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**Datasheet for the decision
of 7 April 2016**

Case Number: T 0155/12 - 3.4.03

Application Number: 04090329.6

Publication Number: 1513121

IPC: G07F19/00, G06F17/60,
G07B15/00, G07C9/00

Language of the proceedings: EN

Title of invention:

System and method for providing electronic ticket, and
electronic ticket vending apparatus and mobile telephone
therefor

Applicant:

NEC Corporation

Headword:

Relevant legal provisions:

EPC 1973 Art. 56, 84
EPC Art. 123(2)

Keyword:

Clarity (no)
Inventive step (no)
Added subject-matter (yes)

Decisions cited:

T 0641/00

Catchword:



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Case Number: T 0155/12 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 7 April 2016

Appellant: NEC Corporation
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Representative: Stork Bamberger
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 12 August 2011
refusing European patent application No.
04090329.6 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman G. Eliasson
Members: R. Bekkering
C. Schmidt

Summary of Facts and Submissions

I. The appeal is against the refusal of application No. 04 090 329 for added subject-matter, Article 123(2) EPC, and for lack of an inventive step, Article 56 EPC over document:

D1: US 2002/042729 A.

II. With the statement setting out the grounds of appeal of 9 December 2011, the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the following:

Main request:

Claims 1 to 19 according to the appellant's "*Main request*" filed with the statement setting out the grounds of appeal;

First auxiliary request:

Claims 1 to 19 according to the appellant's "*First Auxiliary Request*" filed with the statement setting out the grounds of appeal;

Second auxiliary request:

Claims 1 to 19 according to the appellant's "*Second Auxiliary Request*" filed with the statement setting out the grounds of appeal.

III. A summons to oral proceedings appointed for 7 April 2016 was issued by the board, provided with an annexed

communication in which a provisional opinion of the board on the matter was given.

In particular, the appellant was informed that the claims of the main and second auxiliary request lacked clarity, contrary to Article 84 EPC 1973.

Moreover, it appeared that the subject-matter of claim 1 of all requests lacked an inventive step in the sense of Article 56 EPC 1973 over document D1.

Furthermore, the amendment according to the second auxiliary request appeared not to comply with Article 123(2) EPC.

- IV. With letter dated 17 March 2016, the board was informed that the appellant would not attend the oral proceedings.

No arguments were provided by the appellant in response to the board's observations.

- V. Oral proceedings took place on 7 April 2016 in the absence of the appellant.

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

"An electronic ticket providing system for providing electronic ticket information from an electronic ticket vending apparatus to a mobile telephone through a communication network, wherein:

the electronic ticket vending apparatus comprises: control means for controlling distribution of electronic ticket information to a mobile telephone, the electronic ticket information containing:

formal ticket data comprising authentication information for admission, a ticket notation item, and authentication information for acquisition of information for a ticket owner; and provisional ticket data comprising the ticket notation item and authentication information for acquisition of information for a ticket purchase requester; and wherein

the control means of the electronic ticket vending apparatus is configured to transmit the formal ticket data and the provisional ticket data separately; and the mobile telephone comprises:

internal memory;

means for reading on and writing to a removable storage medium; and

storage control means for

receiving from the electronic ticket vending apparatus the electronic ticket information, and controlling storage of the formal ticket data in the storage medium and the provisional ticket data in the internal memory."

VII. Claim 1 according to the first auxiliary request reads as follows:

"An electronic ticket providing system for providing electronic ticket information from an electronic ticket vending apparatus to a mobile telephone through a communication network, wherein:

the electronic ticket vending apparatus comprises:

control means for controlling distribution of

electronic ticket information to a mobile telephone,

the electronic ticket information containing:

formal ticket data comprising authentication

information for admission, a ticket notation item, and

authentication information for acquisition of information for a ticket owner; and provisional ticket data comprising the ticket notation item and authentication information for acquisition of information for a ticket purchase requester; and wherein the control means of the electronic ticket vending apparatus is configured to transmit the formal ticket data and the provisional ticket data collectively as the electronic ticket information; and the mobile telephone comprises: internal memory; means for reading on and writing to a removable storage medium; and storage control means for receiving from the electronic ticket vending apparatus the electronic ticket information, wherein the mobile telephone is adapted to divide the electronic ticket information into the formal ticket data and the provisional ticket data, and controlling storage of the formal ticket data in the storage medium and the provisional ticket data in the internal memory, wherein the storage control means of the mobile telephone is configured to store the formal ticket data and the provisional ticket data of the electronic ticket information separately."

VIII. Claim 1 according to the second auxiliary request corresponds to claim 1 according to the first auxiliary request, however with the definition of the electronic ticket information reading as follows (amendments highlighted by the board):

"the electronic ticket information containing:

*formal ticket data comprising authentication information for admission, a ticket notation item, and authentication information for acquisition of **related** information for a ticket owner; and provisional ticket data comprising the ticket notation item and authentication information for acquisition of **related** information for a ticket purchase requester"*

IX. The appellant submitted in substance the following arguments:

According to claim 1, the electronic ticket information contained formal ticket data and provisional ticket data. The control means of the electronic ticket vending apparatus was configured to transmit the formal ticket data and the provisional ticket data separately. The mobile telephone stored the formal ticket data in a removable storage medium with high security and the provisional ticket data in the internal memory with lower security.

In document D1, no such subdivision was provided.

The invention enabled an optimal trade-off between the safety of the electronic ticket data and the barrier-free exchange of data, which was the synergy technical effect of the mutual adjustment of the structure of the electronic ticket information.

Accordingly, the objective underlying problem was how to improve the distribution of the electronic ticket data and the collection of corresponding related data having regard to the sensitivity of the electronic ticket, however not at the expense of convenience of easily accessing to the various related information about the electronic ticket.

The underlying problem and the claimed solution were not suggested in document D1 or any other prior art.

Accordingly, the subject-matter of claim 1 was based on an inventive step.

Claim 1 according to the first auxiliary request further defined that the electronic ticket vending apparatus was configured to transmit the formal ticket data and the provisional ticket data collectively as the electronic ticket information and the mobile phone was adapted to divide the electronic ticket information into the formal ticket data and the provisional ticket data.

This further feature was also not suggested in document D1 or any other prior art.

Accordingly, also subject-matter of claim 1 according to the first auxiliary request was based on an inventive step.

Claim 1 according to the second auxiliary request further defined the acquisition of "*related*" information.

The basis in the application as originally filed for this amendment was on page 10, lines 3 to 6.

This additional feature provided a further distinction over document D1. Accordingly, also the subject-matter of claim 1 according to the second auxiliary request was novel and inventive.

Reasons for the Decision

1. The appeal is admissible.

2. *Main request*

2.1 *Amendments*

Claim 1 as amended is based on claims 1 and 3 as originally filed, and on the description (cf page 3, second paragraph; page 7, second and third paragraph).

Accordingly, the amendments to claim 1 comply with Article 123(2) EPC.

2.2 *Clarity*

Claim 1 lacks clarity in that a number of expressions are used which are considered to have no clearly defined meaning or to be confusing, contrary to Article 84 EPC 1973. In particular the expressions "*ticket notation item*" for what seems to be information about the event to which the ticket provides admission and "*ticket purchase requester*" for what seems to be a person who intends to buy a ticket, possibly for a different event, are considered unclear.

Moreover, the expression "*provisional ticket data*" is considered confusing as it implies data relating to a ticket that is "*provisional*", ie valid but not final, whereas from the description it would appear to merely be information about a coming event (cf page 7, lines 17 to 25).

Furthermore, the expression "*authentication*" is used where rather identification or authorization takes place.

No arguments were provided by the appellant in this respect.

Accordingly, claim 1 is not clear, contrary to the requirement of Article 84 EPC 1973.

2.3 Moreover, for the sake of completeness and as far as claim 1 is clear, the following is noted:

2.3.1 *Novelty*

Document D1 discloses an electronic ticket providing system for providing electronic ticket information from an electronic ticket vending apparatus (1, 2, 4) to a mobile telephone (3) through a communication network (F1, F7 (or directly between information management apparatus (2) and mobile telephone (3) (cf paragraph [0076])) (cf paragraphs [0057] to [0089]; figures 1, 2).

The electronic ticket vending apparatus (1, 2, 4) comprises:

control means for controlling distribution of electronic ticket information to a mobile telephone, the electronic ticket information containing: formal ticket data ("*specific electronic information*") comprising information for admission; and provisional ticket data ("*related information*") comprising the ticket notation item (eg event information) and, wherein the control means of the electronic ticket vending apparatus is configured to transmit the formal ticket

data and the provisional ticket data separately (via F1 and F7, respectively) (cf paragraphs [0098] to [0103]).

The mobile telephone (3) comprises:

internal memory (32);

means for reading on and writing to a removable storage medium (35); and

storage control means for receiving from the electronic ticket vending apparatus the electronic ticket information, and

controlling storage of the formal ticket data in the storage medium (cf paragraph [0069]) and the provisional ticket data in the internal memory (it is considered implicit from D1 that the related information is stored in the regular memory 32 of portable telephone 3).

It is noted in this respect that, contrary to the appellant's argument, document D1 provides a subdivision of the electronic ticket information with the mobile telephone storing the formal ticket data in a removable storage medium (IC card) with an inherent higher security and the provisional ticket data in the internal memory with lower security.

Not disclosed in D1 is that the formal ticket data ("*specific electronic information*") also comprises a "*ticket notation item*" (eg event information) and "*authentication information for acquisition of information for a ticket owner*", and that the provisional ticket data ("*related information*") also comprises "*authentication information for acquisition of information for a ticket purchase requester*".

Hence, the claimed data has more data fields, and thus a different structure, and different information

content, and thereby a different physical form. The data as claimed thus differs from that of D1. Moreover, in consequence the control means for transmitting and storing this data differ from those of D1 as well. Accordingly, in the board's judgement the subject-matter of claim 1 is new over D1.

2.3.2 *Inventive step*

For assessing the presence of an inventive step, however, it needs to be determined whether this difference in structure and information content of the data is technical. If not, it cannot support the presence of an inventive step.

In the board's judgement, the difference in information content as claimed is not technical. The information content of data eg whether it is general information about an event or eg an identification code providing access to an event as such does not render the data technical.

It is noted that if the claimed subject-matter, for instance in the case of an identification code providing access to an event, were to further define the actual technical use of the code for providing access to the event, then this may render it technical. However, in the present case claim 1 does not define any such specific technical use of the data, which could render it technical.

Accordingly, only the structure and physical form of the data is technical as discussed above.

The underlying consideration for distributing electronic ticket information lies in the field of schemes for doing business.

Schemes for doing business shall not be regarded as inventions within the meaning of Article 52(1) EPC, in accordance with Article 52(2) EPC, and are therefore deemed to be non-technical.

The claimed invention concerns the technical implementation of a scheme for doing business.

According to established jurisprudence, an invention consisting of a mixture of technical and non-technical features and having technical character as a whole is to be assessed with respect to the requirement of inventive step by taking account of all those features which contribute to said technical character whereas features making no such contribution cannot support the presence of inventive step. Where the claim refers to an aim to be achieved in a non-technical field, eg in the field of business schemes like in the present case, this aim may legitimately appear in the formulation of the problem as part of the framework of the technical problem that is to be solved, in particular as a constraint that has to be met (cf "*Case Law of the Boards of Appeal of the EPO*", 7th Edition 2013, I.D. 9.1; T 641/00 (OJ EPO 2003, 352), Reasons, points 3 to 7).

Accordingly, having regard to the distinguishing features over D1 above, the technical problem to be solved may be formulated as to technically implement, using technical means, the distribution of the electronic ticket information.

All steps of the underlying business scheme, in particular which data are to be distributed, are, thus, part of the information provided to the technician in charge of the technical implementation and do as such not contribute to inventive step.

The technical implementation as claimed consists in providing a corresponding data structure and physical form.

This solution is obvious for a skilled person, it being generally known to provide different information in different data fields.

Accordingly, the subject-matter of claim 1 of the main request lacks an inventive step in the sense of Article 56 EPC 1973.

The above applies, *mutatis mutandis*, to claim 6 for a corresponding method, claim 11 for a corresponding ticket vending apparatus, claim 16 for a corresponding mobile telephone and claim 19 for a corresponding program.

2.4 The appellant's main request is, therefore, not allowable.

3. *First auxiliary request*

3.1 *Amendments*

Claim 1 as amended according to the first auxiliary request is further based on claim 2 as originally filed, and on the description (cf page 9, last paragraph).

Accordingly, the amendments to claim 1 according to the first auxiliary request also comply with Article 123(2) EPC.

3.2 *Clarity*

Claim 1 according to the first auxiliary request is not clear for the same reasons given above for the main request, contrary to the requirement of Article 84 EPC 1973.

3.3 *Inventive step*

Moreover, for the sake of completeness and as far as claim 1 is clear, the following is noted:

Claim 1 of the first auxiliary request differs from that of the main request in that it is specified that the formal ticket data and the provisional ticket data are transmitted collectively and then, in the mobile telephone, divided and stored separately.

As discussed above, in document D1 the formal ticket data ("*specific electronic information*") and the provisional ticket data ("*related information*") are transmitted separately (via F1 and F7, respectively) (cf paragraphs [0098] to [0103]). Indeed, in D1 the related information is provided on request.

However, the consideration to transmit the provisional ticket data ("*related information*") collectively with the formal ticket data ("*specific electronic information*") is part of the underlying business scheme and, therefore, cannot support the presence of an inventive step. The collective transmission and the subsequent division of the data prior to storing is the

straightforward technical implementation of this aspect of the business scheme and considered to be obvious to the skilled person.

Accordingly, also the subject-matter of claim 1 of the first auxiliary request lacks an inventive step in the sense of Article 56 EPC 1973.

The same applies to the remaining independent claims.

3.4 Accordingly, the appellant's first auxiliary request is also not allowable.

4. *Second auxiliary request*

4.1 *Amendments*

Claim 1 of the second auxiliary request differs from that of the first auxiliary request in that it is specified that the acquisition in the context of the formal and the provisional ticket data is of related information.

The appellant refers to page 10, lines 3 to 6 of the application as filed as providing a basis for this amendment.

The description as originally filed, however, discloses in this paragraph that the information which can be acquired for the provisional ticket is information pertaining to a related event (next event etc.) (cf page 9, lines 29 to page 10, line 6).

The amendment, therefore, extends beyond the content of the application as filed and, accordingly, does not comply with Article 123(2) EPC.

4.2 *Clarity*

Furthermore, claim 1 according to the second auxiliary request is not clear for the same reasons given above for the main request, contrary to the requirement of Article 84 EPC 1973.

Moreover, as it is unclear to what the information is related, the claim also lacks clarity in this respect.

4.3 Accordingly, the appellant's second auxiliary request is not allowable either.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



S. Sánchez Chiquero

G. Eliasson

Decision electronically authenticated