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Datasheet for the decision of 15 October 2013

Case Number: T 1937/09 - 3.5.06

Application Number: 04250122.1

Publication Number: 1460538

IPC: G06F 9/44, G06F 17/60

Language of the proceedings: EN

Title of invention:
Dynamic collaboration assistant

Applicant:
Accenture Global Services Limited

Headword:
Collaborative gateway GUI/ACCENTURE

Relevant legal provisions:
EPC Art. 123(2), 83, 84, 56
EPC R. 115
RPBA Art. 15(3)

Keyword:
"Original disclosure (no)"
"Sufficient disclosure (no)"
"Clarity (no)"
"Inventive step (no)"

Decisions cited:
T 0928/03, T 0862/10, T 1251/08

Catchword:
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Case Number: T 1937/09 - 3.5.06

D E C I S I O N
of the Technical Board of Appeal 3.5.06
of 15 October 2013

Appellant: (Applicant)
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Decision under appeal:
Decision of the Examining Division of the European Patent Office posted 7 April 2009 refusing European patent application No. 04250122.1 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairwoman: M.-B. Tardo-Dino
Members: S. Krischer
A. Teale

Summary of Facts and Submissions

I. The appeal is directed against the decision of the examining division, posted on 7 April 2009, to refuse the application 04250122 for lack of inventive step over document D1:

D1 JP 2000 250864 A, 14 September 2000.
D1' US 6 675 197 A, 6 January 2004.

D1' is a member of the same patent family as D1. It is published after the priority date of the application. The appealed decision (section 1) assumes that D1' discloses the same subject-matter as D1.

II. A notice of appeal was received on 12 June 2009. The appeal fee was received the same day. A statement of grounds of appeal was received on 10 August 2009. Claim sets according to a main and three auxiliary requests were filed, and oral proceedings were requested.

III. In the annex to the summons to oral proceedings, the board gave reasons for its preliminary opinion that the application did not meet the requirements of Article 123(2) EPC and Articles 83, 84 and 56 EPC 1973.

IV. In a letter dated 30 August 2013 the appellant filed a new main and three new auxiliary requests. Therein the expression "content profile (260)" was replaced by "user profile", and additionally in claim 1 of the main and the third auxiliary requests, the word "by" was added before "scanning".

V. In a letter dated 23 September 2013 the appellant requested that the board provide brief feedback on the submissions in advance of the scheduled oral proceedings and suggested that a representative of the board contact the appellant's representative by telephone.
In a communication sent by fax on the same day the board stated that contact by telephone with a member of the board was not provided for by any legal provision governing the appeal procedure and referred to T 1251/08 points 2 to 2.3. It was also mentioned that, given the imminence of oral proceedings, a written communication was not possible.

VI. In a letter dated 26 September 2013 the appellant announced that it would not be attending the oral proceedings, withdrew its request for oral proceedings and requested a written decision.

VII. Oral proceedings were cancelled.

VIII. The appellant requests that the decision be set aside and a patent be granted on the basis of the main request (claims 1-8) or the auxiliary requests 1-3 (claims 1-8, 1-8 and 1-4, respectively) filed with the letter dated 30 August 2013. The further text on file is: description pages 1, 3-18 as originally filed, page 2a as filed on 13 February 2006, page 2 as filed on 18 December 2008; drawing sheets 1-7 as originally filed.

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

"1. A method of collaborating across a computing network including a terminal (202) connected to a server (204) comprising the steps of:

generating a collaborative gateway graphical user interface (GUI) (400) on the terminal (202) that includes a display of at least one collaboration application (206);

monitoring, at the terminal (202), a context in which the terminal (202) is being used by a user by scanning a document opened on the terminal (202) and comparing, at the terminal (202), the contents of the document with a user profile, the user profile containing user defined relevant contexts, to determine if the document contains a relevant context and to determine the context;

if the context in which the terminal (202) is being used by the user changes, transmitting a message from the terminal (202) to the server (204), the message including a user identity and the determined new context;

receiving, at the terminal (202) from the server (204), a new context message notifying the terminal (202) that the new context has been processed by the server (204); and

adjusting the display of the collaboration application (206) in the collaborative gateway GUI (400) based on the new context message."

X. Claim 1 of the first auxiliary request reads as follows:

"1. A method of collaborating across a computing network including a terminal (202) connected to a server (204) comprising the steps of:

generating a collaborative gateway graphical user interface (GUI) (400) on the terminal (202) that includes a display of at least one collaboration application (206), wherein the terminal includes a current active context;

reading, with the terminal (202), an active document opened on the terminal (202) to determine the document context of the active document;

comparing, at the terminal (202), the document context of the active document with a user profile, the user profile containing user defined relevant contexts, to determine if the active document contains at least one of the relevant contexts;

if the document context of the active document contains at least one of the relevant contexts and the document context is different from the current active context in which the terminal (202) is being used by the user, transmitting a message from the terminal (202) to the server (204), the message including a user identity and a determined new context, wherein the determined new context includes the document context of the active document;

receiving, at the terminal (202) from the server (204), a new context message notifying the terminal (202) that the determined new context has been processed by the server (204); and

updating the current active terminal context and adjusting the display of the collaboration application

(206) in the collaborative gateway GUI (400) based on the new context message."

XI. Claim 1 of the second auxiliary request reads as follows:

"1. A method of collaborating across a computing network including a terminal (202) connected to a server (204) comprising the steps of:

generating a collaborative gateway graphical user interface (GUI) (400) on the terminal (202) that includes a display of at least one collaboration application (206);

receiving, at the terminal (202) from the server, a user profile defining contexts of interest to the user;

scanning, at the terminal (202), a document opened on the terminal (202);

determining, at the terminal (202), whether there is a contextual pattern match between the document and the user profile;

if there is a contextual pattern match between the document and the user profile, transmitting a message from the terminal (202) to the server (204), the message including a user identity and a detected context indication;

receiving, at the terminal (202) from the server (204), a new context message notifying the terminal (202) that the new context has been processed by the server (204); and

adjusting the display of the collaboration application (206) in the collaborative gateway GUI (400) based on the new context message."

XII. Claim 1 of the third auxiliary request reads as follows:

"1. A method of collaborating across a computing network including a terminal (202) connected to a server (204) comprising the steps of:

generating, on the terminal (202), a collaborative gateway graphical user interface (GUI) (400) including a display of at least one of an instant message buddy list (402) and a virtual file directory (250);

monitoring, at the terminal (202) a context in which the terminal (202) is being used by a user by scanning open documents on the terminal (202) and, if a new document is detected, comparing, at the terminal (202), the contents of the new document with a user profile, the user profile containing user defined relevant contexts, to determine if the document contains a relevant context and to determine the context;

if the context in which the terminal (202) is being used by the user changes, transmitting a message from the terminal (202) to the server (204), the message including a user identity and the determined new context;

querying, at the server (204), the new context against a database (228) to identify users and documents associated with the new context and generating a list of said associated users and documents;

transmitting, from the server (204) to the terminal (202), a new context message notifying the terminal (202) that the new context has been processed by the server (204); and

refreshing the or each of the instant message buddy list (402) with the generated list of associated

users and the virtual file directory (250) with the generated list of associated documents."

Reasons for the Decision

1. *Procedural matters*

The appellant chose not to attend the oral proceedings after filing new claims and requested a written decision based on the documents currently on file (see VI above). The board in its communication annexed to the summons to oral proceedings had stated that any new amendments would be examined with respect to their admissibility (Articles 12 and 13 RPBA) and with their compliance with the EPC, including Articles 123(2), 84 and 52(1)EPC. By requesting a decision in writing on the state of the file the appellant chose not to further discuss its amended case. Under these circumstances it was the appellant's deliberate choice not to take the opportunity to comment and the board was in the position to decide on the basis of the written submissions (Rule 115(2) EPC; Article 15(3) RPBA).

2. *Overview*

2.1 The application *relates* to generating a graphical user interface (GUI) on a client terminal computer (202 in figure 2; original page 6, line 25) that is connected to a server computer (204). The GUI displays data from one or more "collaboration" applications (206; e.g. web browser, calendar, e-mail, instant messenger, word processor; see also figure 4), the data having what is termed a "context" in common (e.g. "drug ABC"; see

page 14, lines 14-24). When the user opens a document at the terminal, the document is scanned "to detect relevant contexts that are defined by a user in their respective context profile 260" (page 16, lines 16-23). During the scanning, the opened document is matched against a *user* profile (lines 21-23). Whereas the *context* profile is disclosed as residing on the server and containing information about users, documents and files associated with *a given context* (see page 11, lines 6-8; and figure 2, the database item 260 named "*contact* profile" at the bottom of server 204 should presumably read "*context* profile"), *no details are disclosed about the user profile (e.g. its location, its content). The only original disclosure is that the user profile is compared or matched with the document (page 3, lines 9-11; page 4, lines 19-21; page 16, lines 21-23; original claims 6, 18, 31)*. A context change can be automatically detected by scanning an opened document (page 16, lines 16-23) or manually triggered by the user (page 17, lines 10-18; not claimed). If the context is changed, the terminal sends a message to the server (page 16, lines 7-11). The server searches in its database for users and documents associated with the new context and sends a notification message to the terminal so that the latter can refresh its document lists in the GUI (page 18, lines 3-7, 13-16).

2.2 As will be explained below, claim 1 of all four requests contains amendments that do not satisfy the requirements of Article 123(2) EPC.

2.3 Furthermore, the application suffers from a lack of clarity of its claims (Article 84 EPC 1973) and a lack

of disclosure as to how the invention claimed is to be carried out (Article 83 EPC 1973).

2.4 Notwithstanding the lack of clarity and sufficient disclosure, claim 1 of all four requests also lacks an inventive step (Article 56 EPC 1973).

3. *Original disclosure*

3.1 As stated above in overview section 2.1, the application as originally filed does not disclose any details about the user profile (e.g. its location, its content), only that the user profile is compared or matched with the document. Therefore the following amended passages in claim 1 of all four requests contravene Article 123(2) EPC.

- main request, line 13; first auxiliary request, line 15; second auxiliary request, line 15: "the user profile containing user defined relevant contexts";
- second auxiliary request, line 9: "receiving, at a terminal (202) from the server, a user profile containing user defined relevant contexts".

3.2 The letter dated 30 August 2013 indicated (page 1, paragraph 4) the passage on page 3, lines 10-11, as the basis for replacing "context profile" by "user profile". However this passage merely discloses comparing a user profile with the document, but not the above statements about the content and the receiving of user profiles.

3.3 Thus claim 1 of all requests does not comply with Article 123(2) EPC.

4. *Clarity and insufficient disclosure*

4.1 The board is of the opinion that the examining division was correct in raising an objection of lack of clarity against the term "context" in its first communication (2.2), dated 1 August 2005. It was further said that no technical features were specified as to how the step of "monitoring a context in which the terminal is being used by a user" was performed. The board considers that the subsequently added steps of "scanning" or "reading" a document do not remedy this deficiency, since they merely represent necessary prerequisites for a subsequent context determination.

4.2 There is no indication why the examining division said in its second communication (section 1), dated 4 August 2006, that the filed amendments overcame the clarity problems. As to the terms "context" and "monitoring ...", the amendments merely consisted in replacing the word "monitoring" by "determining" in the second step of claim 1.

4.3 The board is further of the opinion that the whole application does *not sufficiently disclose* (Article 83 EPC 1973) what a "context" is, how it is determined from a document and how it is determined whether an opened document has a different context from the current context. There is only one example of a "context", namely figures 4 and 5, and page 14, line 13, to page 16, line 2. Therein, "drug ABC" is one context and "drug XYZ" is a second one. There is no disclosure of whether the string "drug ABC" is the *name* or a *keyword* of the context. It is merely said that "each

individual listed in the instant message buddy list *has some connection to* the drug ABC" (page 14, line 17; emphasis added) and that "each item contained in the calendar displays, the file directory display, the task management display and the email display *all relate in some manner to* the drug ABC" (line 18).

4.4 As stated above, there is a single passage (page 16, lines 20-23; emphasis added) mentioning the user in defining a context

> "A context parser algorithm is used to detect relevant context*s* that are defined by a user in *their* respective context profile 260. The context parser algorithm may take as its input a user XML profile and the contents of an active document and determine a context as a result of contextual matching patterns."

There is no disclosure of what the user defines in a context profile 260, in particular whether he inputs for example a context name or keywords to recognise this context or names of users and documents associated with this context. There is no example of a context profile, nor one of a "user XML profile" which serves as an input to the "context parser algorithm". The latter is also not explained. Neither are the "contextual matching patterns".

4.5 The appellant wrote in its letter of 13 February 2006 to the examining division (page 1, last paragraph) that the term "context" is a "perfectly well understood term and is not unclear". But the appellant did not explain what the application meant by this term. For example,

is the term "subject" synonymous with "context"? Does "context" also imply the location of the user, its situation or a time framework? The application is silent about that.

4.6 The letter continues:

> "It is also not relevant to the current definition of the invention 'how' the context is determined and no lack of clarity arises."

The board disagrees. The disclosure of "how" the invention can be realised is required by Article 83 EPC 1973, at least to the extent that a skilled person could not deliver this know-how without exercising an inventive step.

4.7 The letter further states (page 2, last paragraph) that the invention relates to an "automated retrieval and display of documents and/or files that are related to a determined context". However a skilled person could not realise this invention without knowing how to implement the determination of a context. Without that, the documents and files cannot be selected and the GUI cannot be updated to display them.

4.8 The appellant wrote in the grounds of appeal (1.8, 1.9, 1.14) that the "morpheme analysis" and "tf*IDF" method of D1 (column 13, last paragraph) are well-known statistical routine techniques. Consequently the applicant of D1 did not have to explain this technique. However, in the present application, it is not even clear whether a context is identified by searching for

keywords, by a statistical analysis or by any other method.

4.9 The appellant wrote on page 2 of its letter dated 30 August 2013 (after having received the summons for oral proceedings) that a user may work in different roles and that a user may use the same terminal to work within several roles or contexts. Productivity may be lost when the user switches the context. However the board understands this as the non-technical motivation for the invention. This does not answer any of the questions above.

4.10 Therefore the invention as claimed in all requests is unclear and insufficiently disclosed, contrary to Articles 84 and 83 EPC 1973.

5. *Inventiveness of claim 1 of all requests*

5.1 According to the board's understanding, leaving aside the insufficiencies mentioned in the preceding paragraphs for the sake of completeness, the invention relates to a GUI that assembles data from several applications whereby the data relate to the same "context" (whatever this means). If the user opens a document with a different "context", then the content shown on the GUI is changed so that it only relates to the new "context". Thus the GUI always shows only similar data, i.e. belonging to the same "context".

5.2 Even without knowing which technical means and methods may be used to determine the "context", one can say that the "context" per se does have any *technical character*. It appears to relate to the title and the

content of a document and seems to be similar or identical to informal notions like "subject", "topic", "issue" or "theme".

5.3 With the help of these (non-technical) labels or tags, called "context" (e.g. "drug ABC"), the *information to be presented* in the GUI is selected. However the board does not intend to exclude the claimed subject-matter from patentability under Article 52(2)(d) EPC ("presentations of information"), since there are certainly technical means involved in the claimed method (namely a terminal computer, a server computer and a computer network). But as to Article 56 EPC 1973, the board is unable to see what *technical effect* this selection of content could produce. The idea behind the invention seems to be to only present information which belongs together *in the brain of the user*, and not based on some technical considerations in any of the computers or the network. The grounds of appeal define the purpose of the invention (1.15; emphasis added):

> "The Main Request seeks to indentify when an individual user is working on something which they previously defined in a user profile as *having relevance to them* and updating their GUI in response."

Without considering that the user's definition of relevant things and its recognition in an actual document is insufficiently disclosed, the essence of the above is that the GUI is changed for the only reason that the information to be presented shall have a relevance for the user. However relevance for a user

is not considered by the board to be a technical effect.

5.4 Usually, a user himself would search the items of relevance for him under all documents, e-mails, calendar events and user names. Thus the invention results in a *mere automation of human behaviour*, namely of selecting data items that seem to be relevant to the user, which is a routine matter not involving inventive skill.

5.5 The appellant wrote on page 3 of its letter dated 30 August 2013 (after having received the summons to oral proceedings) that in another case (T 928/03) the fact that a GUI is changed to be more relevant for a user did not cause that invention to lack an inventive step. The board notes that this is also the case here, i.e. that the invention does not lack inventive step because of the GUI. But making the content of a GUI more relevant for a user does *not establish* an inventive step either. And nothing else could be found that would render the application inventive.

5.6 The appellant further wrote that decision T 862/10 found that controlling *how* information was displayed to a user had a technical effect (emphasis added). The board agrees that this may be the case in general. However, in this case, the question is not *how* the content is displayed, but *which* content is displayed (namely according to a new context). So this argument does not apply here.

5.7 Therefore the subject-matter of claim 1 of all requests is not inventive in the sense of Article 56 EPC 1973.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

B. Atienza Vivancos M.-B. Tardo-Dino