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Datasheet for the decision of 15 February 2017

Case Number: T 2073/11 - 3.5.06

Application Number: 00971682.0

Publication Number: 1244958

IPC: G06F7/00

Language of the proceedings: EN

Title of invention:
ASYNCHRONOUS ITEM TRANSFER FACILITY, SYSTEM AND METHOD

Applicant:
KEBA AG

Headword:
Package delivery/KEBA

Relevant legal provisions:
EPC 1973 Art. 56, 84

Keyword:
Claims - clarity (no)
Inventive step - (no)

Decisions cited:

Catchword:

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Case Number: T 2073/11 - 3.5.06

D E C I S I O N
of Technical Board of Appeal 3.5.06
of 15 February 2017

Appellant: (Applicant)	KEBA AG Gewerbepark Urfahr 14-16 4041 Linz (AT)
Representative:	Ofner, Clemens Anwälte Burger & Partner Rechtsanwalt GmbH Rosenauerweg 16 4580 Windischgarsten (AT)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 13 May 2011 refusing European patent application No. 00971682.0 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	W. Sekretaruk
Members:	M. Müller
	G. Zucka

Summary of Facts and Submissions

I. The appeal lies against the decision of the examining division, with reasons dispatched on 13 May 2011, to refuse the application. The decision mentioned several documents, amongst them in particular

D1: FR 2 563 987 A1 and
D2: FR 2 643 479 A1,

and found that claim 1 of the main request did not comply with Article 123(2) EPC and that claim 1 of auxiliary request 1 lacked inventive step vis-à-vis D1, Article 56 EPC 1973. Auxiliary requests 2 and 3 were not admitted pursuant to Rule 137(3) EPC.

II. Notice of appeal was filed on 13 July 2011, the appeal fee being paid on the same day. A statement of grounds of appeal was received on 13 September 2011. The appellant requests that the decision be set aside and that a patent be granted on the basis of claims 1-10 which were filed on 4 March 2011 as an "auxiliary request" and re-filed with the grounds of appeal, in combination with description pages 1-36 and drawing sheets 1-6 as published.

III. Independent claim 1 reads as follows:

"A package transference system comprising:
means for uniquely identifying a package by means of a unique, machine readable package identifier;
a plurality of networked self-service package holding facilities, each located on the premises of a respective site selected for its centrality and/or general convenience to a target community or market such that consumers may visit the site at any

convenient time, and each adapted to receive the package from a sender and to temporarily store the package for retrieval by an authenticated recipient;

a routing information system arranged in communicative association with said holding facilities, adapted to store at least one of the following portions of data associated with the package:

the identity of an intended recipient thereof;

the preferred delivery address of a recipient thereof;

the delivery status thereof;

a recipient notification system arranged in communicative association with said holding facilities adapted to issue a package reception notice to the recipient by way of an electronic message delivered to a portable terminal, such as a cellular phone, or via e-mail when the package has been received at a selected one of the plurality of package holding facilities;

a pickup authorization system adapted to release to the authenticated recipient the package received at the selected package holding facility; and

an information management system arranged in communicative association with said routing information system, for facilitating modification, at any time prior to the release of the package to the recipient, of at least one of the following portions of data associated with the package:

the identity of an intended recipient thereof;

the preferred delivery address of a recipient thereof; and

the delivery status thereof."

Independent method claim 4 largely corresponds to claim 1, except that it lacks steps corresponding to the information management system according to claim 1.

IV. Oral proceedings took place on 15 February 2017. At their end, the chairman announced the decision of the board.

Reasons for the Decision

The invention

1. The application relates to the delivery of packages to customers, which has become increasingly important for instance due to online shopping (page 2, lines 34-37).

1.1 It is explained that the conventional prior-art solutions, namely home delivery and delivery to a local post office, were inconvenient both for the customer (e.g. because the customer had to be at home at delivery time or drive to the post office during office hours) and for the delivery service (e.g. because it needed to drive to unfamiliar parts of town with potential parking problems; see page 2, line 41, to page 3, line 75). Other known solutions, such as the use of a "smart" locked box at the customer's house or delivery to businesses other than post offices, did not fully overcome these disadvantages (see page 3, line 81, to page 4, line 2).

1.2 The invention thus proposes to use dedicated "smart" storage devices (claimed as "package holding facilities") to which packages may be delivered for the customers to pick up and to which customers may return packages (see page 11, lines 287-293). These storage devices are meant to be placed at locations where parking is not a problem and which customers routinely

visit anyway, such as gas stations and the like (see page 10, lines 259-262).

1.3 The invention further proposes that the holding facilities are networked and "in communicative association" with a number of central services and the recipients. As a whole, this system provides routing, notification and information services to merchants and customers.

1.4 More specifically, every package is identified by a machine-readable label such as a bar code (see page 12, lines 310-313, page 19, lines 522-530, page 26, lines 701-705, and page 33, lines 909-920). When an item is delivered to a storage location, the recipient is informed of this fact and the location (e.g. by email; see page 14, lines 356-362). The recipient may also be informed if the preferred storage space is occupied and be given the choice between delaying delivery or accepting delivery to a different location (page 17, lines 443-451). Customers can interact with the tracking service, for instance to decline acceptance of a package or to return a package (see e.g. page 17, line 467, to page 18, line 482). Various scenarios are described in which the combination of storage space and tracking system might be useful.

The prior art

2. D1 discloses a networked system of lockable storage devices (see figure 1, no. 1) used for the delivery of packages in spite of the recipients' absence (page 1, lines 6-16). The storage device may have a single compartment or several of (see figure 1 and page 6, lines 27-35). Customers can, via a central server,

determine remotely whether a compartment in a particular storage device is available and, if so, reserve and lock it, and they can unlock a compartment to free it for other customers (see page 2, lines 21-27, page 3, line 33, to page 4, line 8, and page 5, lines 15-17). The server communicates with the customers via a "telematic" service (see page 2, lines 15-27). The recipient can determine remotely whether a parcel has been delivered and is awaiting collection (page 5, lines 18-23). The storage devices may also store messages from the delivery service to the customer or *vice versa*. For instance, the customer might thus inform the delivery service that a package should be delivered elsewhere (see page 5, lines 5-14).

3. D2 discloses a system for package delivery in urban environments (see figures 1 and 3), preferably to a decentral location in order to avoid parking problems (page 1, lines 4-9). Each package is identified by an attached bar code label which the storage facility reads on delivery (page 5, lines 1-4, and figure 3, no. 13). The same bar code is sent by regular mail to the recipient (see figure 3, no. 14, and page 1, lines 30-33), who has to present it or the associated code at the storage facility to retrieve the package (page 1, lines 18-29, page 4, lines 24-28, page 5, lines 15-18, and claim 1).

Clarity, Article 84 EPC 1973, and claim construction

4. It is claimed that each "package holding facility" is "located on the premises of a respective site selected for its centrality and/or general convenience to a target community or market such that consumers may visit the site at any convenient time".

4.1 The examining division took the view that this feature was not technical (see e.g. page 4, last paragraph). The board however, while not necessarily disagreeing with this view, considers it above all to be unclear and, thus, to render claims 1 and 4 unclear, Article 84 EPC 1973.

4.2 Firstly, it is impossible to determine what is central or convenient for an undefined "target community". Secondly, in particular what is or is not "convenient" for a target community is a subjective, and variable and therefore unclear notion. Thirdly, even assuming that "centrality" and "convenience" had any meaning for a particular target community, it would not have one for all possible target communities. Hence, at least without identifying the target community, the feature in question does not impose a clear limitation on the claimed invention.

5. The system of claim 1 is specified to comprise "means for uniquely identifying a package by means of a unique, machine readable package identifier". The board takes the "unique, machine readable package identifier" and the "means for [...] identifying" to comprise, in particular, a bar-code label and the associated bar-code reader.

Inventive step

6. The board agrees with the decision that D1 is a suitable starting point for assessing inventive step of the claimed invention.

6.1 D1 discloses the following features of claim 1:

- a package transference system comprising

- networked self-service package-holding facilities as claimed,
- a routing system which stores, for each package, the identity of the recipient, the delivery address, and a delivery status (for the latter see e.g. page 5, lines 24-28), and
- a recipient notification system connected to the holding facilities which can be accessed by the recipient to see whether the package has been delivered yet.

The board also considers that D1 implicitly discloses a way to "uniquely" identify each package, because customers inquiring at the server must identify the package of interest.

6.2 D1 does not disclose

1) a unique, machine-readable package identifier and the corresponding reader,
2) the recipient notification system actively notifying the recipient that a package has been delivered, or
3) an information management system with which at "any time prior to the release of the package" the identity of the recipient, the delivery address or the "delivery status" can be changed.

6.3 During oral proceedings, the appellant substantially agreed with this analysis of claim 1 vis-à-vis D1.

6.4 As regards 1), the board notes that packages can, for most practical purposes, be identified by the names of the sender and the recipient, the date of dispatch and their size. However, this approach fails if, as may

well happen, a customer orders several same-size packages from the same merchant.

6.4.1 Using "unique identifiers" for the packages is the obvious solution to avoid any confusion, apart from their utility as database keys. Moreover, when attached in machine-readable form to the packages (e.g. as bar code labels), unique identifiers simplify the physical handling of packages in an obvious way. In the board's view, the utility of *unique, machine-readable package identification* is generally known in the art, but it is also known from D2 in the pertinent context (see page 1, line 20).

6.4.2 During the oral proceedings, the appellant argued that the use of bar codes in D2 was disclosed for use in a specific procedure which involved, in particular, postal delivery of the bar code to the customer. The skilled person would, therefore, not have incorporated the bar code of D2 without, at the same time, also incorporating its postal delivery. This however would be at odds with the claimed electronic recipient notification. The board disagrees. Firstly, and as already mentioned, the board considers the use of bar codes to be of obvious utility in tracking systems, independent of D2. Secondly, D2 discloses the delivery of the bar codes to the customers to enable them to retrieve the right packages from the storage facilities. For this function, the means used to inform the customers of the bar code is immaterial. Therefore, the skilled person would not have hesitated to use other forms of communication, for instance in the course of modernising the system of D2.

6.4.3 As regards 2), recipients are obviously inconvenienced by the obligation to inquire whether a package has

already been delivered, for instance because they then have to keep track of the expected packages. Likewise, recipients who are not expecting a package (a gift delivery, for example) have no reason to make such an inquiry. The board considers the idea of relieving customers of the need to keep track by actively informing them of a delivery to have been common place. Using means of communication other than the conventional telephone network of D2, for instance cellular phones or email, is, in the board's view, an obvious matter of modernising the system of D1; cellular phones and email were well-established in 1999, the priority date of the present application.

6.5 As regards 3), the board considers that the customers' wish to be able to change, "at any time prior to the release", the recipient's name or address or even the "delivery status" (into, for instance, "return to sender") is both obvious and non-technical. Whether a service provider is prepared to satisfy these wishes is a matter of choice, influenced by questions of practicability and cost. If, however, the service provider wants to offer these services, it is obvious that the modifiable parameters must be accessible in association with the package identity.

6.6 In summary, the board agrees with the decision under appeal that system claim 1 - and *a fortiori* the more general method claim 4 - lack inventive step over D1, Article 56 EPC 1973.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

B. Atienza Vivancos W. Sekretaruk

Decision electronically authenticated