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**Datasheet for the decision
of 13 September 2012**

Case Number: T 2220/09 - 3.5.01

Application Number: 98121286.3

Publication Number: 921527

IPC: G06F 17/00

Language of the proceedings: EN

Title of invention:
File managing method

Applicant:
MITSUBISHI DENKI KABUSHIKI KAISHA

Headword:
Transposed file access/MITSUBISHI

Relevant legal provisions (EPC 1973):
EPC Art. 83, 84, 111(2)
EPC R. 27(1)(e)

Keyword:
"Clarity of claims - yes"
"Sufficiency of disclosure - yes"

Decisions cited:
T 0630/93



Case Number: T 2220/09 - 3.5.01

D E C I S I O N
of the Technical Board of Appeal 3.5.01
of 13 September 2012

Appellant:
(Applicant)

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Decision under appeal:

Decision of the Examining Division of the
European Patent Office posted 20 May 2009
refusing European patent application
No. 98121286.3 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: K. Bumés
Members: R. R. K. Zimmermann
A. Pignatelli

Summary of Facts and Submissions

I. European patent application number 98121286.3 (publication number EP 0 921 527 A2) relates to a file managing method for managing a data file contained in a database.

II. The examining division refused the application at the end of oral proceedings on the basis of a set of claims 1 to 12 filed by letter dated 5 November 2008, claim 1 reading as follows:

"1. A file managing method for managing data contained in a database, said method comprising the steps of:

subdividing an original file, including a plurality of records, each record including a plurality of fields respectively associated with corresponding kinds of field, into a plurality of blocks, each block including a plurality of fields associated with a same kind of field and subdivided from a plurality of the records; and

coupling the blocks into groups of blocks."

III. The decision in writing was posted on 20 May 2009. In the reasons for the decision, the examining division relied substantially on two objections: claim 1 did not meet the requirement of clarity, Article 84 EPC 1973, and the disclosure of the claimed invention did not meet the requirements of Article 83 EPC 1973 and Rule 27(1)(e) EPC 1973. A closing section of the decision titled "Further comments, not being a part of the reasons for the decision" deals briefly, in a

cursory manner, with further objections concerning the dependent claims and the patentability of the invention.

IV. The reasons given in the decision for the objections with respect to clarity in claim 1 and sufficiency of disclosure of the invention may be summarised as follows.

- (a) The application did not meet the requirements of Article 83 EPC 1973. The core of the invention, improving access time in retrieving data from a database by reducing the travel distances of the read/write head of the storage medium on which the data was physically stored, was closely connected to the actual data structure and storage location of the data to be retrieved.

The skilled person when trying to carry out the invention had to know the "true physical layout of the data" as existent on the storage medium and the "real physical operations" to be implemented for reducing the access time. The application disclosed the visual presentation of data structures showing the correspondence between records and fields of a table in a relational database. Such a representation, however, was "not physically existent on the storage medium", nor could "any conclusion be drawn (therefrom) about the actual data structure". The application did not provide the necessary technical details and information about the "actual implementation" of any of these operations.

- (b) The application did not meet the requirements of Rule 27(1)(e) EPC 1973. The embodiments of the invention as described in the application neither disclosed the "physical actions carried out on the stored data" nor the "true physical layout of the data". The application merely described abstract concepts from a logical/conceptual point of view. Rule 27(1)(e) EPC 1973 demanded an enabling disclosure showing a "real example" how the invention is carried out in practice and "what is going on on a lower level".

Moreover, the application was considered not to meet the requirements of Article 84 EPC 1973 for the following reasons:

- (c) The expressions "subdividing an original file (...) into a plurality of blocks" and "coupling the blocks into groups of blocks" as used in claim 1 specified concepts rather than real physical operations on data like reading, writing, and deleting data items physically stored on a storage medium. These expressions, therefore, were unclear.
- (d) In addition, since the claims did not define real physical data operations, it was not possible to distinguish a subdivided file from the original file, coupled blocks from non-coupled blocks. Accordingly, it was not clear which data operations fell within the scope of the claims and whether any physical data operation took place at all.

(e) The term "original file" was unclear as to when a file was "original", and when not.

V. The appellant (applicant) lodged an appeal against the refusal decision of the examining division by filing a notice of appeal dated and received on 20 July 2009. The appeal fee was paid on the same day.

By letter dated and received on 30 September 2009, the appellant submitted a statement setting out the grounds of appeal including amended claims 1 to 6 as an auxiliary request.

VI. The appellant has requested that the decision under appeal be set aside and a patent be granted on the basis of the documents then on file (i.e. description and drawings as originally filed and claims as filed by letter dated 5 November 2008). Oral proceedings have been requested, on an auxiliary basis, if "the aforementioned request" is not allowed.

VII. The appellant disagreed with the interpretation of the examining division regarding the claims and the description of the invention. An engineer, for example, having background in electronics or computer technology and experience with databases was the appropriate skilled person in the present case. Such an expert would have no difficulty in understanding the content of the application and, in the context of the claims, the intended meaning of the definitions in question. Terms like "subdividing" and "coupling" apparently referred to both, physical data operations and logical operations. The skilled person would know that the subdivision and reordering of the original file could

be realised by intermediately storing the respective fields to form blocks at a different memory space or by changing the definition order of fields and records for example in tables.

Reasons for the Decision

1. The admissible appeal is allowable; the reasons given in the decision under appeal do not justify the refusal of the application. Since the first instance examination has not yet been completed in respect of issues like patentability of the invention the case is remitted for further prosecution. The auxiliary request for oral proceedings is rejected as oral proceedings at the present stage would be to no purpose in view of the continuation of the examination in first instance.

2. The refusal of the application has been based on the objections of lack of clarity in claim 1 and lack of a clear and complete disclosure of the invention (see point IV above).

The examining division was apparently guided by an assumption that an invention should be claimed and disclosed on the basis of "real physical" data operations and the "actual data structure" as used to store the records, tables, and fields" and as "physically existent" on a real storage medium. According to Rule 27(1)(e) EPC 1973, a "real example" should be described, showing how the invention is carried out in practice "on a lower level".

With those demands, the examination division set too high a standard in respect of the formulation of claims and the disclosure of an invention. An invention is not a practical guide or recipe featuring the details for setting up and running a machine or carrying out a process, but rather a piece of general teaching, i.e. a more or less abstract concept, indicating a feasible way to solve a technical problem. The requirements of Article 84 EPC 1973 are met if the claims define such a concept in a manner that is clear, concise and supported by the description, and the requirements of Article 83 EPC 1973 are met if the application enables the skilled person to put such a concept into practice without undue burden. Claiming and disclosing the invention in conceptual terms is not *per se* objectionable. A broad claim is not *a priori* unclear (see Case Law of the Boards of Appeal of the EPO, 6th edition 2010, section II.B.1.1.5, referring *inter alia* to decision T 630/93, not publ. in OJ EPO).

3. Turning first to the disclosure of the invention, it is noted that the core of the objection does not concern the logical scheme of the file managing method as disclosed in the application but rather the technical implementation, i.e. the real physical operations and the actual data structure physically existent on the real data storage. The Board finds that the disclosure of the logical scheme of the file managing method is clear and complete. The skilled person would clearly understand how and for what purpose the data are processed according to the invention.

Moreover, the invention as claimed and disclosed relates to a "file managing method for managing data

contained in a database", i.e. by definition to a method of physically accessing and manipulating data physically stored as files in a database, e.g. in an electronic computer memory.

In the context of database systems, terms like "file", "record", "field", "block" have a clear technical connotation, albeit on a broad conceptual level of definition. The expressions "subdividing an original file" and "coupling blocks" correspond to physical operations on stored data. The Board has no doubt that the skilled person would know how to implement such data operations in any concrete database system. This is evident, for example, for a stored table that can easily be reorganised by appropriate indexing and reordering of fields and records, as correctly pointed out by the appellant.

The Board is also convinced that the various embodiments of the invention, essentially disclosed in terms of logical schemes and abstract data operations, provide the desired technical effects like shortening of access times and, in some embodiments, an increase of the degree of parallelisation of retrieval operations, in any appropriate implementation of the invention. The only condition is that the disk or database system supports physical data clustering, i.e. data logically related are stored physically close together on the storage medium. Physical data clustering is a normal feature of database systems.

For these reasons the Board concludes that the application meets the requirements of Article 83 EPC 1973.

4. Furthermore, the description of embodiment 1 shown in figures 1 and 2 is sufficiently detailed to enable the skilled person to develop a clear understanding how to implement such embodiments in a suitable database system and thus complies with requirements of Rule 27(1)(e) EPC 1973.

5. With respect to the objection of lack of clarity raised in the decision under appeal, the Board has arrived at the conclusion that none of the reasons given for the objection stands up to closer scrutiny. The definitions "subdividing an original file" and "coupling the blocks" are acceptable if the skilled person understands the technical meaning of these definitions and is able to implement the corresponding method steps in a concrete storage or database management system without exercising inventive skills.

The Board does not see any convincing reason why this should not be the case. Referring again to the example of a stored table, it would be a rather simple task to program data operations for reordering the records and fields so that the result table corresponds to a subdivided and rearranged original table as defined in the present claims.

For these reasons, the Board concludes that the objections of lack of clarity as raised in the decision under appeal are not justified.

6. It should be noted that the above conclusions are related specifically to the grounds and reasons given for the refusal of the application in the decision

under appeal. In the course of the further examination of the application the examining division should not be hindered to raise, for different reasons, any new objection including those under Articles 83 and 84 EPC 1973.

Order

For these reasons it is decided that:

1. The decision under the appeal is set aside.
2. The case is remitted to the department of first instance for further prosecution.

The Registrar:

The Chairman:

T. Buschek

K. Bumes