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**Datasheet for the decision
of 9 February 2011**

Case Number: T 0698/07 - 3.5.05

Application Number: 01913244.8

Publication Number: 1269288

IPC: G06F 1/00

Language of the proceedings: EN

Title of invention:

Method and system for harvesting feedback and comments regarding multiple items from users of a network-based transaction facility

Applicant:

Ebay, Inc.

Headword:

Collecting feedback from online auction users/EBAY

Relevant legal provisions (EPC 1973):

EPC Art. 56

Keyword:

"Oral proceedings held in the absence of the appellant"
"Inventive step - No"

Decision cited:

T 0641/00

Catchword:

-



Case Number: T 0698/07 - 3.5.05

D E C I S I O N
of the Technical Board of Appeal 3.5.05
of 9 February 2011

Appellant:

Ebay, Inc.
2125 Hamilton Avenue
San Jose, CA 95125 (US)

Representative:

de Vries, Johannes Hendrik Fokke
De Vries & Metman
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Decision under appeal:

Decision of the Examining Division of the
European Patent Office posted 7 December 2006
refusing European application No. 01913244.8
pursuant to Article 97(1) EPC 1973.

Composition of the Board:

Chairman: A. Ritzka
Members: P. Cretaine
G. Weiss

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division to refuse European patent application No. 01 913 244.8, published as WO 01/65338. The decision was announced in oral proceedings held on 15 November 2006 and written reasons were dispatched on 7 December 2006.

II. The application was refused because of lack of inventive step (Articles 52(1) and 56 EPC 1973) of claim 1 of the applicant's sole request, having regard to the common general knowledge of the skilled person.

The examining division added as further remarks to the decision that the subject-matter of claims 2 to 17 also did not involve an inventive step in view of the common general knowledge.

III. The notice of appeal was submitted on 7 February 2007 and the appeal fee was paid on the same day. In the statement setting out the grounds of appeal, submitted on 23 March 2007, the appellant (applicant) requested that the appealed decision be set aside and that a patent be granted on the basis of claims 1 to 17, refused in examination proceedings. The appellant also requested oral proceedings in the event that the board was not willing to grant claims 1 to 17 or to remit the case to the examining division for further prosecution.

IV. A summons to oral proceedings to be held on 9 February 2011 was issued on 15 November 2010. In an annex accompanying the summons the board expressed the preliminary opinion that the subject-matter of

independent claims 1, 16 and 17 did not involve an inventive step having regard to the general knowledge of the person skilled in the art of computer science or to the disclosure of

D1: WO 95/17711,

cited in the international search report issued on 16 July 2001 by the US Patent Office acting as international search authority.

With a letter received 27 December 2010, the appellant refiled the set of claims 1 to 17. He also informed the board that he would not be attending the scheduled oral proceedings and requested a decision on the basis of the file.

V. Claim 1 of the appellant's request reads as follows:

"A method of harvesting feedback information pertaining to transactions facilitated by a network-based transaction facility (10) from a client machine (32), the method including:

identifying at the network-based transaction facility (10) a plurality of transactions associated with a first user;

communicating user interface information from the network-based transaction facility to the client machine (32) via a communications network (34), the user interface information including transaction information concerning at least first and second transactions of the plurality of transactions and the user interface information specifying to the client machine a feedback interface (110; 112; 114; 116)

facilitating user input of the feedback information for each of the at least first and second transactions of the plurality of transactions, and receiving at the network-based transaction facility the feedback information, provided through the feedback interface (110; 112; 114; 116), for each of at least the first and second transactions, the feedback information being received via the communications network (34)."

Independent claim 16 reads as follows:

"Method of harvesting comments pertaining to items of a network-based transaction facility (10), the method including:

identifying a plurality of items that were the subject of transactions facilitated by the network-based transaction facility and for which records exist within item tables of a data base;

communicating user interface information to a client (32) via a communications network (34), the user interface information including item information concerning at least first and second items of the plurality of items and specifying an interface (110;112;114;116) facilitating user input of comments pertaining to each of the at least the first and second items of the plurality of items; and

receiving the comments, provided through the input interface (110;112;114;116), for each of the at last [sic] first and second items, the comments being received via the communications network (34)".

Independent claim 17 contains the same features as claim 16 but expressed in terms of a claim for a system.

- VI. Oral proceedings were held as scheduled on 9 February 2011 in the absence of the appellant who had been duly summoned. After deliberation on the basis of the written submissions, the chair announced the board's decision at the end of the oral proceedings.

Reasons for the Decision

1. *Admissibility*

The appeal complies with the provisions of Articles 106 to 108 EPC (see point III above). It is therefore admissible.

2. *Non-attendance at oral proceedings*

The appellant was duly summoned, but did not attend the oral proceedings. According to Article 15(3) RPBA the board is not obliged to delay any step in the proceedings, including its decision, by reason only of the absence at the oral proceedings of any party duly summoned who may then be treated as relying only on its written case. Moreover, the appellant requested in his letter of 27 December 2010 that a decision be taken on the basis of the file.

In the present case, the board was in a position to take a decision at the end of the hearing.

3. *Inventive step*

3.1 Prior art:

Since the examining division issued a declaration of no search under Rule 45 EPC 1973, the decision to refuse under Article 56 EPC 1973 was based on the prior art as generally known to a skilled person, consisting of a distributed information system, wherein the system communicates with the user through a user interface (Reasons for the decision, 1.4).

The appellant has acknowledged that it was known in the prior art that users of client machines could provide feedback to a network-based transaction facility via a web page for traded items.

The board has considered it appropriate to introduce document D1 into the appeal proceedings since that document relates to the same kind of prior art as that relied on by both the examining division and the appellant. In the board's judgment, D1 represents the closest prior art.

D1 teaches to use an interface in the form of a window display on a user's computer for sending feedback to the provider of a product or service (page 9, line 35 to page 10, line 4 and page 11, lines 13 to 15).

3.2 The board agrees with the finding of the examining division that the subject-matter of claim 1 is a mix of technical and non-technical features.

In the board's judgement, the non-technical features consist in the nature of the data which is stored in the network-based facility ("transactions"), included in the user interface ("transaction information"), and inputted by the user ("feedback information"). These non-technical features relate to the harvesting of feedback pertaining to transactions, representing essentially a commercial objective, therefore relating to unpatentable subject-matter as defined in Article 52(2)(c) EPC. Thus, these features do not contribute to any technical effect. According to the case law of the boards of appeal (see e.g. T 641/00), these features cannot support the presence of inventive step and are therefore to be disregarded in the assessment of inventive step.

However, since D1 discloses a method for harvesting feedback information pertaining to transactions facilitated by a network-based transaction facility from a client machine (see the abstract), the non-technical features of claim 1 are already known from D1 and in any case, for this reason alone, cannot support the presence of an inventive step.

- 3.3 The differences between the subject-matter of claim 1 and the disclosure of D1 are that the user interface of claim 1 includes information concerning at least two transactions associated with the user, instead of a single one, and that the user interface enables the user to input feedback information for the at least two transactions, instead of enabling the user only to enter feedback for a single transaction.

The technical effect of these differences is that the user can input feedback information related to two transactions using a single interface.

The technical problem can thus be formulated, based on this technical effect, as how to improve the ease of use for the user of the feedback scheme.

The skilled person starting from D1 as closest prior art and trying to solve this problem would get a hint from D1 that it is possible for the user to input multiple feedbacks related to a transaction within the same feedback window using "number options" (see page 25, line 22 to page 26, line 2 in relation with figure 29b). In the board's judgement, it is obvious that the skilled person, aware of this teaching, would consider designing a feedback window enabling the input by a user of multiple feedbacks related to multiple transactions associated with the user.

For these reasons, the board decides that the subject-matter of claim 1 does not involve an inventive step having regard to the disclosure of D1.

- 3.4 Independent claim 16 contains the same features as claim 1 but uses the terms "item" and "comment" instead of, respectively, transaction and feedback. The change in wording does not however imply a change in the technical features of the claim. Thus, the argumentation presented with respect to claim 1 applies mutatis mutandis. Claim 16 therefore does not meet the requirements of Article 56 EPC 1973.

Independent claim 17 contains the same features as claim 16 but expressed in system-claim terms. Thus, for similar reasons claim 17 does not meet the requirements of Article 56 EPC 1973.

3.5 The appellant has mainly argued that the alleged invention is in a technical field and that each step of claim 1 is a technical step and contributes to the solution of a technical problem. The board accepts that the alleged invention is in a technical field and agrees with the definition of the technical problem by the appellant. However in the board's judgement the technical features of claim 1 do not contribute, in combination, to an inventive step of the subject-matter of claim 1 (see paragraph 3.3 above).

3.6 In view of the foregoing, the board judges that neither the recognition of the underlying technical problem nor the claimed solution require the exercise of inventive skill. Claims 1, 16 and 17 of the appellant's request are therefore found to lack an inventive step. In the absence of an allowable request the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:

B. Atienza Vivancos

A. Ritzka