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**Datasheet for the decision
of 21 September 2012**

Case Number: T 2207/08 - 3.5.06
Application Number: 05252385.9
Publication Number: 1712989
IPC: G06F 9/44, G06F 21/22
Language of the proceedings: EN

Title of invention:

A computer system, integrable software component and software application

Applicant:

Perkinelmer Singapore PTE Ltd.

Headword:

Integrable software component/PERKINELMER

Relevant legal provisions (EPC 1973):

EPC Art. 54(1), 54(2)

Keyword:

"Novelty - no (main and auxiliary request)"

Cited decisions:

T 1018/02



Case Number: T 2207/08 - 3.5.06

D E C I S I O N
of the Technical Board of Appeal 3.5.06
of 21 September 2012

Appellant: Perkinelmer Singapore PTE Ltd.
(Applicant) 47 Ayer Rajah Crescent
06-12
Singapore 139947 (SG)

Representative: Arrowsmith, Peter Michael E.
Cleveland
10 Fetter Lane
London EC4A 1BR (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 11 July 2008
refusing European patent application
No. 05252385.9 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairwoman: M-B. Tardo-Dino
Members: M. Müller
S. Krischer

Summary of Facts and Submissions

I. The appeal lies against the decision of the examining division, dated 11 July 2008, to refuse European patent application 05252385.9 for lack of novelty over the document

D1: IBM Technical Disclosure "A Reusable Component that Manages and Enforces User Privileges in Software Applications", January 2003.

II. An appeal was filed on 11 September 2008, the appeal fee being paid on the same day. A statement of grounds of appeal was filed on 17 November 2008. It was requested that the decision be set aside and the application be allowed to proceed to grant, the main and auxiliary request being maintained. The board takes this as a request to grant a patent based on the documents underlying the appealed decision, namely claims 1-32 according to the main request or, according to an auxiliary request, claims 1-19 of those of the main request, both filed with the letter of 21 May 2008, in combination with the following documents:

description, pages

3, 4, 6-9 as originally filed

1, 2, 5 received with letter of 8 January 2008

drawing sheets

1/2, 2/2 as originally filed.

III. Independent claim 1 of both the main and the auxiliary request and claim 20 according to the main request read as follows:

"1. A computer system comprising a software application, the software application comprising a host (51) application and an integrable software component (52) integrated with the host application (51) for implementing controls in the host application (51), characterized by the software component (52) being arranged to control access to functions of the host application (51) on the basis of data supplied to the integrable software component (52) by a user and data stored in an external database (3).

20. An integrable software component (52) for implementation in the computer system according to any preceding claim for controlling functionality in a host application, (51) characterized in that the integrable software component (52), is arranged when running on the computer system, to control functionality in host application (51) on the basis of data supplied to the integrable software component (52) by a user and data stored in an external database (3)."

IV. In an annex to a summons to oral proceedings, the board expressed its preliminary opinion that *inter alia* the independent claims lacked clarity, Article 84 EPC 1973, and claim 1, identical in both requests, lacked novelty over D1, Articles 54(1,2) EPC 1973.

V. In response to the summons, the appellant filed neither amendments nor arguments. With telefax dated 17 July 2012, the appellant indicated that it did not intend to attend the scheduled oral proceedings.

VI. Oral proceedings were thus held in the appellant's absence and at the end of which the chairwoman announced the decision of the board.

Reasons for the Decision

Appellant's absence at oral proceedings

1. The duly summoned appellant did not attend the oral proceedings. In accordance with Article 15(3) RPBA, the board relied for its decision only on the appellant's written submissions. The board was in a position to decide at the conclusion of the oral proceedings, since the case was ready for decision (Article 15(5,6) RPBA), and the voluntary absence of the appellant was not a reason for delaying the decision (Article 15(3) RPBA).
2. The following reasons are based on the board's preliminary opinion as set out in the annex to the summons to oral proceedings.

The invention and the prior art

3. The invention relates to a software component for controlling access to the functionality provided by a host application. The software component, referred to as "integrable", is integrated with the host application and offers security services (and is hence described as a "global security component"). The central feature of the claimed invention is that the software component "control[s] access to functions of the host application on the basis of data supplied to

- the integrable software component by a user and data stored in an external database".
4. Throughout examination, D1 was used as a starting point for the assessment of novelty and inventive step, and this choice was not contested by the appellant. The board also agrees with this choice.
 - 4.1 D1 discloses what is called a "User Privilege Component" (henceforth referred to as "UPC") which is "used to manage and enforce user privileges in a software program" (D1, page 1, 1st paragraph). D1 further discloses that on login "the application passes a list of user attributes" to the UPC which it uses to retrieve the privileges that apply to this user from an external database. Later on, the application can ask the UPC "whether a particular privilege is enabled for the user".
 - 4.2 The board agrees with the decision that the UPC is an "integrable software component integrated with [a] host application", as claimed, and that it controls access to the host application "on the basis of data" provided by the user and data stored in an external database. The appellant did not contest this.

Claim construction

5. At issue between the decision under appeal and the appellant is the question of how data is "supplied to the integrable software component ... by [the] user".
- 5.1 The appellant suggests that the claims - in view of the description - must be interpreted to specify that "data is input by a user directly to the" integrable software

component (grounds of appeal, *inter alia* page 1, lines 1-4, and page 2, lines 2-4) via its "interface ... without going through the host application" (cf. decision under appeal, e.g. point 8.1; submission by the appellant/ applicant during examination dated 21 May 2008, page 2, 2nd paragraph). In support of that position, the appellant argues that it can be directly and unambiguously derived from the description and drawings that a direct supply was intended (grounds of appeal, in particular, page 1, lines 4-7 and 17-19, and page 2, lines 2-4).

5.2 The decision under appeal (reasons 2-4) takes the position that claim 1 is not restricted to *direct* supply of data, that, therefore, no difference between the subject matter of claim 1 and D1 can be established and that, as a consequence, claim 1 lacks novelty over D1, Article 54 (1,2) EPC 1973. In a section entitled "additional comments" (reasons 8-8.2), the decision further speculates about whether the introduction of the term "directly" into the claims would be possible within the limits of Article 123(2) EPC, and argues that the application as originally filed fails to disclose "that data is supplied by a user to the integrable software component directly". Specifically, it is argued with reference to T 170/87 that this feature cannot be derived unambiguously from figure 2 of the original application (reasons 8.2, page 6, 1st full paragraph).

5.3 The appellant's statement of grounds of appeal intends to show that the decision is based on an incorrect interpretation of claim 1 and that claim 1, when interpreted correctly, is new and inventive over D1

(see grounds of appeal, page 2, last paragraph). In this context, it is argued that T 170/87 does not apply in the present case and has, therefore, no bearing on what can be derived, directly and unambiguously, from figure 2 (grounds of appeal, page 1, lines 9-12).

6. The board agrees with the examining division's interpretation of claim 1 and its comparison with D1. In the board's judgment, the user attributes according to D1 are clearly "supplied to" the UPC "by the user" and the literal wording of claim 1 does not require any specific manner or path of supply.
- 6.1 In particular, claim 1 does not exclude the option that the data "passes through the host application" before it is, eventually, supplied to the integrable software component.
- 6.2 Moreover, while claim 1 may be broad, the board has no doubt that its teaching is clear and credible. In particular, the fact that claim 1 leaves open how data is supplied to the integrable software component does not render it unclear. Therefore the description and drawings cannot be invoked to impose a different, more limited interpretation of the language of claim 1 (cf. T 1018/02, headnote, first sentence).
- 6.3 Since there is hence no room for interpretation of claim 1 beyond its wording, the question of whether the application as originally filed does or does not disclose the direct input of data has no bearing on the assessment of novelty and can therefore be left open. In particular, the question of what figure 2 discloses need not be decided. Since reference to T 170/87 was

made only in this respect (cf. points 5.2 and 5.3), no discussion of this decision is necessary either.

7. *In summary*, the board comes to the conclusion that the decision under appeal must be confirmed in that claim 1 according to both requests lacks novelty over D1, Article 54(1,2) EPC 1973.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairwoman:

B. Atienza Vivancos

M.-B. Tardo-Dino