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Datasheet for the decision of 25 November 2009

Case Number: T 0085/09 - 3.5.01

Application Number: 01981199.1

Publication Number: 1348187

IPC: G06F 17/60

Language of the proceedings: EN

Title of invention:
Method for collection and collation of data

Applicants:
Reeves, Bruce Hasbrouck Dickson
Davies, Catherine Rita

Opponent:
-

Headword:
Collection of data/REEVES

Relevant legal provisions:
-

Relevant legal provisions (EPC 1973):
EPC Art. 56

Keyword:
"Inventive step (no)"

Decisions cited:
-

Catchword:
-

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Beschwerdekammern | Boards of Appeal | Chambres de recours

Case Number: T 0085/09 - 3.5.01

D E C I S I O N
of the Technical Board of Appeal 3.5.01
of 25 November 2009

Appellants: Reeves, Bruce Hasbrouck Dickson
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Decision under appeal: **Decision of the Examining Division of the European Patent Office posted 15 October 2008 refusing European patent application No. 01981199.1 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman: S. Wibergh
Members: K. Bumes
P. Schmitz

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division to refuse European patent application No. 01981199.1 claiming a priority of 27 November 2000.

II. The following documents will be referred to:

D1: WO-A-92/03805

D4: Extracts from "Technology and the Voting Process Final Report June 15, 1998", prepared for Elections Canada by KPMG/Sussex Circle

D4a: "The Feasibility of Electronic Voting in Canada A Summary of a 1998 KPMG/Sussex Circle Report", Electoral Insight (published by Elections Canada), June 2000.

III. According to the decision appealed the subject-matter of claim 1 did not involve an inventive step over D1, regarded as describing the closest prior art, in combination with D4. D4 was held to have been available on a web site on 4 February 2000 and thus to be valid prior art.

IV. In the statement setting out the grounds of appeal, dated 17 December 2008, the appellants requested that the decision under appeal be set aside and a patent be granted in accordance with the main request, which was for the claims on which the decision under appeal was based, or in accordance with three auxiliary requests filed together with the grounds of appeal.

V. In a communication dated 24 July 2009 accompanying a summons to oral proceedings the Board set out its

provisional opinion on the appeal, which was that claim 1 of all requests contravened Article 123(2) EPC. Some observations were also made in respect of inventive step.

VI. With letter dated 5 October 2009 the appellants submitted claims according to a fourth auxiliary request. They contested that D4 had been publicly available before the priority date of the application and filed various pieces of evidence in this regard. In a statutory declaration the appellants' patent attorney in New Zealand stated that according to his investigations it was not clear when D4 had been made publicly available. A summary of D4, published in the subscription magazine "Electoral Insight" dated 30 June 2000, was said to reflect the true nature of what fell within the public domain. This summary (D4a) was filed together with the statutory declaration.

A fifth auxiliary request was submitted by letter dated 23 November 2009.

VII. Oral proceedings were held on 25 November 2009. In the course of the proceedings the appellants replaced all requests on file by one final set of claims 1-14. They requested that the decision under appeal be set aside and a patent be granted on the basis of these claims.

VIII. Claim 1 of the final request reads:

"An electronic voting system for collecting and collating voter data received from a plurality of appropriate telecommunication means operatively

connected to one or more specified addresses, the system comprising:

a) means for transmitting votes or other voter data received at the one or more specified addresses to a data processing means for data collection and collation;

b) means for providing each voter with an option or question selection wherein each option or question has a unique transmittable signal or code;

c) means for assigning each voter with a unique transmittable signal or code and a unique transmittable PIN both of which must be entered correctly to continue the voting transaction;

d) means for assigning each voter said specified address or addresses, being a receiving address to which the user or voter may connect to transfer by the appropriate telecommunication means, the transmittable signal or code;

e) means for instructing the voter to connect to said specified address or addresses and enter the respective unique transmittable signal or code or signals or codes for the selected options or questions thereby providing said data;

f) means for processing and collating some or all of the voter data whereby a voter may input data from any location by the appropriate telecommunication means that can be connected to said specified address or addresses; and

g) a data processing means which is electronically networked and integrated for vote counting."

Reasons for the Decision

1. The invention

1.1 The invention concerns an electronic voting system for collecting voter data received from a plurality of telecommunication means. Instead of having to vote at polling stations or by mail, voters can connect to a specified address by a telecommunication means. Means are provided for processing and collating votes received from the plurality of telecommunication means. The votes are counted by electronically networked and integrated data processing means.

1.2 In accordance with the appellants' interpretation of claim 1, which the Board adopts, the expression "telecommunication means" relates to a specific telecommunication technique, eg telephone or Internet (see p. 5, l. 1-21 of the application as published); the "plurality of telecommunication means" are means associated with a plurality of different telecommunication techniques; and the "data processing means" for vote counting is one means common to the plurality of telecommunication means.

2. The prior art

2.1 D4a

D4a, a magazine article containing a condensed version of D4, was published by Elections Canada in June 2000. It thus belongs to the state of the art, as acknowledged by the appellants. It describes an examination of various proposals for voting

technologies intended for elections in Canada. The electronic kiosk, the telephone and the Internet are regarded as offering the greatest potential utility because of their wide accessibility and public acceptance (see the section "Voting technologies"). According to the telephone option, PINs would be issued to electors, who would select a candidate by entering the corresponding selection code. This option was the most viable one because of the near universal presence of telephones in households and the public familiarity with the device (see "Voting by telephone"). Voting by Internet was the least viable option because it would not be available to all electors. Again, a PIN would be required (see "Voting by Internet").

2.2 D1

D1 concerns a method for conducting a televote. The voter connects his computer to a voting computer that receives the voting data. The system can be designed in a decentralized manner as sub-systems. Regional-level voting computers are linked to a central voting computer for calculating the national results (see p. 5).

3. Inventive step

3.1 D4a describes a suggestion for replacing conventional voting procedures by electronical means. Several options are mentioned. The telephone option involves the assignment of a telephone number that the voter needs to dial, an authentication technique involving a PIN, the provision of unique transmittable option codes representing candidates, and instructions to the voter

indicating how to dial the specified number and enter an option code or codes. Using a phone, the voter can input data from any location (as opposed to voting at polling stations).

Although containing very little specific technical teaching, D4a may be regarded as implicitly disclosing some kind of data processing means at the receiving end.

3.2 The invention as defined in claim 1 differs from the teaching of D4a mainly in the provision of a *plurality* of telecommunication means. As a consequence of this feature there are several addresses to which voters can connect, eg telephone numbers as well as website addresses. A further difference is that the invention comprises electronically networked and integrated data processing means for counting the votes (see point 1.1 above).

3.3 The appellants, pointing out that D4a describes a plurality of systems each based on a single telecommunication means, argue that this document could not have suggested a single system based on a plurality of telecommunication means. Such a combined system would at the priority date have been so expensive that it would not even have occurred to a skilled person. Since then prices for electronical components have fallen drastically, but at the time the invention was made the inventors had to overcome a prejudice against very large electronical systems. Furthermore, the proposal to provide integrated and electronically networked data processing means for counting votes received by a plurality of telecommunication means could not possibly have been deduced from D4a.

3.4 The Board is not convinced by these arguments. The study reported in D4a is clearly intended as a concrete proposal for updating an existing voting system. Its purpose is to identify alternatives to voting at polling stations. Such a practical proposal obviously has to consider costs. The introduction of electronic voting is seen as inevitable, and the simplest and cheapest electronic voting system is naturally one involving a single telecommunication means. But the mind of the notional technically skilled person is not limited in the same way. Thinking is, after all, free of charge. D4a mentions advantages and disadvantages of each option described, including their public acceptance (see point 2.1 above). It is trivial that offering voters a plurality of options would be more acceptable than forcing them to adopt a single one. It was therefore obvious at least to consider (if not to build) a system that involved more than one communication means. If D4a does not mention this possibility it may be because such a system was regarded as too expensive to be realistic.

Moreover, even if it was assumed for argument's sake that the technically skilled person would have taken implementation costs into account, it is not self-evident what financial limits would have applied since the world's governments have very different resources. It is therefore unlikely that cost considerations alone would have ruled out any particular solution *prima facie*.

Finally, it should be noted that the present patent application itself is silent on implementation costs.

It is mainly about principles, as evidenced by the briefness with which it discloses the feature about the plurality of telecommunication means: "the method of the invention may incorporate the use of one, or any number of the above-mentioned means for the telecommunication of data in any one election" (p. 6, l. 19-21).

For these reasons the Board finds that the mere idea to combine the different telecommunication means enumerated in D4a in a single system does not involve an inventive step.

3.5 The Board accepts that claim 1 contains one implementation feature relating to the combination of telecommunication means, namely the processing means which is electronically networked and integrated for vote counting. This feature permits the voting results from the plurality of telecommunication means to be combined to produce a final result.

D1 discloses computerized counting of votes ("regional-level voting computers... are linked with a central... voting computer... for calculating the national results", p. 5). The skilled person was thus aware of the existence of computerised vote counting. D1 does not disclose a plurality of telecommunications means or integrated processing means for such a plurality. Nevertheless, in any election a final voting result has to be computed, and computers are routinely used for performing calculations of any kind. Thus, the addition of this feature was obvious.

3.6 It follows that the subject-matter of claim 1 does not involve an inventive step (Article 56 EPC 1973).

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

T. Buschek S. Wibergh