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Datasheet for the decision of 22 May 2012

Case Number: T 0700/07 - 3.5.01

Application Number: 01996181.2

Publication Number: 1350206

IPC: G06F17/60

Language of the proceedings: EN

Title of invention:
GLOBAL ELECTRONIC TRADING SYSTEM

Applicant:
Scale Semiconductor FLG, LLC

Headword:
Global electronic trading system/SCALE SEMICONDUCTOR

Relevant legal provisions:
EPC 1973 Art. 56

Keyword:
Inventive step (no)

Europäisches Patentamt | European Patent Office | Office européen des brevets

Beschwerdekammern | Boards of Appeal | Chambres de recours

Case Number: T0700/07 - 3.5.01

D E C I S I O N
of the Technical Board of Appeal 3.5.01
of 22 May 2012

Appellant: (Applicant)
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Decision under appeal: **Decision of the Examining Division of the European Patent Office posted 11 December 2006 refusing European patent application No. 01996181.2 pursuant to Article 97(1) EPC 1973.**

Composition of the Board:

Chairman: S. Wibergh
Members: P. Scriven
P. Schmitz

Summary of Facts and Submissions

I. The appeal is against the Examining Division's decision, posted on 11 December 2006, to refuse European patent application 01996181.2.

II. The refusal was on the grounds that the subject matter of the following claim lacked inventive step.

1. A computer network comprising:

a plurality of trader terminals (2) each operable to generate and dispatch offer or bid data including size and price data and to receive order book data (24,25) representative of offer and bid data generated by others of said plurality of trader terminals (2);

a central server (1) operable to receive offer and bid data from said trader terminals (2) and process received offer and bid data to generate and output order book data (24,25) representative of received data to others of said plurality of trader terminals (2); and

a communications network operable to transfer data between said trader terminals (2) and said central server (1);

characterized in that:

the central server (1) is configured to store network data defining a plurality of nodes (4,5) interconnected by links (3), each of the links (3) being associated with limit data, wherein each of the nodes (4,5) is associated with one or more of said plurality of trader terminals (2) and the limit data associated with a link is representative of trading limits between the trader terminals (2) associated with the nodes (4,5) connected by the link, the central server (1) being responsive to receipt of offer or bid data from a trader terminal (2) to generate and

dispatch order book data (24,25) to others of said plurality of trader terminals (2) where the order book data (24,25) output to a terminal comprises received price data and either received size data or a value corresponding to a calculated maximum permissible flow between the node in said network data associated with the trader terminal (2) from which offer or bid data is received and the node in said stored network associated with the trader terminal (2) for which order book data (24,25) is generated, the maximum permissible flow between nodes (4,5) being determined by the central server (1) on the basis of the limit data associated with the one or more links (3) defining paths between said nodes (4,5) in the network defined by said stored network data.

III. In the notice of appeal, the appellant requested that the decision be cancelled in its entirety and that the Board should grant the application.

IV. In the statement setting out its grounds of appeal, the appellant argued (point 3) that the Examining Division had "incorrectly characterized features of the claims as non-technical features and hence failed to appreciate the technical problem ...," and (point 13) that, "The presence of network data on the central server and the calculation of customised order book data distribution to trader terminals greatly reduces the amount of network traffic compared with the system of the prior art." It also requested oral proceedings, in the event that the Board was not minded to grant the application.

V. The Board arranged for oral proceedings to be held. In an annex to the summons, the Board stated that it understood the appellant's requests to be that the

Examining Division's decision be set aside and that a patent be granted on the basis of the sole request underlying that decision, or, alternatively, that oral proceedings be held. The Board also presented its preliminary opinion, that the technical problem proposed by the appellant was unconvincing.

VI. The appellant responded that it would not be represented at oral proceedings. No arguments or requests were filed with this response.

VII. Oral proceedings were held as scheduled on 22 May 2012, in the appellant's absence.

Reasons for the Decision

1. The appellant chose not to attend oral proceedings before the Board, and has submitted no further arguments or amendments since the summons. The Board takes the appellant to be relying on its earlier written submissions (Article 15(3) RPBA).

2. The invention defined in claim 1 is a computer network consisting of *trader terminals*, a *central server*, and a *communications network*, each with particular properties. Underlying the network is a non-technical trading system comprising traders, a central agent and a communications network, that might consist of nothing more than people talking to one another. It may well be a superior trading system to any previously known, and may well not have been evident at the priority date, but the Board is not called upon to decide those issues. What the Board must decide is whether the technical realisation in terms of terminals and server

was obvious.

3. There are generally two ways a skilled person might arrive at a particular technical implementation of a non-technical system. She might start from a specification of the non-technical system and seek a technical realisation, or she might start from some prior art technical realisation of a similar technical system and modify it. If either of those paths would have been obvious at the priority date, there was no inventive step.

4. The Examining Division considered that the first path was obvious. The appellant disagrees, and argues that there is more to the technical implementation than the provision of terminals and a server. The argument is, that by providing the central server, as defined in the claim, there is a reduction in network traffic. That is an argument that addresses the second path, because it seeks to compare network traffic in a prior art technical implementation with network traffic in the implementation according to the invention.

5. The Board finds that the Examining Division's assessment was correct. The reasons are as follows.

5.1 The starting point is the non-technical trading system. In the terminology of claim 1, it consists of traders who can generate and dispatch offers or bids, and can receive offers and bids from other traders; and of a central agent who can receive offers and bids and pass them on. The central agent must keep information about the traders and, when he receives an order or bid, assemble price information and either size information or a limit for trades between the trader who sent the offer or bid and the traders who will

receive them. That is, the central agent may add limit information. All that is non-technical. The skilled person has the task of providing a technical tool for its implementation.

5.2 As mentioned in the decision under appeal, computer networks comprising terminals and servers formed part of the common general knowledge at the priority date. That does not require written evidence. Such networks were good at collecting data, storing it, transforming it, and reacting to it. They were also good at transmitting it reliably and quickly. Those were just the properties that made them suitable for the implementation the skilled person must provide. In particular, a server would have been a prime candidate to take on the role of the central agent simply because servers were designed to cope with large amounts of data.

5.3 The Board concludes that the skilled person would have been motivated to implement the system using a computer network. That is all that is required to arrive at the invention claimed.

6. The appellant's counter-argument is that the provision of the central server means there is less network traffic. Since reduction of network traffic is a technical problem, the use of such a server cannot be part of the specification of what the skilled person must implement.

6.1 As noted in the annex to the summons to oral proceedings (points 4.1 and 4.2), the Board has doubts as to whether there is any reduction in traffic on the network. However, even if it accepted that there is a reduction, the Board would find the appellant's

argument unconvincing. That is because, as set out above, the task facing the skilled person does not stipulate the use of a central server. It does stipulate the use of a central agent, which is a non-technical entity that can properly be placed in the specification the skilled person is given. The issue of whether or not there is a reduction in network traffic is then beside the point. The skilled person implements the trading system she is given. The system may or may not involve less communication between traders than a different trading system, but the only relevant question remains whether the technical implementation would have been obvious or not.

7. For those reasons, the Board finds that the subject matter of claim 1 does not involve an inventive step (Article 56 EPC 1973), and, therefore, that the appellant's request cannot be allowed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

T. Buschek S. Wibergh

Decision electronically authenticated