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**Datasheet for the decision
of 6 March 2018**

Case Number: T 0678/12 - 3.5.01
Application Number: 08721179.3
Publication Number: 2138969
IPC: G06Q30/00, G06Q10/00, G06Q20/00
Language of the proceedings: EN

Title of invention:

ADVERTIZEMENT WEBSITE CONNECTING PROGRAM, MEMORY MEDIUM,
INFORMATION PROCESSING DEVICE, AND SERVER DEVICE

Applicant:

Sony Corporation

Headword:

Affiliate advertising/ SONY

Relevant legal provisions:

EPC Art. 56

Keyword:

Inventive step - commission object person information for
identifying a person who receives a commission - (no - non
technical) - introductory ID for identifying a lead in a
commission scheme (no - non technical)



Beschwerdekammern
Boards of Appeal
Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0
Fax +49 (0)89 2399-4465

Case Number: T 0678/12 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 6 March 2018

Appellant: Sony Corporation
(Applicant) 1-7-1 Konan, Minato-ku
Tokyo 108-0075 (JP)

Representative: Müller Hoffmann & Partner
Patentanwälte mbB
St.-Martin-Strasse 58
81541 München (DE)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 3 November 2011
refusing European patent application No.
08721179.3 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman W. Chandler
Members: A. Wahrenberg
P. Schmitz

Summary of Facts and Submissions

- I. This is an appeal against the decision of the examining division to refuse the European patent application No. 08721179.3 on the grounds that the claimed subject-matter of the main and two auxiliary requests filed on 14 September 2011 lacked inventive step (Article 56 EPC).
- II. The examining division considered that all the technical features in claim 1 of the main request were disclosed in D1 (WO 01/80049 A1) and that the distinguishing features related to excluded subject-matter under Article 52(2) and (3) EPC. Similar reasons were given for the auxiliary requests.
- III. In the statement setting out the grounds of appeal, the appellant requested that the decision of the examining division be set aside and that a patent be granted on the basis of the refused main request of 14 September 2011.
- IV. The Board set out its preliminary observations in a communication accompanying a summons to oral proceedings. The Board did not see any error in the examining division's conclusion that the subject-matter of claim 1 of the main request lacked an inventive step over D1.
- V. With a letter dated 9 January 2018, the appellant filed two new auxiliary requests.
- VI. Oral proceedings before the Board took place on 6 March 2018. The appellant's final request was that the decision under appeal be set aside and that a

patent be granted on the basis of the main request dated 14 September 2011, or one of auxiliary requests 1 or 2 filed with letter of 9 January 2018.

VII. Claim 1 of the main request reads:

An advertisement website connecting program that realizes a function of connecting a customer terminal (4) to an advertisement website (10) that leads to a business transaction website of a store,

the customer terminal (4) being a computer including a reader/writer (5) that accesses an IC chip (6) of a customer,

the program using the computer to realize:

a detecting function of detecting that the IC chip (6) is connected with the reader/writer (5);

a receiving function of receiving, from the IC chip (6) an electronic money function unit ID, and

a connecting function of connecting the customer terminal (4) to a predetermined advertisement website (10) provided by a server when the connection is detected;

characterized by

a commission object person information storing function of storing commission object person information that comprises the electronic money function unit ID and that specifies a predetermined commission object person who receives a commission based on past results of leading the customer to the business transaction website through the predetermined advertisement website; and

a commission object person information transmitting function of transmitting the stored commission object person information to the connected advertisement website (10), wherein the commission object person information is included in connection information when

connecting to the predetermined advertisement website (10) by the connecting function.

VIII. Claim 1 of auxiliary request 1 adds to the main request at the end of the customer terminal (first) feature the text "*, the IC Chip (6) storing electronic data representing a monetary value*" and adds a new fourth feature of "*a reading function of transmitting an ID reference command to the IC chip (6) to read an electronic money function unit ID*".

IX. Claim 1 of auxiliary request 2, which corresponds to claim 7 of auxiliary request 1, reads as follows:

A server device (3) that accepts access from a customer terminal (4) and operates an advertisement website (10) that leads to a business transaction website of a store (8), comprising:

connection accepting means for accepting connection to the advertisement website (10) from the customer terminal (4);

leading means for leading a customer to the business transaction website by connecting the customer terminal (4) that has accepted the connection to the business transaction website;

commission object person information acquiring means for acquiring from the customer terminal (4) commission object person information that comprises the electronic money function unit ID and that specifies a predetermined commission object person who receives a commission based on past results of the lead, wherein the commission object person information is included in connection information when connecting to the predetermined advertisement website (10) from the customer terminal (4);

commission amount acquiring means for acquiring a

commission amount based on the past results of the lead; and

storing means for storing the acquired commission object person information and the commission amount in association with each other

the server device (3) being configured to associate the commission object person information and an affiliated store ID of the business transaction website with an introductory ID and to transmit the introductory ID to the business transaction website.

X. The appellant's arguments can be summarised as follows:

The examining division disregarded features of the invention that were clearly technical.

The commission object person information comprised two pieces of information, which were independently used in a technical sense:

an "electronic money function ID" that identified the specific unit; and

information specifying the commission object person that was actively updated so as to take account of past results of leading to the customer to the website.

Since the commission object person information was included in connection information only when connecting to the advertisement website, and not in connection information as a default, bandwidth could be saved. This was a technical effect that contributed to inventive step.

Apart from the storing and transmitting of commission object person information, the subject-matter of claim 1 of the main request differed from D1 by the receiving function of receiving an electronic money function unit

ID from the IC chip. The electronic money function unit ID in claim 1 was different from the personal information stored on the IC card in D1. The electronic money function unit ID was the ID of the IC card, and not sensitive information like the credit card number in D1.

By storing the commission object person information in the terminal, the advertisement website connecting program did not have to read the electronic money function ID from the IC card every time it was needed. Thus, the access time for transmitting the commission object person information could be reduced. In addition, storing the commission object person information increased security, because the number of accesses for reading information from the IC-card could be reduced.

D1 taught away from storing personal information in the terminal, because such information was highly sensitive. Indeed, the purpose of storing it on the IC card in D1 was to protect it from unauthorised access.

Reasons for the Decision

1. *Background*

The invention concerns a scheme for paying a commission when a customer shops at an online store (a "business transaction website"). At the date of the invention, commissions were typically paid to the administrator of an advertisement website providing a link to the business transaction website, based on the results of leads from the advertisement website to the business

transaction website (see paragraphs [0002] and [0003] of the published application). The invention extends this concept to include commissions to another person (a "commission object person"), for example the customer himself, or the manufacturer of the terminal (paragraphs [0004] and [0010]; and Figure 9(a)).

The claims of the main and auxiliary requests define various parts of a system for handling such commissions.

2. *Main request, claim 1*

Claim 1 of the main request is directed to a program in the customer's terminal, the terminal being a computer including a "reader/writer" that accesses an "IC-chip" of the customer.

In the Board's understanding, claim 1 of the main request defines the following functions of the program:

detecting that the IC chip is connected to the reader/writer;

receiving an "electronic money function unit ID" from the IC chip;

connecting the terminal to the advertisement website when the (IC chip) connection is detected;

storing "commission object person information" that comprises "the electronic money function unit ID" and that specifies the "commission object person"; and

transmitting the stored "commission object person information" to the advertisement website by including

it in the "connection information" when connecting to the advertisement website.

The "electronic money function unit ID" identifies, as the term suggests, an "electronic money function unit", i.e. an electronic payment means. In the application, the "electronic money function unit ID" is the ID of the IC card, which is a sort of electronic cash card (see paragraph [0038] of the published application). However, the subject-matter of claim 1 is not limited to any specific type of "electronic money function".

Claim 1 of the main request does not define any function of actually paying or receiving the commission. Indeed, the commission object person information is just transmitted to the advertisement website, and there it ends. However, it may be useful for the understanding of the claimed invention that, when the customer receives a commission, it may be paid to the electronic money function unit identified by the ID (see paragraphs [0027] to [0029]).

3. *Main request, inventive step*

- 3.1 The examining division started from D1. The Board agrees that D1 is a reasonable starting point for assessing inventive step, because it concerns an Internet connecting program with an IC card that has many technical features in common with the invention as defined in claim 1 of the main request. Whether or not D1 is directed to paying commission is, in the Boards view, irrelevant, because it is suitable for that purpose and this is a non-technical aim, which does not count towards inventive step.

- 3.2 In D1, the user's terminal is automatically connected to a website when the user inserts an IC card into the computer's card reader (page 6, lines 3 to 13). Thus, D1 discloses a customer terminal as defined in claim 1 of the main request, as well as the functions of detecting and connecting.
- 3.3 The URL of the website is read from the IC card. The IC card also has, stored thereon, personal information including the user's name and credit card number (page 5, lines 11 to 18). The personal information may be read from the IC card and be provided automatically to the website when connecting to it (page 9, lines 19 to 23).
- 3.4 In the Board's view, the credit card number in D1 reads onto the "electronic money function unit ID" in claim 1 of the main request. Therefore, D1 discloses the function of receiving an "electronic money function unit ID" from the IC card as well as the function of transmitting *person information*, comprising the ID and specifying a person (the user), to the website. In the Board's view, the disclosure of D1 anticipates the feature of including the person information in "connection information", at least at the level of generality of claim 1. At any rate, passing data in, for example, the URL (see paragraph [0057] of the published application) was normal practice at the priority date.
- 3.5 The applicant argued that, since the person information was only provided when connecting to the predetermined advertisement website, bandwidth could be saved. The Board does not find this argument convincing. Claim 1 does not exclude that the commission object person information is transmitted as default when connecting

to a website. Furthermore, the person information in D1 is only transmitted "as needed" (see page 8, lines 18 to 22). Thus, the Board does not see that the invention in claim 1 provides any difference over D1 that contributes to the effect argued by the appellant.

3.6 The appellant also argued that D1 did not disclose the storing of person information in the user's terminal. The Board disagrees. It is not possible to read information from an IC card and transmit it to a website without the intermediate step of storing it in a data buffer, for example a transmit buffer in the network unit. Since the storing is implicitly disclosed in D1, the appellant's arguments on the effects of the storing are not at issue.

3.7 Claim 1 of the main request defines "commission object person information" that specifies the person who receives a commission based on past results of leading the customer to the business transaction website through the advertisement website. This is not in D1. The Board has doubts, however, whether such use of personal information to identify a person who receives a commission is really a feature of the program as defined in claim 1. The distribution of commission is done outside the terminal, namely by the introducing server and/or the distribution server (see Figures 10 and 11). Seen from the terminal, the commission object person information is just some information identifying a person, for example the user. This is no different from the personal information in D1.

3.8 In any case, paying a commission to a person based on a number of leads is not technical. That is a business idea formulated by the business person as a business requirement to be met. The technically skilled person

comes into play when the requirement is to be implemented. In the Board's view, it would have been normal routine for the skilled person to provide means for paying a commission using the person information in D1.

3.9 For these reasons, the Board concludes that the subject-matter of claim 1 of the main request lacks an inventive step over D1 (Article 56 EPC).

4. *First auxiliary request, inventive step*

4.1 Claim 1 of the first auxiliary request adds over the main request that the IC chip stores "electronic data representing a monetary value", as well as a reading function of "transmitting an ID reference command to the IC chip to read an electronic money function unit ID".

4.2 The data representing a monetary value is stored on the card but not used. Therefore, the Board does not see that this features provides any technical effect apart from taking up space on the card. Therefore, it cannot provide an inventive step.

4.3 Furthermore, the claimed reading function is already disclosed in D1. The system in D1 makes a select DF/EF command or performs an auto-run function to read data from IC card (see page 5, lines 23 to 25).

4.4 For these reasons, the Board finds that the features added by claim 1 of the first auxiliary request do not provide anything of inventive significance over D1. Therefore, the subject-matter of claim 1 of the first auxiliary request does not involve an inventive step (Article 56 EPC).

5. *Second auxiliary request, claim 1*

Claim 1 of the second auxiliary request is directed to a server device that accepts access from a customer terminal and operates the advertisement website that leads to the business transaction website.

The server device acquires the commission object person information from the customer terminal and stores it "in association with" a "commission amount", which is acquired from an unspecified source. The commission amount is based on past results of leads. It is stored but not used. Indeed, like in the main request, claim 1 of the second auxiliary request does not specify any actual payment of commission.

The server device associates the commission object person information and an "affiliated store ID" of the business transaction website with an "introductory ID", which it transmits to the business transaction website.

In the application (see paragraphs [0076] to [0079]), the server operating the advertisement website (the introducing server 3) and the server operating the business transaction website (the affiliated store server 8) both use the introductory ID for identifying an introductory case, i.e. a lead from the advertisement website to the business transaction website. This is necessary for keeping track of the leads and the sales amounts resulting from those leads, which, in turn, are needed for determining the commissions.

6. *Second auxiliary request, inventive step*

- 6.1 For the subject-matter of claim 1 of the second auxiliary request, the Board considers the conventional technology described in paragraphs [0002] and [0003] of the application as published to be a better starting point than D1. The described technology involves a server device operating an advertisement website that leads to a business transaction website of an online store. The server device implicitly comprises a "storing means" for storing information. The described server device also comprises "connection accepting means" and "leading means" as defined in claim 1 of the second auxiliary request.
- 6.2 The subject-matter of claim 1 of the second auxiliary request differs from the conventional technology by:
- the "commission object person acquiring means" for acquiring commission object person information included in the connection information from the customer terminal;
- the "commission amount acquiring means" for acquiring the commission amount; and
- the server device being configured to associate the commission object person information and an affiliates store ID of the business transaction website with an introductory ID and to transmit the introductory ID to the business transaction website.
- 6.3 Claim 1 does not say that the commission object person information and the commission amount is stored; it just defines suitable means for storing it. However, the storing of at least the commission object person is implicit from the context of claim 1. Therefore, this

is also a difference over the prior art.

- 6.4 As concluded above with regard to the main request, the scheme of paying a commission to a person based on a number of leads from an advertiser to an online store is not technical and, as such, it cannot contribute to inventive step. The non-technical requirements include identifying the person who receives a commission and the payment means (for example an account) for paying the commission to that person. The technically skilled person with the task of implementing the non-technical commission scheme would need to provide suitable means for obtaining the commission object person information and, as set out in point 3.4 above, it would have been a matter of normal design to include it in the connection information when the customer terminal connects to the advertisement website.

The commission amount in claim 1 is not used. Therefore, it cannot support the presence of an inventive step. In any case, the commission amount is part of the non-technical commission scheme, and the implementation comprising means for acquiring it and storing it would have been straightforward and obvious to the skilled person.

- 6.5 The question remains whether the introductory ID provides a technical effect, which could contribute to inventive step. The appellant argued that the introductory ID improved the security of the payment when the customer purchased an item from the business transaction website. According to the appellant, the payment was effectuated by referring to the introductory ID without providing the electronic money function ID to the business transaction website.

6.6 The Board is not persuaded by the appellant's arguments. The introductory ID is not defined or limited in any way, nor is it used in any payment transaction between the customer and the online store. It is used for identifying a lead in the commission scheme. The Board has doubts whether such an identifier is at all technical. At any rate, providing a suitable identifier would have been a matter of normal design for the skilled person implementing the commission scheme.

6.7 For these reasons, the subject-matter of claim 1 of the second auxiliary request does not involve an inventive step (Article 56 EPC).

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



T. Buschek

W. Chandler

Decision electronically authenticated