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Datasheet for the decision of 18 November 2010

Case Number: T 0620/07 - 3.5.01

Application Number: 02797671.1

Publication Number: 1436749

IPC: G06F 17/60

Language of the proceedings: EN

Title of invention:
Component provisioning or issuance in a maintenance, repair or overhaul environment

Applicant:
Accenture Global Services GmbH

Opponent:
-

Headword:
-

Relevant legal provisions:
EPC Art. 52(1)

Relevant legal provisions (EPC 1973):
EPC Art. 56

Keyword:
"Inventive step (no)"

Decisions cited:
-

Catchword:
-

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Beschwerdekammern | Boards of Appeal | Chambres de recours

Case Number: T 0620/07 - 3.5.01

D E C I S I O N
of the Technical Board of Appeal 3.5.01
of 18 November 2010

Appellant: Accenture Global Services GmbH
Herrenacker 15
8200 Schaffhausen (CH)

Representative: McLeish, Nicholas Alistair Maxwell
Boult Wade Tennant
Verulam Gardens
70 Gray's Inn Road
London WC1X 8BT (GB)

Decision under appeal: **Decision of the Examining Division of the European Patent Office posted 21 November 2006 refusing European patent application No. 02797671.1 pursuant to Article 97(1) EPC 1973.**

Composition of the Board:

Chairman: S. Wibergh
Members: R. R. K. Zimmermann
P. Schmitz

Summary of Facts and Submissions

I. European patent application no. 02 797 671.1, international publication number WO 03/021502, claims a priority date from 2001 in respect of a method and system for component provisioning and issuance associated with at least one of maintenance, repair, and overhaul of the equipment.

II. The examining division refused the application for lack of inventive step. The decision was based on a set of claims filed by a letter dated 5 April 2006, claim 1 reading as follows:

"1. A computer implemented method for component provisioning, the method comprising:
in a data processing system (10), identifying a replacement component for performing at least one of maintenance, repair, and overhaul of an item of equipment (S10);
performing a correlation analysis on the replacement component with a correlation analyzer (20) in the data processing system (10) to determine if there is a correlation of replacement between the replacement component and another component;
identifying, with the correlation analyzer (20), a correlated component having a correlation of replacement exceeding a minimum correlation; and
establishing in the data processing system a virtual kit of components for the equipment, comprising the replacement component and the correlated component (S12)."

III. The decision to refuse the application was announced in oral proceedings and posted on 21 November 2006. According to the reasons given for the decision the method claimed did not belong to any particular technical area but was rather related to processing "general-purpose administrative data [...] with the goal to group some data together" in a virtual kit. The method was an invention in terms of Article 52(1) EPC since it was defined as computer-implemented, which involved the use of a data processing system.

Regarding inventive step, the only relevant technical problem was the general computer-implementation of the method. Accordingly, the closest prior art was a standard computer system.

This conclusion had been challenged by the applicant, who contended that rather the international application publication number WO 01/015001 (document D1) should be considered to form the closest prior art since it described a data processing system for identifying a replacement component for performing maintenance of an item of equipment by direct analysis of the item while a standard computer differed from the invention by all the steps which the computer had been programmed to perform.

The examining division rejected these considerations as baseless. The appellant had not established that the nature of the data changed the method, made a standard computer unable to process the method, or was interrelated to other features of the method in order to provide a technical effect. Without any interaction between the data and the data processing system a

computer system processing the same type of data as the invention should not be regarded as a closer prior art that any other computer.

The automation and computer implementation of the claimed method only involved conventional hardware without providing any specific technical effect. Such an implementation would be considered as obvious by a software specialist, the skilled person in this field.

IV. The appellant (applicant) lodged an appeal against the decision on 17 January 2007 and filed a statement setting out the grounds of appeal on 22 March 2007.

The appellant requested that the decision under appeal be set aside and a patent be granted on the basis of the description, claims and drawings then on file and as considered by the examining division in the decision to refuse the application. Oral proceedings had been requested as a precaution.

According to the appellant, the invention was related to the technical problem of identifying components of an item of equipment which required replacing. There could be no doubt that this was a technical field and that the claims had technical character as a result of this. Any subsequent maintenance on an item of equipment could be performed efficiently. This was a direct advantage of the invention.

Prior art document D1 described a data processing system that identified a replacement component for performing maintenance of an item of equipment. This was done by direct analysis, optionally using

predictive data to ascertain whether the monitored data for a particular piece of equipment showed a trend that indicated imminent failure.

It did not describe a correlation analysis on the replacement component for determining a correlation of replacement between the replacement component and another component of an item of equipment in order to add this other component to a virtual kit of components if a minimum correlation was exceeded. Document D1 did not even suggest trying to identify additional components of the item of equipment that might require replacement, and did even less suggest doing so in the claimed manner. Identifying failure relationships between components and how to take these relationships into account were important technical problems solved by the invention. The invention also solved a second technical problem, namely how to identify components of an item of equipment that require replacement without directly monitoring each and every component. This was not possible with the system of document D1.

V. In a communication under Rule 100(2) EPC issued on 31 May 2010, the Board has given a provisional opinion on the patentability of the invention, concluding that the application seemed not to contain any feature which could form the basis for an allowable claim. The relevant passages of the communication have the following wording:

"Allowability of the appeal

2. The examining division refused the application for lack of inventive step, considering the invention as a merely administrative method implemented on a general

purpose computer by using conventional hardware and programming methods.

After examining the reasons of the decision and the arguments submitted by the appellant with the grounds of appeal the Board has arrived at the provisional conclusion that the examining division was essentially right in denying patentability, albeit with some reservations on the details of the reasons given for lack of inventive step.

3. The Board has some doubt with respect to the examining division's view that a computer processing the same type of data as in the application should not be regarded as a closer prior art than any other computer (Reasons no. 3.2.4). It could be held that a general purpose computer programmed to provide a specific functionality, even if the functions provided do not serve any technical purpose, is a special apparatus technically distinguished from the bare general purpose computer.

4. However, having regard to patentability of the invention in the present case this seems to make no difference since the only technical contribution over the prior art (e.g. D1: WO-A-01/015001) are the technical features of implementation which do apparently not go beyond normal programming practice.

5. The appellant has argued that the claimed invention was related to the technical problem of identifying components of an item of equipment which required replacing and thus had technical character as

a result of this (statement setting out the grounds of appeal, 1.1).

6. The Board does not concur: although replacing, repairing and overhauling are technical processes, this does not mean that every activity in this field is technical or patentable. Methods of planning and scheduling the work flow in a repair shop, which seems to be one primary subject of the present invention, is purely administrative of character, if not exceptionally a contribution to the technical solution of a technical problem can be credibly shown as the direct and causal result of such a method.

In the present case, a causal link to a technical problem-solution seems not to exist.

7. Identifying and putting a component on a maintenance, repair or overhaul list or provisioning materials by means of a virtual kit are primarily administrative measures of resource management.

8. Performing a correlation analysis with a correlation analyser in a data processing system amounts to a computer-implemented statistical algorithm without any direct technical effect. Such methods are possibly useful for managing a repair or maintenance process, but they are not part of a technical process contributing directly to the technical solution of a technical problem.

9. The alleged increase of efficiency, if any, is rather the result of an improved resource and work

management than the result of a technical improvement of the repair or maintenance process.

10. Considering inventive step the appellant referred in particular to the following two problems allegedly solved by the claimed invention: the identification of failure relationships between components for taking these relationships into account in providing replacement components for performing maintenance on an item of equipment (see 4.2) and the identification of components that require replacement without directly monitoring each and every component.

However, it seems that neither one of these problems is actually solved by the invention as claimed.

11. The correlation analysis as claimed does not necessarily determine a "failure" relationship (see also p. 5, line 18 ff. of the application).

Moreover, identification of replacement components by correlation analysis is not claimed as an alternative to monitoring of individual components.

Last but not least, the application does not seem to disclose the correlation analysis in such a clear and complete manner (compare Article 83 EPC 1973) that a skilled person would know how to carry out a (reliable) failure monitoring process.

12. It actually seems that the said problems and the alleged solution lack any clear basis in the present application. At present the Board is not able to

identify any feature in the application at all which could form the basis for an allowable claim."

VI. By a letter dated 11 October 2010, the appellant withdrew its request for oral proceedings and requested a decision in writing on the current state of the file.

The appellant underlined that it stood by its previous submissions. Identifying components of an item of equipment falling due for replacement had technical character and was not simply an administrative process since the identification required technical means and technical considerations for their implementation. Furthermore, the use of correlation analysis to identify replacement components did have a direct technical effect in that one or more components requiring repair were identified where such components might otherwise be detected or overlooked in a purely visual inspection of such components, for example. The automatic identification of a likely-to-be-faulty component was a clear technical benefit of the invention.

A further advantage achieved was the ability to identify components of an item of equipment requiring replacement without directly monitoring each and every component. The claim specifically mentioned the identification of a correlated component having a correlation of replacement with the replacement component. The advantage that components requiring replacement could be identified without directly monitoring each and every component had a clear basis in the language of claim 1.

The method of claim 1, therefore, was clearly of technical character, as well as novel and inventive over the prior art.

Reasons for the Decision

1. The appeal although admissible is not allowable since claim 1 of the application does not comply with the requirement of inventive step as set out in Article 52 (1) EPC and Article 56 EPC 1973. Reference is made to the communication of 31 May 2010 for the reasons on which the present judgement is based.

2. The appellant's letter of 11 October 2010 did not give cause for a different assessment of the patentability of the invention. As already explained in the communication, the alleged technical effects and benefits cannot be attributed to the method as claimed.

The identification of the correlated component by means of a correlation analysis is not necessarily based on any technical considerations or on the need for replacement for any technical reasons. The data subject to the correlation analysis are actually not specified in claim 1; the claim definitions could read on an analysis of technical data but as well on the analysis of pure business data, for example for organisational purposes or for achieving cost benefits by taking into account purchasing patterns, rebates etc. Providing a virtual kit of replacement components is useful for logistic purposes but does not provide any direct technical effect either. Construing the claim more limited to the correlation analysis of technical data

is not justified, and not backed up by the description, which lacks any clear indication that the correlation of technical data is an essential feature of the invention.

No other features or aspects of the invention as claimed (and as disclosed) are apparent which could form the basis for an allowable claim.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

T. Buschek S. Wibergh