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**Datasheet for the decision
of 31 May 2011**

Case Number: T 0096/08 - 3.5.05

Application Number: 96940767.5

Publication Number: 0872075

IPC: H04L 9/00

Language of the proceedings: EN

Title of invention:

Wireless transaction and information system

Applicant:

TRANSACTION TECHNOLOGY, INC.

Headword:

Wireless transaction and information system/TRANSACTION
TECHNOLOGY

Relevant legal provisions:

EPC Art. 84, 123(2)

Relevant legal provisions (EPC 1973):

EPC Art. 106, 107, 108

Keyword:

"Lack of clarity (yes - main and auxiliary request)"
"Extension of subject-matter (yes - main and auxiliary
request)"

Decisions cited:

J 0010/07

Catchword:

-



Case Number: T 0096/08 - 3.5.05

D E C I S I O N
of the Technical Board of Appeal 3.5.05
of 31 May 2011

Appellant: TRANSACTION TECHNOLOGY, INC.
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Santa Monica, CA 90405 (US)

Representative: Johansson, Lars-Erik
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 3 August 2007
refusing European patent application
No. 96940767.5 pursuant to Article 97(1) EPC
1973.

Composition of the Board:

Chair: A. Ritzka
Members: P. Corcoran
F. Blumer

Summary of Facts and Submissions

- I. This is an appeal against the decision of the examining division to refuse the European patent application No. 96 940 767.5, originally filed as international application PCT/US1996/17902 and published as WO 97/18653 A2. The decision was announced in oral proceedings held on 19 June 2007 and written reasons were dispatched on 3 August 2007.
- II. The impugned decision was based on a set of claims 1 to 3 filed with the letter of 21 May 2007. The examining division found that the subject-matter of the aforementioned claims lacked an inventive step in the light of the following document:
D1: WO 94/28498.
- III. Notice of appeal was received at the EPO on 3 October 2007 with the appropriate fee being paid on the same date. A statement setting out the grounds of appeal was received at the EPO on 3 December 2007. With the statement setting out the grounds of appeal the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the set of claims filed with the letter of 21 May 2007.
- IV. In a communication accompanying a summons to oral proceedings to be held on 31 May 2011 the board gave its preliminary opinion that the applicant's request was not allowable.
- V. In said communication, objections were noted *inter alia* under Articles 84 EPC and 123(2) EPC. The board further expressed the opinion that the subject-matter of

- claim 1 lacked an inventive step, in particular having regard to the disclosure of D1 which was considered to represent the closest prior art.
- VI. With a letter of reply dated 2 May 2011, the appellant filed a new main request consisting of claims 1 to 5. Amendments to the description and drawings were also submitted.
- VII. At the oral proceedings held as scheduled on 31 May 2011, the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the main request (claims 1 to 4) or subsidiarily on the basis of the auxiliary request (claims 1 to 4), both requests as filed during said oral proceedings.
- VIII. The further documents on which the appeal is based, i.e. the text of the description and the drawings, are as follows:
Description, pages:
1, 3-22 as originally filed;
2, 2a, 2b as filed with the letter dated 26 November 2004;
Drawings, sheets:
1/9 - 9/9 as originally filed.
- IX. Claim 1 of the main request reads as follows:
"A financial information and transaction system comprising:
- a host financial computer system (10), said host system (10) maintaining records of user account information,

- a plurality of cash less [sic] terminals (120, 172) that provides a user interface (102,104) for accessing said host financial computer system (10), at least one terminal (120) including first means (110) for transmitting and receiving data and a smart card reader (108) arranged to cooperate with a smart card device (200),
- communication means (20) for operatively coupling said terminals (120, 172) indirectly or directly to said host system (10) whereby data corresponding to said user account information can be exchanged between said terminals (120, 172) and said host system (10), said communication means (20) including second means for wirelessly transmitting and receiving data with said first means (110) for wirelessly transmitting and receiving data and wherein a user accesses said host financial system (10) through a smart card device (200) that is coupled to said smart card reader (108),
- said smart card device (200) including means for encrypting data which is exchanged with said host financial system (10),

characterised by

arranging said at least one terminal (120) for access to foot traffic, in the form of a roll able [sic], mobile unit (120) powered by rechargeable batteries (122) and included in and acting as said wireless communication part of a server/terminal unit (150) forming a portion of a LAN, comprising a spread spectrum server (162), wherein said server/terminal unit (150) is arranged to exchange information between a user and said host system (10) by means of a plurality of said terminals (120, 158, 172) coupled to said LAN."

X. Claim 1 of the auxiliary request reads as follows:

"A financial information and transaction system comprising:

- a host financial computer system (10), said host system (10) maintaining records of user account information,

- a plurality of terminals (120, 172) in the form of a roll able [sic], mobile unit (120, 172), for access to foot traffic that provides a user interface (102,104) for accessing said host financial computer system (10), at least one terminal (120) including first means (110) for wirelessly transmitting and receiving data and a smart card reader (108) arranged to cooperate with a smart card device (200),

- communication means (20) for operatively coupling said terminals (120, 172) indirectly or directly to said host system (10) whereby data corresponding to said user account information can be exchanged between said terminals (120, 172) and said host system (10), said communication means (20) including second means for wirelessly transmitting and receiving data with said first means (110) for wirelessly transmitting and receiving data and wherein a user accesses said host financial system (10) through a smart card device (200) that is coupled to said smart card reader (108),

- said smart card device (200) including means for encrypting data which is exchanged with said host financial system (10), characterised by

arranging said at least one cash less [sic] terminal (120) powered by rechargeable batteries (122) and included in and acting as said wireless

communication part of a server/terminal unit (150) forming a portion of a LAN, comprising a spread spectrum server (162), wherein said server/terminal unit (150) is arranged to exchange information between a user and said host system (10) by means of a plurality of said terminals (120, 158, 172) coupled to said LAN."

XI. During oral proceedings before the board the appellant referred in particular to p.14 l.16-20 of the published application as providing support for the specification of at least one terminal being "included in and acting as said wireless communication part of a server/terminal unit (150) forming a portion of a LAN ..." which had been introduced by way of amendment into the characterising part of claim 1 of the main request and, likewise, into the characterising part of claim 1 of the auxiliary request.

XII. At the end of the oral proceedings the chair announced the board's decision.

Reasons for the Decision

1. *Admissibility*

1.1 The appeal complies with the provisions of Articles 106 to 108 EPC 1973 which are applicable according to J 0010/07 (cf. Facts and Submissions, item III. above). Therefore it is admissible.

Main request

2. *Claim 1*

- 2.1 Claim 1 of the main request is directed towards a financial information and transaction system. In the board's judgement, the claim recites a combination of elements from the embodiment of Fig. 3B (cf. published application: p.12 l.24 - p.14 l.2), and from the embodiment of Fig. 4 (cf. published application: p.14 l.12 et seq.).
- 2.2 The formulation in the characterising part of the claim which specifies "arranging said at least one terminal (120) for access to foot traffic, in the form of a roll able [*sic*], mobile unit (120) powered by rechargeable batteries (122)" is judged by the board to relate to a terminal in accordance with the embodiment of Fig. 3B (cf. application p.12 l.24 - p.13 l.2; p.13 l.21 - p.14 l.2).
- 2.3 The feature of a "server/terminal unit (150)" which is introduced in the characterising part of the claim is judged by the board to relate to the embodiment of Fig. 4 in which a wireless server/terminal unit is used to exchange financial information between a user and a remote host computer of a financial institution (cf. application: p.14 l.12-16).
- 2.4 The specification "arranging said at least one terminal (120) for access to foot traffic, in the form of a roll able [*sic*], mobile unit (120) powered by rechargeable batteries (122) and included in and acting as said wireless communication part of a server/terminal unit

(150) forming a portion of a LAN ..." as recited in the characterising part of claim 1 fails to comply with the requirements of Articles 84 and 123(2) EPC for the reasons which follow.

2.5 The term "said wireless communication part of a server/terminal unit" lacks an antecedent basis in the claim and consequently the technical limitation implied by the term is unclear (Article 84 EPC).

2.6 Furthermore, there is no direct and unambiguous disclosure in the application as originally filed of a terminal as specified in claim 1, i.e. a cashless terminal arranged in the form of a rollable mobile unit powered by rechargeable batteries, acting as the wireless communication part of a server/terminal unit forming a portion of a LAN.

The passage of the description (cf. p.14 l.16-20) cited by the appellant in support of the disputed claim specification merely states that the wireless server/terminal unit of the embodiment according to Fig. 4 "preferably includes a terminal described above in reference to Figs. 3A and 3B (that is, one which incorporates a display, a keypad, a smart card reader, and means for wireless transmission of data)".

The board judges that the cited passage of the description does not amount to a direct and unambiguous disclosure of the combination of features recited in the aforementioned claim specification (cf. 2.4 above). Said claim specification is thus found to introduce subject-matter extending beyond the content of the application as filed (Article 123(2) EPC).

3. In view of the foregoing, the board concludes that claim 1 of the main request fails to comply with the requirements of Articles 84 and 123(2) EPC. The request must therefore be rejected.

Auxiliary request

4. *Claim 1*

- 4.1 The characterising part of claim 1 of the auxiliary request contains a similar specification to that referred to in 2.4 above in respect of the main request, viz. "arranging said at least one cash less [sic] terminal (120) powered by rechargeable batteries (122) and included in and acting as said wireless communication part of a server/terminal unit (150) forming a portion of a LAN ...".

- 4.2 In the board's judgement, the aforementioned specification of claim 1 of the auxiliary request fails to comply with the requirements of Articles 84 and 123(2) EPC for substantially the same reasons as given in respect of the corresponding specification of claim 1 of the main request (cf. 2.5 and 2.6 above).

- 4.3 In particular (cf. 2.5 above), the term "said wireless communication part of a server/terminal unit" lacks an antecedent basis in the claim and consequently the technical limitation implied by the term is unclear (Article 84 EPC).

- 4.4 Furthermore, the board judges that there is no direct and unambiguous disclosure in the application as

originally filed of a terminal as specified in claim 1, i.e. a cashless terminal in the form of a rollable mobile unit powered by rechargeable batteries, acting as the wireless communication part of a server/terminal unit forming a portion of a LAN. The claim specification referred to in 4.1 above is thus found to introduce subject-matter extending beyond the content of the application as filed (Article 123(2) EPC) as in the case of the corresponding specification of claim 1 of the main request (cf. 2.6 above).

5. In view of the foregoing, the board concludes that claim 1 of the auxiliary request fails to comply with the requirements of Articles 84 and 123(2) EPC. The request must therefore be rejected.

Conclusions

6. Having regard to the aforementioned deficiencies in the appellant's requests (cf. 3. and 5. above), it is not necessary to give further consideration to the other objections raised in the communication accompanying the summons to oral proceedings.
7. 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:

K. Götz

A. Ritzka