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**Datasheet for the decision
of 8 June 2010**

Case Number: T 1370/08 - 3.4.01

Application Number: 02254994.3

Publication Number: 1280136

IPC: G10L 15/06

Language of the proceedings: EN

Title of invention:

Spoken language understanding that incorporates prior knowledge into boosting

Applicant:

AT&T Corp.

Opponent:

-

Headword:

-

Relevant legal provisions:

EPC Art. 108

EPC R. 99(2)

Relevant legal provisions (EPC 1973):

-

Keyword:

"Admissibility of the appeal (no; inadequate substantiation of the statement of grounds)"

Decisions cited:

T 0220/83, T 0432/88, T 0287/90, T 0188/92, T 0646/92,
T 0349/00, T 0934/02, T 0729/90

Catchword:

-



Case Number: T 1370/08 - 3.4.01

D E C I S I O N
of the Technical Board of Appeal 3.4.01
of 8 June 2010

Appellant:

AT&T Corp.
32 Avenue of the Americas
New York
NY 10013-2412 (US)

Representative:

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Decision under appeal:

Decision of the Examining Division of the
European Patent Office posted 29 February 2008
refusing European application No. 02254994.3
pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: B. Schachenmann
Members: H. Wolfrum
F. Neumann

Summary of Facts and Submissions

- I. European patent application 02 254 994.3 (publication No. EP 1 280 136) was refused by a decision of the examining division dispatched on 29 February 2008, primarily for the reason of lack of support in the description (Article 84 EPC 1973) of the subject-matter of claim 1 then on file. Further deficiencies under Articles 56 and 83 EPC 1973 and Article 123(2) EPC were indicated.
- II. The applicant lodged an appeal against the decision on 7 May 2008 and paid the prescribed fee on the same day. A statement of grounds of appeal was filed on 20 June 2008.

The statement reads as follows:

"Grounds of Appeal

We are now submitting the Grounds of Appeal for the above application.

Please find enclosed a set of amended claims, beginning on page 18, which are presented as an auxiliary request. In these claims some amendments are proposed to claim 1, and additional independent claims 9 and 10 are added.

A copy of page 18 showing the amendments to claim 1 is also enclosed for the Examiner's convenience.

The claims at present on file, as amended in our response of 24 September 2007 to the second Examination Report, are presented as our main request.

We submit that these claims should be allowed for the reasons already presented to the EPO in our earlier correspondence. In particular, the contents of our letter of 16 February 2007 in response to the first examination report, our letter of 24 September 2007 in response to the second examination report, and our facsimile of 11 February 2008 presenting an email containing the inventor's comments as written submissions for the Oral Proceedings are all incorporated herein in their entirety.

We respectfully submit that the Examiner was not properly understanding the invention, and was not correct in his assessments of the value of the invention. We respectfully submit that each of the three portions of the final corpus of training entries together with their associated labels and senses of attachment effectively provide different treatments of the collection of utterances data, based on the rules created for the particular application at hand, and consequently they are useful to the classification process.

Favourable reconsideration of the application is requested."

III. On 1 April 2010 the appellant was summoned to oral proceedings to take place on 8 June 2010.

In an annex accompanying the summons pursuant to Article 15(1) RPBA the Board informed the appellant that it had serious doubts as to whether the statement of grounds of appeal met the requirements of Article 108 EPC in conjunction with Rule 99(2) EPC so that the admissibility of the appeal would become the sole topic of discussion in the oral proceedings.

- IV. By facsimile of 6 May 2010 the appellant filed an amended claim 1 as a second auxiliary request. No observations were made in support of the admissibility of the appeal.

In a telephone conversation with and a subsequent e-mail to the Board's registrar on 1 June 2010 the representative of the appellant confirmed that he did not intend to attend the oral proceedings and would not have done so, even if the two months notice of Rule 115(1) EPC had been given.

- V. Oral proceedings, at the end of which the decision of the Board was announced, took place on 8 June 2010 in the absence of the appellant.

Reasons for the Decision

1. In the light of the entry into force of the EPC 2000, reference is made to Article 7(1), 2nd sentence of the Revision Act of 29 November 2000 ("Act revising the Convention on the Grant of European Patents (European Patent Convention) of 5 October 1973, last revised on 17 December 1991") and the transitional provisions for the amended and new provisions of the EPC (Decision of the Administrative Council of 28 June 2001), from which it may be derived which Articles of the EPC 1973 are still applicable to the present application and which Articles of the EPC 2000 are to apply.

2. Admissibility of the appeal

2.1 Article 108 EPC in conjunction with Rule 99(2) EPC requires that a statement setting out the grounds of appeal is filed which indicates the reasons for setting aside the decision impugned, or the extent to which it is to be amended, and the facts and evidence on which the appeal is based.

In this respect, the jurisprudence of the boards of appeal has developed the general principle applicable to statements of grounds of appeal that the grounds of appeal should specify the legal or factual reasons on which the request for setting aside the decision is based (see for instance T 220/83 (OJ 1986, 249)). The arguments must be clearly and concisely presented to enable the board to understand immediately why the decision is alleged to be incorrect.

2.2 In the present case, the grounds given consist, on the one hand, of a reference to reasons presented in earlier letters dated 16 February 2007 and 24 September 2007 and in a facsimile of 11 February 2008 and, on the other hand, of the allegation that the examiner had not properly understood the invention and was not correct in his assessment of the value of the invention. This is followed by a brief explanation as to the merits of the invention (cf point II of the above Summary of Facts and Submissions).

2.2.1 Statements of grounds of appeal which merely refer generally to submissions made in the first instance proceedings are normally not considered to be adequately substantiated since they do not clearly indicate which

grounds of the decision are regarded as mistaken, and why, and therefore make it impossible for a board to immediately consider and decide upon the merits of the appeal without making investigations of its own (see for instance decisions T 646/92, T 188/92, T 287/90 or T 349/00, none of them published).

In the case at hand, the situation is even worse : the submissions referred to in the statement of grounds of appeal include an acknowledgement that one of the reasons presented in the decision is in fact correct. The facsimile of 11 February 2008 responded to a communication of the examining division dated 15 November 2007 which directly preceded its decision and which had raised concrete objections under Articles 56, 83 and 84 EPC 1973. The facsimile reproduces the text of an e-mail with comments which one of the inventors had sent to the appellant's representative. Insofar as these comments make reference to the said communication of 15 November 2007, they acknowledge that the mathematical expression " $1 - hp(x,1)$ " which appears in claim 1 of what is still the appellant's main request is erroneous. In other words, the most recent submission made in the first instance proceedings to which reference is made as substantiation of the grounds of appeal amounts to an admission that the decision is correct in this respect and, as far as the reasons for refusal under Article 84 EPC 1973 are concerned, does not even attempt to defend the request on which the contested decision is based and which is maintained as the main request for the appeal.

As a matter of fact, the objection of lack of support in the description for a "weight" of the claimed value of "1 - hp(x_i,l)" was not addressed by the appellant in any of their responses.

2.2.2 The remainder of the facsimile merely alleges a fundamental misunderstanding of the invention on the part of the examining division. It constitutes in fact the only substantive submission in the grounds of appeal presented.

However, it does not address the question as to why the findings of the examining division, in particular the finding of the said lack of support of the claimed subject-matter in the description of the application, were wrong but, instead, briefly explains why the appellant considers his invention to be of value and useful.

Besides, this brief explanation refers to technical items, *ie* "*three portions of the final corpus of training entries*" and "*collection of utterances data*", which are not the subject of the independent claims of the requests made with the statement of grounds of appeal.

2.2.3 It follows that the statement of grounds of appeal does not specify any legal or factual reason why the objection identified by the examining division in paragraph 1 of the reasons for the decision may be regarded to be wrong and therefore lacks adequate substantiation.

2.3.1 Exceptionally, an appeal may be considered admissible even if its grounds fail to deal with the reasoning of the contested decision. In decision T 934/02 (*cf* Reasons,

point 2; not published) the board found that an appeal which does not state any substantive reasons as to why the contested decision is wrong may nevertheless be regarded as being substantiated merely by the fact that amended claims are filed which deprive the contested decision of its basis. Similarly, in decision T 729/90 (Reasons, point 1.3), the board held that the fact alone that the statement of grounds of appeal contained a set of claims forming an auxiliary request rendered the appeal admissible. However, in each of these cases, the respective board required that a causal link between the amended claims and the reasons given in the contested decision must be apparent. This causal link was evident either in the fact that the amended claims corresponded to a proposal of the examining division or in the fact that an explanation had been provided as to why certain amendments had been performed and why the decision was therefore no longer valid.

2.3.3 In the present case an auxiliary request was filed on 28 June 2008 with the statement of the grounds of appeal. However, a causal link has not been demonstrated between the amended claims and the reasons set out in the contested decision. In particular, the appellant's statement of grounds of appeal does not contain any explanation as to the significance of the amendments made in the auxiliary request nor as to why these amendments address the objections raised by the examining division, in particular in sections 2 and 3 of the reasons for the decision. Consequently, the mere act of filing an auxiliary request together with the statement of grounds of appeal in the present case does not make up for the necessary substantiation.

2.4 For the above reasons, the statement of grounds of appeal filed in the present case amounts to no more than a mere assertion that the contested decision is incorrect, without stating the legal or factual reasons why that decision should be set aside (see T 432/88, point 2 of the Reasons), and thus does not satisfy the provisions of Article 108 EPC in conjunction with Rule 99(2) EPC.

The appeal is therefore not admissible.

The subsequent filing of a second auxiliary request cannot change this finding since the admissibility of the appeal in the present case depends on the contents of the statement of grounds of appeal and not on any subsequent attempt to modify the claims.

Order

For these reasons it is decided that:

The appeal is rejected as inadmissible.

The Registrar

The Chairman

R. Schumacher

B. Schachenmann