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

Case Number: T 0970/08 - 3.4.03

Application Number: 03077748.6

Publication Number: 1398739

IPC: G07F 7/08

Language of the proceedings: EN

Title of invention:

A method and system for transferring funds

Applicant:

European Tax Free Shopping Limited

Opponent:

-

Headword:

-

Relevant legal provisions:

EPC Art. 123(2)

Keyword:

"Added subject-matter (yes)"

Decisions cited:

-

Catchword:

-



Case Number: T 0970/08 - 3.4.03

D E C I S I O N
of the Technical Board of Appeal 3.4.03
of 31 March 2011

Appellant: European Tax Free Shopping Limited
Tully Business Park
Ballinahown
Galway (IE)

Representative: Gates, Marie Christina Esther
Tomkins & Co.
5 Dartmouth Road
Dublin 6 (IE)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 14 November 2007
refusing European patent application
No. 03077748.6 pursuant to Article 97(1) EPC
1973.

Composition of the Board:

Chairman: G. Eliasson
Members: T. Häusser
P. Mühlens

Summary of Facts and Submissions

I. The appeal concerns the decision of the examining division refusing European patent application No. 03 077 748, which was published under the publication No. EP 1 398 739 A1, for lack of inventive step (Article 56 EPC 1973) in view of the following document:

D3: EP 1 058 217 A2.

II. In a communication annexed to the summons to oral proceedings, which were requested by the appellant, the board was, *inter alia*, of the provisional opinion that the subject-matter of certain claims extended beyond the content of the application as filed (Article 123(2) EPC) and that the subject-matter of claim 1 did not involve an inventive step (Article 56 EPC 1973).

Thereupon the appellant informed the board that it would not intend to attend the oral proceedings and that a decision on the state of the file was requested.

III. Oral proceedings were held in the absence of the appellant. The appellant requested in writing that the decision under appeal be set aside and a patent be granted on the basis of claims 1-9 as filed with the letter dated 21 August 2007.

IV. The wording of claims 1, 3, 5, and 6-9 reads as follows:

"1. A system for transferring funds from a first payment cardholder to a second payment cardholder, the system comprising:

a network of card payment terminals and at least one host terminal;

wherein at least one of the networked terminals comprises:

display means adapted to display a user interface for prompting a terminal user to input data;

card data input means adapted to read data encoded on a credit, debit or charge card;

user input means adapted to

receive data representing an indication from the first cardholder that a funds transfer to the second cardholder is required;

receive data representing a transfer value; and

optionally receive data indicative of the card data inscribed on a credit, debit or charge card;

printing means adapted to print a transfer receipt slip and a unique transaction identifier;

storage means adapted to store at least the card data read and/or received, the transaction authorisation request and the unique transaction identifier as transaction data; and

communication means adapted to communicate transaction authorisation requests and post transaction data to the at least one host; and wherein the host is adapted to:

receive the transaction data from the at least one terminal; and

perform a check to confirm the authenticity and/or validity of the data received;

characterised in that the host is further adapted to

determine a suitable electronic merchant account for processing a first transaction for the first

cardholder and a suitable electronic merchant account for processing a second transaction for the second cardholder with reference to data indicative of at least one selected from the group comprising the respective issuing institution of the cardholder, the geographic location of the respective issuing institution of the cardholder, the minimum interchange fee available, or with reference to a look-up table containing a list of card numbers or ranges of card numbers and their associated merchant accounts;

generate a first electronic transaction between the determined first electronic merchant account and the electronic card account of the first cardholder for a negative amount corresponding to at least the funds transfer value; and

generate a second electronic transaction between the determined second electronic merchant account and the electronic card account of the second cardholder for a positive amount corresponding to at least the funds transfer value."

"3. The system of claim 1 or 2, wherein the communication means is further adapted to obtain a response to the authorisation request for the first transaction before, during or after the reception of data representing a transfer value."

"5. The system of any of claims 1 to 4, wherein the host is further adapted to receive the transaction data from the at least one terminal immediately or punctually."

"6. The system of any of claims 1 to 5, wherein the host is further adapted to communicate the generated

first and second electronic transactions to payment card scheme terminals via a collection host associated with an issuer."

"7. The system of any of claims 1 to 5, wherein the host is further adapted to communicate the generated first and second electronic transactions to the terminal of a merchant associated with the determined merchant account, the merchant terminal being adapted to receive the transactions and forward them to payment card scheme terminals."

"8. The system of claims 6 or 7, wherein the host is further adapted to communicate data representing a detail entry associated with the fund transfer, to the collection host when dependent on claim 6 or to the terminal of a merchant when dependent on claim 7."

"9. The system of any of claims 1 to 8, wherein the host is further adapted to cancel the generated first and second electronic transactions by generating two further electronic transactions, respectively for a positive amount and for a negative amount, the amount corresponding to at least the funds transfer value."

V. The appellant's arguments, as far as they are relevant to this decision, can be summarized as follows:

During the examination proceedings the appellant had argued in writing that the following features of claim 1:

- (i) "the system comprising: a network of card payment terminals and at least one host terminal",

- (ii) "wherein at least one of the networked terminals comprises: ... storage means adapted to store at least the card data read and/or received, the transaction authorisation request and the unique transaction identifier as transaction data",
- (iii) "the host is further adapted to ... generate a first electronic transaction between the determined first electronic merchant account and the electronic card account of the first cardholder for a negative amount corresponding to at least the funds transfer value",
- (iv) "the host is further adapted to ... generate a second electronic transaction between the determined second electronic merchant account and the electronic card account of the second cardholder for a positive amount corresponding to at least the funds transfer value",

were based on paragraphs [0030], [0041], [0056], and [0057], respectively, of the application as published. Furthermore, the additional features of claims 3, 5, 6, 7, 8, and 9 were based on paragraphs [0052], [0055], [0041] and [0059], [0059], [0063], and [0061], respectively, of the application as published.

Reasons for the Decision

1. Admissibility

The appeal is admissible.

2. Amendments

2.1 In feature (i) of claim 1 (see point VI. above) it is specified that the claimed system comprises at least one *host terminal*. The passage [0030] in the application as published, which was pointed out by the appellant as a basis for feature (i), corresponds to page 6, lines 25-29, of the application as filed. There is however no disclosure of a *host terminal* in that passage, but merely of sophisticated computer systems and/or simple payment card terminal devices in conjunction with a *host system*.

Furthermore, claim 1 relates to a host determining suitable merchant accounts for processing the transactions for the cardholders, which is described with reference to the embodiment shown in Figures 5 and 6 and the corresponding method shown in Figure 6 (page 11, lines 5-27, and page 13, lines 6-19). With respect to that embodiment it is described on page 11, lines 5-14, that a host 70 is adapted to receive requests from one or more terminal devices 72 and to process requests for a funds transfer from a first cardholder to a second cardholder. In order to perform these tasks, the host 70 checks the data received from the terminal, determines a suitable first merchant, creates a first transaction between the first merchant and the first cardholder, determines a suitable second merchant, creates a second transaction between the second merchant and the second cardholder, and finally forwards the transactions to a collection host associated with an issuer, as described from page 13, line 6, to page 14, line 14, with reference to the

steps 117 to 127 shown in Figure 6 ("Host Side"). The host 70 performs thus merely processing steps while communicating with the connected entities via communication links. There is however no indication that the host allows either data display or data entry. Therefore, the host cannot be regarded as a *terminal*. Since the host 70 is connected to the terminal 72, which allows data display and data entry (see Figure 6, steps 101 to 115, "Terminal Side"), there is not even a need for the host to also provide for these tasks to be performed.

With reference to Figure 2 it is described that a terminal 22 communicates with an *authorization host* 24 and a *transaction host* 26. The authorization host 24 is configured to grant or deny the authorization to proceed with a payment card transaction and the transaction host 26 is adapted to pass payment card transactions received from the terminal to the financial institutions (page 7, lines 14-24). Arguments corresponding to those above again lead to the conclusion that in relation to the embodiment shown in Figure 2 there is no disclosure of a host terminal, either.

Consequently, feature (i) of claim 1 cannot be directly and unambiguously derived from the application as filed.

2.2 For completeness the following objections are also mentioned, albeit more briefly:

2.2.1 On page 10, lines 8-12, it is disclosed that "the first and second transactions are stored in the terminal" and

on page 13, lines 1-2, it is disclosed that "[t]hese details are also stored in the terminal", where "these details" refers to the details in the last two paragraphs of page 12. It is however not disclosed that the *authorization request* is stored in the terminal. Therefore, feature (ii) of claim 1 cannot be directly and unambiguously derived from the application as filed.

2.2.2 It is disclosed in the application as filed that the amount referred to in feature (iii) may or may not have a *commission added* (page 13, line 18), and that the amount referred to in feature (iv) may or may not have a *commission deducted* (page 13, lines 26-27). The expression "at least the funds transfer value" in features (iii) and (iv) of claim 1 and in the additional feature of claim 9 is however broader and thus cannot be directly and unambiguously derived from the application as filed.

2.2.3 The terminal has been disclosed to request the authorisation for the first transaction before/after/during the step of displaying a message requesting the entry of the payment card details of the cardholder to whom the funds are to be transferred (page 12, lines 17-19). However, there is no disclosure for the feature that the communication means are adapted to obtain a response to the authorisation request for the first transaction "before, during or after the reception of data representing a transfer value". Therefore, the subject-matter of the additional feature of claim 3 cannot be directly and unambiguously derived from the application as filed.

2.2.4 It has been disclosed that the transmission of data from the terminal to the host may be performed "immediately or in batch for example at the end of each day" (page 13, lines 1-3). But there is no disclosure that the host is adapted to receive the data from the terminal "punctually". Therefore, the subject-matter of the additional feature of claim 5 cannot be directly and unambiguously derived from the application as filed.

2.2.5 The subject-matter of the additional features of claims 6-8 has no basis in the application as filed: neither payment card scheme terminals nor merchant terminals associated with a merchant account nor the claimed communications are directly and unambiguously derivable from the application as filed.

2.3 For these reasons the application contains subject-matter which extends beyond the content of the application as filed, contrary to the requirements of Article 123(2) EPC.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

S. Sánchez Chiquero

G. Eliasson