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**Datasheet for the decision
of 4 July 2017**

Case Number: T 1969/11 - 3.5.01

Application Number: 04730339.1

Publication Number: 1745422

IPC: G06Q10/00

Language of the proceedings: EN

Title of invention:
REMOTE ELECTRONIC TRANSACTIONS

Applicant:
Nokia Technologies Oy

Headword:
Shopping list / Nokia

Relevant legal provisions:
EPC Art. 56
EPC R. 103(1)(a)

Keyword:

Inventive step - keeping centralised list of desired items (no - not technical) - implementation via browser (no - common knowledge)

Reimbursement of appeal fee - failure to apply problem and solution approach (no), taking description as prior art (no), failure to deal with applicant's arguments (no)

Decisions cited:

T 0641/00



Beschwerdekammern
Boards of Appeal
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Case Number: T 1969/11 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 4 July 2017

Appellant: Nokia Technologies Oy
(Applicant) Karaportti 3
02610 Espoo (FI)

Representative: Higgin, Paul
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48 Friar Gate
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 26 April 2011
refusing European patent application No.
04730339.1 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman W. Chandler
Members: P. Scriven
Y. Podbielski

Summary of Facts and Submissions

- I. This is an appeal against the Examining Division's decision to refuse European Patent application 04730339.1 for lack of inventive step.
- 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 of a main request identical to the main request before the Examining Division, a first auxiliary request submitted with the statement of grounds, a second auxiliary request identical to the first auxiliary request before the Examining Division, or a third auxiliary request submitted with the statement of grounds. The appellant additionally requested oral proceedings if the main request were not allowed, and the reimbursement of the appeal fee on the grounds that the Examining Division had committed a substantial procedural violation.
- III. The Board arranged to hold oral proceedings and, in a communication sent with the summons, set out its provisional view that the Examining Division had not committed a procedural violation, and that each of the main and auxiliary requests failed due to lack of inventive step.
- IV. The appellant informed the Board that it would not be represented at the oral proceedings and made no further submissions.
- V. Oral proceedings were held as scheduled. The appellant was not represented. The Board announced its decision to dismiss the appeal for the reasons set out in its

provisional opinion.

VI. Claim 1 according to the main request reads as follows.

A browser application program for browsing web-sites stored at remote web-servers (12A - 12C) comprising:
means for maintaining a first data structure (60) that comprises a list (50) of entries (59) relating to more than one web-site, each of the entries (59) comprising a plurality of displayable fields including a first field (53) for accessing the respective web site [sic] for making an electronic transaction and a second field (55) comprising price information concerning the electronic transaction;
means for sending a request (111) to a remote web-set for updating the first data structure (60);
means for receiving, in reply to the request, a second data structure (115), having a predetermined standardized format, comprising at least price information (155) concerning an electronic transaction at the remote web-site; and
means for creating a new entry in the first data structure (60) using the received second data structure (115) by adding or replacing one or more entries relating to the remote web-site, the new entry (59) comprising a plurality of displayable fields including a first field (53) for accessing the remote web site [sic] for making the electronic transaction and a second field (55) comprising the received price

information concerning the electronic transaction; and thereby enabling a future electronic transaction at the remote website using the first field (53) of the new entry.

- VII. The first auxiliary request adds the words *and each of the entries comprising an address for accessing the respective website* to the end of the definition of the *means for maintaining a first data structure*.
- VIII. The second auxiliary request adds (to the same feature of the main request) the words *and a third, privacy field, when selected, for preventing an entry appearing when a third party views the list, wherein the list is available for viewing from more than one terminal*.
- IX. The third auxiliary request combines the first and second.

Reasons for the Decision

Background

1. The invention concerns internet shopping. A user may use the shopping basket of an online shop to record future potential purchases. He may do that at each of several online stores. This creates a problem. The user has to remember what he wanted to buy, and where he wanted to buy it. The invention helps by providing a centralised

list. The user can make purchases using that list. This is explained in the description, from page 1, line 21 to page 2, line 3.

The request for reimbursement of the appeal fee

2. The appellant made the following submissions:
 - a) The Examining Division had failed to apply the problem-solution approach, but did not, as it ought to have, explain why.
 - b) The Examining Division had taken the description of the application as part of the prior art.
 - c) The Examining Division had failed to explain why the appellant's arguments were not accepted.
3. In its provisional opinion, the Board indicated that it did not see any deviation from the problem-solution approach. The impugned decision identified the technical starting point as being a general purpose computer and the technical problem as the implementation of a particular business objective. It identified the difference over the starting point, but considered it to be non-technical. The Board remains of the view that this is an application of the problem-solution approach in the form set out in T 641/00, Two identities/COMVIK, OJ 2003, 352.
4. The Board also indicated that it saw no basis for the suggestion that the Examining Division had taken parts of the description as prior art. The Examining Division referred to the abstract nature of the description not as an indication that any particular feature belonged to the

prior art, but rather as indicating that the technically-skilled person could be expected to fill in any required technical details. The Board remains of this view.

5. Finally, the Board is satisfied that the Examining Division rejected the appellant's argument regarding the technicality of centralised management of access because they took the view that there were no technical considerations involved in grouping links of purchase entries. Whether this was a good reason for rejecting the argument is a substantive issue; it cannot be a procedural defect.
6. The Board is thus of the view that no procedural violation occurred, let alone a substantial one. Therefore, the requirements for reimbursement of the appeal fee under Rule 103(1) (a) EPC are not fulfilled and the request for reimbursement cannot be allowed.

The main and first auxiliary requests

7. A non-technical method underlies the invention. It involves keeping a list of desired items, where they can be bought, and how much they cost. The list must be up to date, and it must be possible to add new items. The non-technical details do not contribute to inventive step and may be considered as constraints with which the technically-skilled person must comply (see T 641/00). The invention is an implementation of the underlying method on a computer.
8. In any implementation, the following must be provided because the underlying method demands them: means for maintaining a list of items with indications of where they can be obtained and at what cost; means for

requesting updated information and for receiving a response to such a request; means for adding a new item or updating an existing item. The response to a request for updated information must be in a form that the machine can read. That is, it must be "standardised" in some manner.

9. The technically-skilled person does, however, have some choice. She may choose whether or not to use a browser application, and she may choose whether or not to indicate where an item is available in a form that is "for accessing the respective website."
10. At the filing date, as the application rightly acknowledges (published application, page 1, line 11), "electronic commerce web-sites" were well known. It was part of the technically-skilled person's general knowledge that they were accessed via a browser. That makes a browser an obvious choice for the invention. The display of links to a website in a browser was equally well known and would have been equally obvious.
11. This line of reasoning was put to the appellant as the Board's provisional view. The appellant has made no submissions on the matter.
12. The Board is satisfied, for these reasons, that a lack of inventive step means the main and first auxiliary requests cannot be allowed (Articles 52(1) and 56 EPC).

The second and third auxiliary requests

13. According to these requests, the listed items comprise a third field "for preventing an entry appearing when a

third party views the list."

14. The Examining Division took that to mean that the field indicated whether or not the entry should be visible to third parties. The Board agrees that it is open to this interpretation. It amounts to keeping a note that the item should be kept private. It is not a technical matter and does not contribute to inventive step.
15. The Board set out that interpretation and the consequences for inventive step, in its provisional opinion. The Board also considered an alternative interpretation under which the field in question had some special property that ensured privacy, but in view of the difficulty of ensuring privacy and of the application providing no more information than that the field "if selected for an entry would prevent that entry appearing when a third party viewed the list" (application as filed, page 9, lines 21 - 23), there seemed not to be sufficient disclosure of the field's special property. Since the other interpretation is possible and leads to a negative conclusion on inventive step, there is no need to consider the alternative.
16. The Board, for these reasons, finds that the second and third auxiliary requests cannot be allowed.

Order

For these reasons it is decided that:

The request for reimbursement of the appeal fee is refused.

The appeal is dismissed.

The Registrar:

The Chairman:



T. Buschek

W. Chandler

Decision electronically authenticated