragraphs 15 and 18, above.

*Step 2: Identify the inventive concept of the claim in question or if that cannot readily be done, construe it*

[37] In our letter of March 31, 2015, we summarized the inventive concept from the Final Action: the idea of providing a reminder to a meeting organizer near the end date of a recurring meeting and allowing the organizer/user to modify the end date of the recurring meeting from the same user interface. The reminder screen includes a query as to whether the end date of the event is to be modified, and a screen is displayed for modifying the end date without having to launch the electronic calendar system.

[38] Our letter further identified that, based on the purposively construed claims, the skilled

person would consider the idea of not having to launch the electronic calendar as an advantage that would flow from the user interface already defined. Further, the skilled person would understand that the modifications to the recurring event are performed from within the same user interface as the reminder. Our construction considered this limitation as essential, as it forms part of the solution of the invention.

[39] Accordingly, our letter indicated that the inventive concept of claim 1 is the essential features of claim 1 (features (a) to (d) at paragraph 32, above).

[40] The Final Action maintained the same inventive concept from claim 1 for each of the remaining independent claims, claims 7 and 13. We adopt this approach in this case, as the claims differ only in their form (i.e., method, system, or computer readable medium).

[41] The Applicant did not provide any comments regarding the panel's identification of the inventive concept, and we use it in our review.

*Step 3: Identify what, if any, differences exist between the matter cited as forming part of the "state of the art" and the inventive concept of the claim or the claim as construed*

[42] The Final Action identified 6 references (D1-D6) relevant to the question of obviousness. In our letter of March 31, 2015, we made observations regarding the obviousness of the claims on file. In consideration of the Applicant's response to our observations, we consider the following two cited references to be of particular relevance to the present review:

D2: "ACES User Manual" Washington State Department of Social and Health Services, 2003

D6: European Patent No. 1213659 June 12, 2002 Robertson

[43] D2 discloses (under "Alert 415") a scheduling system in which an alert (reminder) is generated the day after a recurring appointment is scheduled (a predetermined time) indicating the last occurrence (end date) of the recurring appointment. The alert is to remind users to update the recurring appointment, if necessary.

[44] D6 discloses a method for associating location-based reminders with tasks stored in a

task manager in a personal electronic device, including a mobile phone. Upon triggering a reminder based on the location of a device (or alternatively, based on a time or date), an associated task entry from a “to do” list is opened and displayed. From that interface, a user has the option of closing, editing, or otherwise manipulating the reminder or the associated task entry (paragraph 38). Additionally, when a reminder is triggered, the associated task “is opened and displayed e.g. on a LCD touch screen or text display, and the user is prompted with various options”, which may include closing the task, editing the task and/or the reminder, marking the task complete, deleting the task, etc. (paragraph 53).

[45] Our letter identified three differences between the inventive concept and D6. Although the Applicant’s response generally agreed with the differences identified, it raised a concern that the language used to define two differences was unduly narrow. The Applicant provided specific wording for these to more accurately reflect the differences over the inventive concept of claims 1, 7 and 13.

[46] In view of this concern, and adopting the Applicant’s wording, the differences are:

- i. Generating, at a predetermined time, a reminder notification of the end of the recurring date
- ii. Displaying a screen showing a reminder notification and showing a query as to whether the end date of the recurring event is to be modified with a new end date;
- iii. Displaying, subsequent to receiving an affirmative response to the query, a screen for modifying the recurring event according to the new date, from within the same user interface as the reminder screen.

*Step 4: Do those differences constitute steps which would have been obvious to the person skilled in the art or do they require any degree of invention?*

[47] In the following paragraphs, we list the above differences under separate headings for ease of presentation and readability. The panel has, nevertheless, conducted its analysis under Step 4 of *Sanofi* by considering whether or not the differences, considered

individually and in combination, would constitute steps which would have been obvious to the person skilled in the art, or constitute steps that require a degree of ingenuity.

Independent claims 1, 7, and 13

*Difference (i): Generating, at a predetermined time, a reminder notification of the end of the recurring date*

[48] The concepts of using recurring events in calendar system, generating reminders for recurring events, and having end dates for a recurring event, are all part of the CGK of the skilled person (paragraph 18b, above). Although D6 does not specifically suggest reminder notifications of “*the end of a recurring date*” at a “*pre-determined time*”, it does disclose a method for triggering reminders based on location, time or date. In providing for the triggering based on a date or time, the skilled person would logically implement different options in how such recurring event reminders would be presented to a user.

[49] D2 teaches one option of generating reminders for recurring events. D2 teaches that a user of a scheduling system can be provided with a reminder about the end date of a recurring event, at a predetermined time. The skilled person, having a location-, date-, or time-based reminder system of D6, wanting to provide a user options for recurring event reminders, would, without any inventive ingenuity, apply the reminder option set out in D2, namely, a reminder at a predetermined time of the end of a recurring date.

[50] The Applicant did not provide any arguments against this teaching of D2 in their response to the Final Action. In view of the teaching of D2, and the lack of any additional detail regarding this feature in the disclosure, the panel considers the difference of “generating at a predetermined time, a reminder notification at the end of a recurring event” to be an obvious modification to the reminders used in D6.

*Difference (ii): Displaying a screen showing a reminder notification and showing a query as to whether the end date of the recurring event is to be modified with a new end date*

[51] The Applicant argues at pages 6 and 8 of its response of May 4, 2015 that D6 does not teach the display of either a reminder or a query, but instead teaches that a task is simply



opened and displayed when a reminder is triggered.

- [52] The concept of displaying a reminder and a query on the same screen would be obvious in view of the CGK of the skilled person (paragraph 18b, above). Query screens in combination with reminders on the same screen would be one of a finite number of well known programming designs for screen layouts. The skilled person would understand that when information is displayed and a decision is required from a user, that a query screen or prompt should be displayed concurrently to gather user confirmation prior to a subsequent step being performed. The skilled person would be motivated to choose the same screen in view of a user's desire for efficient and logical mobile device functionality, and the programmer's goal of minimizing the number of screens.
- [53] The skilled person upon reading D6 in its entirety would understand that D6 contemplates any one of a number of known methods of alerting the user of the triggering of a reminder, without any ingenuity required. D6 discloses (paragraph 37) that “[t]riggered reminders may optionally vibrate the portable device or beep or provide other audible and/or visual indicators to the user ...” (emphasis added). Given the CGK of the skilled person in common programming techniques, one of a number of known choices for a “visual indicator” of a reminder being triggered is the display of the reminder itself on the mobile device.
- [54] Although D6 does not explicitly define a reminder notification and a query asking to modify an end date on a single screen, the skilled person would understand D6 as teaching that events (to-do tasks), once brought to the attention of a user by a visual reminder, can be modified if the user desires. D6 states (paragraph 38) that once a reminder is triggered, the user has the option of editing the task entry (event). Although the option for the user to modify the event data is not explicitly defined as a “query screen”, this is a non-inventive difference. Implementing a “modifying” function as either a simple pull-down menu bar or a query screen that asks for an affirmative answer is a design choice that the skilled person programming the user interface would determine without any inventive ingenuity.

*Difference (iii): Displaying, subsequent to receiving an affirmative response to the query, a screen for modifying the recurring event according to the new date, from within the same user interface as the reminder screen.*

- [55] The Applicant argues at page 9 of its response of May 4, 2015 that since D6 does not teach the display of a reminder, then the task (or event) to be modified cannot be displayed in a screen within the same user interface, as no “same screen” exists.
- [56] However, the skilled person, having found it obvious to display a reminder and a query screen to determine whether a user wishes modify an end date (as discussed under difference (ii) above), would logically and without ingenuity choose to subsequently display a screen to permit those modifications when desired. It would be logical to the skilled person knowledgeable in common programming techniques to provide for the modifications immediately after asking if they are desired to be made.
- [57] The additional feature of difference (iii) is the display of the modification screen from within the same user interface. D6 teaches (paragraphs 38 and 53) that once a reminder is triggered and one or more audible and/or visual indicators alerts a user, the associated task entry (e.g. an event) is automatically opened and the user is prompted with various options. These user options (representing a “query, as discussed in difference (ii) above) include the option of editing both the reminder and the task (event) itself. Therefore, to the skilled person, D6 teaches that from within the same user interface a user may choose to modify an event after a reminder is triggered and displayed visually.
- [58] Accordingly, considering the differences identified above, individually and in combination, the panel considers that the skilled person would, without any degree of ingenuity, arrive at the matter defined in the independent claims 1, 7 and 13.

Dependent claims 2-6, 8-12, and 14-22

- [59] In our letter of March 31 2015, we invited the Applicant to identify any features of the dependent claims considered to have inventive significance. The Applicant provided no submissions regarding the dependent claims.

[60] We have considered in our analysis each dependent claim. For ease of discussion, we present here a summary of that analysis using the additional essential elements considered from paragraph 35 above:

- Claims 2, 8 and 14: the feature of the end date of the event being displayed in the reminder screen is an obvious presentation of data that is CGK in the electronic calendar arts;
- Claims 3, 9 and 15: the feature of the predetermined time being the number of days before the end date is a design choice that is CGK in the electronic calendar arts;
- Claims 4, 10 and 16: the feature of modifications of the event including at least one of a time, a duration, and a location of the event were known choices that the skilled person would optionally define and are not inventive;
- Claims 5, 11 and 17: the feature of a further query that can be displayed as to whether other event information is to be modified would have been an obvious design choice for the skilled person;
- Claims 6, 12 and 18: the feature of, after an affirmative response to the query in claim 5, a screen being displayed for further modifications is a CGK programming design choice and not inventive;
- Claim 19: defines no additional inventive concept beyond that of claim 1, and is obvious for the same reasons; and
- Claims 20, 21 and 22: the feature of the screen showing the reminder also being the screen for modifying the end date of the event is a restatement of the essential feature of the independent claims, namely that the modifications are done from the same user interface. We have already discussed the obviousness of this idea in the claim 1 analysis above.

[61] The skilled person would consider there to be no inventive step involved in the additional features of dependent claims 2-6, 8-12, and 14-22, considered individually and in combination with the features of claims 1, 7 and 13, respectively, upon which they

depend. Accordingly, all dependent claims on file would have been obvious to the skilled person on the claim date.

### Proposed Claims 1-18

[62] We consider proposed claims 1-18 in order to determine whether or not they overcome the obviousness of the claims on file.

[63] The Applicant argues in its submission dated May 4, 2015 (page 9) that proposed claims 1-18 are not obvious in view of the cited references and the CGK. Further, the Applicant notes that proposed claims 1-18 “parallel” the claims granted in corresponding United States Patent 8, 751, 279, allowed in view of the same references as cited in the Final Action. However, as the Applicant acknowledges, patentability under U.S. patent law is not determinative of patentability under Canadian law and practice.

[64] Proposed claim 1 reads as follows:

A system for preventing the elapse of a recurring event comprising:

a memory containing a recurring event established with a predetermined end date;  
a user interface; and

a processor connected to the memory and user interface and configured to cause presentation on the user interface of a notification regarding an impending lapse of the recurring event at a predetermined time of the predetermined end date for the recurring event, the processor being further configured to modify the end date of the recurring event according to an indication received by the processor from the user interface when the recurring event is to continue, wherein the user interface is further configured to:

present a reminder regarding the impending lapse at least one of before and during the predetermined end date, and prompt regarding prevention of the impending lapse of the recurring event upon a last recurrence of the recurring event, the indication to modify the end date being received by the processor from the user interface according to a user input relative to at least one of the reminder and the prompt.

- [65] The panel notes that proposed claim 1 defines similarly worded features to those found in claim 1 on file, with the inclusion of additional language to clarify certain features of the proposed claim.
- [66] The Applicant's response of May 4, 2015 elaborated on three main features of proposed claim 1 that distinguish the claims from the cited prior art. We address each of these features in the following paragraphs, considered in combination with the remaining features of proposed claim 1.
- [67] First, proposed claim 1 defines "causing presentation on a user interface of a notification regarding an impending lapse of the recurring event". The Applicant argues that a reminder regarding an "impending lapse" is distinct from simply a reminder regarding the end date of a recurring event. However, the skilled person would consider that there is no inventive ingenuity in calling an "end date" by another name; the difference is merely one of the intellectual significance attributed to a term describing the same calendar date. That a user may reason an "impending lapse" is more or less significant than "an end date" is a difference, but not one that provides a patentable distinction.
- [68] Second, proposed claim 1 defines the feature of displaying a prompt regarding an impending lapse when the reminder is displayed. The skilled person would not find a patentable difference between the scope and meaning of the "prompt" in proposed claim 1 and the scope and meaning of the query screen as defined in the claims on file, which we have determined to be obvious.
- [69] Finally, the Applicant argues that the proposed claims define a single user interface that presents the reminder, displays a prompt, and provides an indication for modifying the end date of the recurring event. However, as we have determined with respect to the claims on file, the skilled person, from the teaching of D6 and D2, would without any degree of inventive ingenuity arrive at the use of a single user interface to display a reminder and prompt for user input, with the result being an indication to modify an event.

[70] Considering the three features identified above, alone and in combination, the panel considers that the skilled person would find no inventive difference in scope between the language of proposed claim 1 and that of claim 1 currently on file. None of the remaining proposed claims add any additional inventive limitation. Therefore, as the proposed claims define obvious subject matter, they cannot be relied upon to overcome the obvious claims on file.

### **RECOMMENDATION OF THE BOARD**

[71] In view of the above findings, the panel recommends that the application be refused on the grounds that claims 1-22 on file are obvious and therefore do not comply with section 28.3 of the *Patent Act*.

[72] Further, proposed new claims 1-18 also suffer from the obviousness defect and are therefore not considered “necessary” under subsection 30(6.3) of the *Patent Rules*.

Andrew Strong  
Member

Paul Fitzner  
Member

Paul Sabharwal  
Member

## **DECISION**

- [73] I concur with the findings and the recommendation of the Board that the application be refused as claims 1-22 are obvious and therefore do not comply with section 28.3 of the *Patent Act*.
- [74] Proposed new claims 1-18 do not overcome these defects and are therefore not considered “necessary” under subsection 30(6.3) of the *Patent Rules*.
- [75] Therefore, in accordance with section 40 of the *Patent Act*, I refuse to grant a patent on this application. Under Section 41 of the *Patent Act*, the Applicant has six months within which to appeal my decision to the Federal Court of Canada.

Johanne Bélisle

Commissioner of Patents

Dated at Gatineau, Quebec,  
this 16<sup>th</sup> day of May, 2016