

Internal distribution code:

- (A) [-] Publication in OJ
(B) [-] To Chairmen and Members
(C) [-] To Chairmen
(D) [X] No distribution

**Datasheet for the decision
of 20 February 2013**

Case Number: T 2464/09 - 3.5.01

Application Number: 98911618.1

Publication Number: 1086567

IPC: G06F17/60

Language of the proceedings: EN

Title of invention:

AUTOMATIC ELECTRONIC DOCUMENT PROCESSOR SYSTEM

Applicant:

A:/Scribes Corporation

Headword:

Managing workflow/SCRIBES

Relevant legal provisions:

EPC 1973 Art. 56

Keyword:

Inventive step - (no)



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

European Patent Office
D-80298 MUNICH
GERMANY
Tel. +49 (0) 89 2399-0
Fax +49 (0) 89 2399-4465

Case Number: T 2464/09 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 20 February 2013

Appellant: A:/Scribes Corporation
(Applicant) 214 North Jackson Street
Media, PA 19063 (US)

Representative: Casey, Lindsay Joseph
FRKelly
27 Clyde Road
Ballsbridge
Dublin 4 (IE)

Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 22 July 2009
refusing European patent application No.
98911618.1 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman: S. Wibergh
Members: P. Scriven
D. Prietzel-Funk

Summary of Facts and Submissions

- I. This is an appeal against the Examining Division's decision to refuse European Patent application 98911618.1 for lack of inventive step, in the light of the document US 5,146,439 (D1).
- II. In the statement setting out the grounds of appeal, the appellant requested that the Examining Division's decision be set aside and that a patent be granted on the basis (main request) of the sole request underlying the impugned decision, or else (auxiliary request) of a new request filed together with the statement of grounds. The appellant also requested, if the Board were not minded to allow the main and auxiliary requests, that (in order of preference) a telephone interview, a personal interview, or oral proceedings be arranged.
- III. Claim 1 according to the main request read as follows.

*A system for automatically managing
workflow, comprising:*

*a first computer arranged to receive an
originating job request and job instructions
from an authorized user, and to generate a
job packet associated with-a digital file,
wherein the digital file represents job
input from the authorized user, and
a second computer for processing said job
packet;*

*characterised in that
the first computer is arranged to interpret
said job instructions to provide in the job
packet a job record that includes a set of
computer-readable job processing
requirements; and*

the second computer is arranged to read and analyze the job processing requirements, to maintain respective scribe data for each of a plurality of scribes, the scribe data including a respective schedule data associated with each scribe and indicating when the respective scribe is to be available to work, and to automatically forward job step data to a remote computer associated with a selected scribe based on the corresponding schedule data.

- IV. Claim 1 according to the auxiliary request read identically except for the definition of the second computer, which was as follows.

the second computer is arranged to read and analyze the job processing requirements, to maintain respective scribe data for each of a plurality of scribes, the scribe data including respective schedule data and respective qualification data, wherein the respective schedule data is associated with each scribe and indicates when the respective scribe is to be available to work, wherein the respective qualification data indicates the respective scribe's skill level, and to automatically forward job step data to a remote computer associated with a selected scribe based on the corresponding schedule data and qualification data.

- V. The appellant argued as follows against the Examining Division's reasoning.

The Examining Division had not interpreted D1 correctly. On proper interpretation, D1 did not disclose the storage of schedules. The storage of schedules would not have been obvious, because it went against the teachings of D1.

It was important to remember the state of technology in 1998, when the invention was made. At that time, Intel had just introduced its Pentium II chip, V.90 was the latest modem standard, and Google had just started hiring.

- VI. The Board arranged for oral proceedings to be held. In a communication accompanying the summons, the Board presented its preliminary analysis, which can be summarised as follows.

The terminology used in the claims was significantly different from that used in the application as filed, and the Board, therefore, had doubts about compliance with Article 123(2) EPC.

The proper interpretation of D1 might turn out to be important for the assessment of inventive step, and the appellant should be prepared to discuss it.

However, the invention could also be seen as an automation of a non-technical method, which, given the state of technology in 1998, would have been obvious to the skilled person.

VII. The appellant's representative informed the Board that he would not attend the oral proceedings, and requested that the procedure continue in writing. The oral proceedings were nevertheless held, as scheduled, in the absence of the appellant.

VIII. The appellant filed no amendments or substantive comments in response to the summons.

Reasons for the Decision

1. *The main request*

1.1 Underlying the system defined in claim 1 is a method of allocating work to workers. A manager receives a job specification from a client and uses it to generate a "job packet" which he passes on to another manager. The second manager maintains data, including schedules, about "scribes" and forwards the job packet, or part of it, to particular scribes on the basis of their schedules. There is nothing technical in the underlying method.

1.2 It would have been obvious to the skilled person, seeking to automate that method, to use a network of computers. Once it had been decided to use such a network, it would have followed directly that the "job packet" would be associated with a digital file, that the data would be maintained on the second computer, which takes the role of the second manager, and that forwarding would be automatic.

1.3 The appellant has argued that account must be taken of the state of technology in 1998, without knowledge of the developments which have taken place since. The

Board accepts that, but notes that the use of a network of computers in similar systems was known in 1998. D1 provides an example. The argument above relies only on the obviousness of using a network of computers, and not on any technical details beyond the abilities to store, process and communicate data.

1.4 The Board concludes that the system defined in claim 1 does not involve an inventive step (Article 56 EPC 1973) and, therefore, that the main request cannot be allowed.

2. *The auxiliary request*

2.1 While claim 1 according to the main request defines allocation as based on scribes' schedules, claim 1 according to the auxiliary request defines it as being on the basis of both schedules and qualifications.

2.2 That reflects a modification of the underlying non-technical method and does not affect the argument regarding inventive step. The Board concludes that the auxiliary request cannot be allowed.

3. *The request for the procedure to continue in writing*

3.1 The appellant has a right to oral proceedings, but once oral proceedings have been arranged, a return to a written procedure is a matter for the Board's discretion. In the present case, the Board considered oral proceedings would be useful despite the appellant's absence.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



T. Buschek

S. Wibergh

Decision electronically authenticated