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Datasheet for the decision of 26 February 2013

Case Number: T 0882/09 - 3.4.03

Application Number: 98939296.4

Publication Number: 1019886

IPC: G09B 19/00

Language of the proceedings: EN

Title of invention:
System and method for facilitating interaction among agents

Applicants:
Taylor, Matt
Taylor, Gail

Headword:
-

Relevant legal provisions:
EPC Art. 123(2)

Relevant legal provisions (EPC 1973):
EPC Art. 83, 84

Keyword:
"Added subject-matter (yes)"
"Clarity (no)"
"Sufficiency of disclosure (no)"

Decisions cited:
-

Catchword:
-

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Case Number: T 0882/09 - 3.4.03

D E C I S I O N
of the Technical Board of Appeal 3.4.03
of 26 February 2013

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Decision under appeal: **Decision of the Examining Division of the European Patent Office posted 10 December 2008 refusing European patent application No. 98939296.4 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman: G. Eliasson
Members: R. Q. Bekkering
T. Bokor

Summary of Facts and Submissions

I. This is an appeal against the refusal of application 98 939 296 for added subject-matter, Article 123(2) EPC, and for insufficiency of disclosure, Article 83 EPC.

II. 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 following:

Main request:

Claims 1 to 18 filed with letter of 3 October 2007;

First auxiliary request:

Claims 1 to 18, labelled Auxiliary Request 1, filed with the statement setting out the grounds of appeal.

Second auxiliary request:

Claims 1 to 18, labelled Auxiliary Request 2, filed with the statement setting out the grounds of appeal.

III. A summons to oral proceedings was issued by the board, provided with an annex in which a provisional opinion of the board on the matter was given.

In particular, the appellant was informed for the main request that the application as amended contained subject-matter, which extended beyond the content of the application as filed, contrary to the requirement of Article 123(2) EPC. Moreover, the claims lacked

clarity, contrary to the requirement of Article 84 EPC 1973, and the application did not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art, contrary to the requirement of Article 83 EPC 1973. Furthermore, the subject-matter of claims 1 and 17 lacked an inventive step in the sense of Article 56 EPC 1973. In substance, the same applied to the auxiliary requests.

No arguments were provided by the appellant in response to the board's observations. The appellant informed the board that the oral proceedings would not be attended to.

Oral proceedings were held in the absence of the appellant.

IV. Claim 1 of the main request reads as follows:

"*A method for facilitating interaction among agents, including both human and machine agents comprising the steps of:*
identifying a plurality of agents;
selecting a subset of said agents, by means of using a computerized matrix;
creating a first environment for creative interaction of said subset of agents including facilitating electronic communication;
adding said subset of agents to said first environment;
performing work on said first environment containing said subset of agents to develop a result;
evaluating said result;

producing an alternate agent using said result; and
testing said alternate agent relative to said result,
wherein said evaluating step comprises the steps of:
a) inputting a first model;
b) inputting a second model;
c) comparing said first and second models to produce a differential;
d) developing a matrix and rules relating to said first and second models;
e) inputting said matrix and rules;
f) applying said matrix and rules to said differential: and
g) repeating steps d) through f) until said matrix and rules of said differential converge."

V. Claim 1 of the first auxiliary request reads as follows (amendments relative to claim 1 of the main request are highlighted):

"*A method for facilitating interaction among agents, including both human and machine agents comprising the steps of:*
identifying a plurality of agents;
selecting a subset of said agents, by means of using a computerized matrix ***of skill needs****;*
creating a first environment for creative interaction of said subset of agents including facilitating electronic communication; ***and*** *adding said subset of agents to said first environment;*
performing work on said first environment containing said subset of agents to develop a result;
evaluating said result;
producing an alternate agent using said result; and
testing said alternate agent relative to said result,

wherein said evaluating step comprises the steps of:
a) inputting a first model;
b) inputting a second model;
c) comparing said first and second models to produce a differential;
d) developing a matrix and rules relating to said first and second models;
e) inputting said matrix and rules;
f) applying said matrix and rules to said differential: and
g) repeating steps d) through f) until said matrix and rules of said differential converge."

VI. Claim 1 of the second auxiliary request reads as follows (amendments relative to claim 1 of the main request are highlighted):

"*A method for facilitating interaction among agents, including both human and machine agents comprising the steps of:*
identifying a problem to be solved;
identifying a plurality of agents;
selecting a subset of said agents, by means of using a computerized matrix ***of skilled needs matched to said problem;***
creating a first environment for creative interaction of said subset of agents including facilitating electronic communication ***and*** *adding said subset of agents to said first*
environment;
performing work on said first environment containing said subset of agents to develop a result;
evaluating said result;
producing an alternate agent using said result; and

testing said alternate agent relative to said result, wherein said evaluating step comprises the steps of:
a) inputting a first model;
b) inputting a second model;
c) comparing said first and second models to produce a differential;
d) developing a matrix and rules relating to said first and second models;
e) inputting said matrix and rules;
f) applying said matrix and rules to said differential: and
g) repeating steps d) through 1) until said matrix and rules of said differential converge."

VII. The appellant submitted with the statement setting out the grounds of appeal in substance the following arguments:

As indicated in the Guidelines, most claims were generalisations from one or more particular examples. The applicant should be allowed to cover all obvious modifications of, equivalents to and uses of that which he had described. Accordingly, the amendments made did not contravene Article 123(2) EPC. Moreover, the application addressed a technical problem, i.e. inefficiency regarding interaction between human agents and a machine agents, which was an aspect of modern society that had existed for a long time and which indeed involved technical aspects. The invention was based on many years of research and since it was an old field, the skilled person was highly educated regarding basics of interaction among man-machine. Accordingly, the requirement of Article 83 EPC was met as well. Furthermore, the claimed invention related to a method

and system respectively including clearly technical aspects, i.e. the use of computers in a totally new manner to efficiently determine how to improve interaction among agents, including human and machine agents. The invention was based on automating parts of a development process and provided an easily scalable system and method that was self-adjusting in a totally new manner, that efficiently created an emergent development. Accordingly, the subject-matter of the claims also involved an inventive step.

Reasons for the Decision

1. The appeal is admissible.

2. *Main request*

2.1 *Amendments*

As in substance held in the decision under appeal, selecting a subset of the agents "*by means of using a computerized matrix*" as provided in claim 1 is considered to be an undue broadening of the original disclosure according to which "*a computerized matrix of skill needs matched to the problem at hand is used to select from the pool*" (cf page 35, lines 14 to 18).

Moreover, as in substance held in the decision under appeal, the amendment "*including facilitating electronic communication*" is also not considered to be disclosed in the application as filed, in particular not on page 33, line 16 referred to by the appellant.

The above applies to both claim 1 and claim 17.

The appellant argued that in the Guidelines, Part C, III, 6.2 (version of December 2007, as of June 2012 in F-IV, 6.2) it was mentioned that "*Most claims are generalisations from one or more particularly* [sic] *examples. The extent of generalisation permissible is a matter which the examiner must judge in each particular case in the light of the relevant prior art. Thus an invention which opens up a whole new field is entitled to more generality in the claims than one which is concerned with advances in a known technology. A fair statement of claim is one which is not so broad that it goes beyond the invention nor yet so narrow as to deprive the applicant of a just reward for the disclosure of his invention. The applicant should be allowed to cover all obvious modifications of, equivalents to and uses of that which he has described.*". Further C-III, 6.3 mentioned that "*As a general rule, a claim should be regarded as supported by the description unless there are well-founded reasons for believing that the skilled person would be unable, on the basis of the information given in the application as filed, to extend the particular teaching of the description to the whole of the field claimed by using the routine methods of experimentation or analysis.*".

However, the appellant's arguments above relate to whether a claim is supported by the description as required under Article 84 EPC 1973. They have no bearing on the issue of whether amendments, in particular generalisations of what has originally been disclosed, meet the requirement of Article 123(2) EPC.

Accordingly, the application as amended contains subject-matter, which extends beyond the content of the application as filed, contrary to the requirement of Article 123(2) EPC.

2.2 *Clarity*

The claims lack clarity, contrary to the requirement of Article 84 EPC 1973.

In particular, it is unclear from claim 1:
- what human and machine agents are
- what is encompassed by an "*environment for creative interaction*" and how it should be created;
- what is encompassed by "*performing work*" on the environment and what result should be developed;
- on which criteria the evaluation of the result should be based;
- what is encompassed by "*producing an alternate agent*", in particular in case of human agents, and how the result should be used;
- what is encompassed by "*testing said alternate agent against said result*";
- what the first model is and in which respect it differs from the second model;
- what is in the matrix and rules, how they relate to the models and how they should be developed;
- how the matrix and rules should be applied to the differential;
- what is understood under the matrix and rules of said differential converging.

2.3 *Disclosure of the invention*

As held in the decision under appeal, the application does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art, contrary to the requirement of Article 83 EPC 1973.

According to the example provided in the application, in particular with reference to figure 1, the agents can include, for example, intelligent agents, persons, documents, computer software, firmware, living things, computers, and other objects (page 32, lines 25 to 26) and the environment may include sectioned areas for collecting groups, wall surface writing and drawing capabilities to allow the agents to continuously maintain information in an easily viewable area, computers for use of agents, television or other video capabilities, and toys, games, books, and other tools designed to assist agents in communicating ideas and performing other functions (page 33, lines 23 to 28).

According to the description, "*In step S5, the user or agents within the system perform work. The type of work performed by the agents can include a variety of tasks or exercises designed to encourage identification and detailed definition of problems or issues specific to the iteration using methods of approaching the problems or issues that are outside the agents' usual scope of problem solving patterns. The exercises and tasks can include collecting information, role playing, game playing, research, analysis, and reporting, model building, illustration of issues using three dimensional objects and tools, and other problem-*

solving activities" (page 33, line 29 to page 34, line 5).

It remains unclear what exactly is done in this step and, moreover, it does not correspond to the claimed step of "*performing work on said first environment containing said subset of agents to develop a result*".

Furthermore, according to the description, "*the results of the processes of steps S3, S4, and S5 are production of new agents, such as documents, computer programs, suggested problem approaches analogous to issues at hand, and proposed solutions*" (page 34, lines 6 to 8). Apparently, here different "*agents*" are meant than in the above broad definition of agents. Moreover, it remains unclear how new agents are produced and in which respect they are different.

It is noted that in the description it is also disclosed that the agent is altered as a result of its incorporation into a new environment (page 34, lines 19 to 20; page 36, lines 15 to 16). It is unclear how this is achieved. Moreover, this does not seem compatible with the claimed step of "*producing*" an alternate agent.

Finally, it is noted that there is no clear disclosure of how the decision step S6 should be performed. The application (cf figures 1 and 2 with corresponding description) provides no clear disclosure of what the models, matrix and rules used are, or how they should be obtained.

The appellant argued in the statement of the grounds of appeal that clearly the application addressed a

technical problem, i.e. inefficiency regarding interaction between human agents and machine agents. This was an aspect of modern society that had existed for a long time and which indeed involved technical aspects. The invention was based on many years of research and since it was an old "*field*" the skilled person was highly educated regarding basics of inter action among man-machine.

However, although the basics of man-machine interaction may indeed be known to the skilled person, the application insufficiently discloses the invention, ie the contribution over these basics, as detailed above.

2.4 No arguments were submitted by the appellant in response to the board's observations provided in the annex to the summons to oral proceedings, which essentially correspond to the above.

2.5 Accordingly, the appellant's main request is not allowable.

3. *First auxiliary request*

Claims 1 and 17 according to the first auxiliary request additionally define a computerized matrix of skill needs.

However, this definition is still considered to be an undue broadening of the original disclosure according to which "*a computerized matrix of skill needs matched to the problem at hand is used to select from the pool*" (cf page 35, lines 14 to 18).

Moreover, as for the main request, the amendment "*including facilitating electronic communication*" is not considered to be disclosed in the application as filed.

Accordingly, the claims as amended do not meet the requirement of Article 123(2) EPC.

Furthermore, the added feature lacks clarity in that it remains unclear whose skills are meant, what defines the need and what other parameter(s) make up the matrix.

For the rest, the same objections under Articles 83 and 84 EPC 1973 apply as for the main request.

Again, no arguments were submitted by the appellant in response to the board's observations provided in the annex to the summons to oral proceedings.

Hence, the appellant's first auxiliary request is also not allowable.

4. *Second auxiliary request*

Claims 1 and 17 according to the second auxiliary request additionally define an initial step of identifying a problem to be solved and the use of a computerized matrix of skilled [sic] needs matched to said problem.

The amendment addresses the first objection under Article 123(2) EPC raised for the main request (see point 2.1). However, as for the main request, the amendment "*including facilitating electronic*

communication" is not considered to be disclosed in the application as filed.

Accordingly, the application as amended according to the second auxiliary request still contains subject-matter, which extends beyond the content of the application as filed, contrary to the requirement of Article 123(2) EPC.

Moreover, it still remains unclear whose skills are meant and what other parameter(s) make up the matrix.

For the rest, the same objections under Articles 83 and 84 EPC 1973 apply as for the main request.

Also with respect to the second auxiliary request, the appellant did not submit any arguments in response to the board's observations provided in the annex to the summons to oral proceedings, which essentially correspond to the above.

The appellant's second auxiliary request is, therefore, not allowable either.

Order

For these reasons it is decided that:

The appeal is dismissed.

Registrar: Chair:

S. Sánchez Chiquero G. Eliasson