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**Datasheet for the decision  
of 2 March 2017**

**Case Number:** T 0930/13 - 3.5.01

**Application Number:** 10004409.8

**Publication Number:** 2264663

**IPC:** G06Q30/00, G06Q20/00

**Language of the proceedings:** EN

**Title of invention:**

M-Commerce virtual cash system, method and apparatus

**Applicant:**

Qualcomm Incorporated

**Headword:**

M-Commerce virtual cash system / QUALCOMM

**Relevant legal provisions:**

EPC Art. 56, 84

RPBA Art. 15(3)

**Keyword:**

Inventive step - virtual cash system (no - not technical) -  
account record with security code (no - obvious use of known  
means)

**Decisions cited:**

T 0258/03, T 0641/00



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Case Number: T 0930/13 - 3.5.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.01**  
**of 2 March 2017**

**Appellant:** Qualcomm Incorporated  
(Applicant) 5775 Morehouse Drive  
San Diego, CA 92121-1714 (US)

**Representative:** Dunlop, Hugh Christopher  
Maucher Jenkins  
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**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted on 15 November  
2012 refusing European patent application No.  
10004409.8 pursuant to Article 97(2) EPC.

**Composition of the Board:**

**Chairman** W. Chandler  
**Members:** M. Höhn  
P. Schmitz

## Summary of Facts and Submissions

I. This appeal is against the Decision of the Examining Division to refuse European patent application No. 10004409.8 on the ground of lack of inventive step (Article 56 EPC). The decision made reference to prior-art publication:

D1: US 2005/0107067 A1.

II. In the statement setting out the grounds of appeal the appellant requested that the appealed decision be set aside and that the case be remitted to the Examining Division for further consideration based on the set of claims underlying the impugned decision. Additionally he requested a reasoned communication setting out the closest prior art and the problem relative thereto, so that he could respond fully. Oral proceedings were requested on an auxiliary basis.

III. The Board summoned the appellant to oral proceedings.

IV. In a subsequent letter, the appellant withdrew the request for oral proceedings and requested a decision based on the grounds of appeal and the state of the file.

V. Oral proceedings were held on 2 March 2017 *in absentia*. After due consideration of the appellant's arguments the Chairman announced the decision

VI. Claim 1 of the main request reads as follows:.

" A method comprising:

- storing electronically a first account record (38) at a processing center which is associated with a first

wireless device (12), the first account record comprising: a first amount of virtual cash; and a first security code, wherein the first security code comprises a first fixed code portion to verify a first deposit of money corresponding to the first amount of virtual cash;

- storing electronically at the processing center a second account record (38') which is associated with a second wireless device (41), the second account record comprising: a second amount of virtual cash; and a second security code, wherein the second security code comprises a second fixed code portion to verify a second deposit of money corresponding to the second amount of virtual cash;

- automatically transferring a third amount of virtual cash from the first account record to the second account record in response to receiving instructions transmitted from the first wireless device."

VII. The appellant argued essentially as follows:

The invention involved the transfer of "virtual cash". This was not comparable with transactions involving credit cards since it was anonymous. Also the amount that could be spent in the case of a fraud was limited.

It was not realistic that the steps of the payment method could be performed by a human; if the method was analogous to a bank-to-bank transfer, it did not involve "virtual cash", if it was analogous to a cash transfer, it did not involve "account records".

The features of electronically maintaining account records, associating them with a wireless device, transmitting the instructions from the first wireless device and automatically transferring them in response

thereto were technical.

D1 did not disclose these features nor storing virtual cash accounts each having a security code comprising a fixed code portion.

The technical problem solved was facilitating an electronic payment using wireless terminals. The technical features of the solution were not notorious.

## **Reasons for the Decision**

Non-attendance at oral proceedings

1. The appellant withdrew the request for oral proceedings and requested a decision based on the grounds of appeal and the state of the file. The oral proceedings took place in the absence of the appellant.

Article 15(3) RPBA stipulates that the Board is not obliged to delay any step in the proceedings, including its decision, by reason only of the absence at the oral proceedings of any party duly summoned who may then be treated as relying only on its written case.

Moreover, the Board considers that the appellant's request for a reasoned communication is moot in the light of the request for the decision based on the grounds of appeal and the state of the file.

Hence, the Board was in a position to announce a decision at the end of the oral proceedings that met the requirements of the appellant's right to be heard (Article 113(1) EPC).

2. Article 56 EPC - Inventive step

The invention relates to wireless device-enabled electronic commerce ("M-commerce") using "virtual cash". Payments are made from the user of a first wireless device to the user of a second.

- 2.1 The claimed invention is directed to a mix of technical and non-technical features. The Board does not dispute that the method according to claim 1 appears in a technical context. The method can be considered to be performed by technical means, because it involves a wireless device which implies the use of a mobile communication network, and, therefore, has technical character. The invention is an invention in the sense of Article 52(1) EPC (see T0258/03 "Auction method/HITACHI", OJ EPO 2004, 575).
- 2.2 However, 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 (see T 0641/00 "Two identities/COMVIK", Headnote I, OJ EPO 2003, 352).
- 2.3 Starting from a system for carrying out financial transactions using wireless devices, such as that disclosed in D1, claim 1 differs by the features of a payment scheme whereby virtual cash in a first account associated with the wireless device is transferred to a second account associated with a second wireless device in response to instructions transmitted from the first wireless device. Furthermore, the record of each account contains a security code with a first fixed code portion to verify the deposit of money corresponding to the amount of virtual cash in the record.
- 2.4 The Board agrees with the decision under appeal that the features relate to the underlying specific payment



scheme "per se" pertain to an administrative method, i.e. to the non-technological part of claim 1. The Board also agrees that this underlying scheme is analogous to the human activity of someone paying cash to someone else.

2.5 Present claim 1 specifies that the funds are in a first or second account and are therefore considered to be remote from the wireless device. There is no token to be considered virtual cash which is anonymous and separate from the account. Furthermore, there is a security code specified and it is left open whether this code allows the debited account to be identified. Hence, the appellant's arguments regarding the funds in claim 1 being anonymous and fraud to be limited to the amount stolen do not convince, since no features limiting the claim in this regard are present.

2.6 These features therefore cannot contribute to the inventive step of the invention and can be part of the requirements given to the technical skilled person. The only differences that can count for inventive step are therefore the use of the security code and any details of implementing the payment scheme on the known hardware, such as providing a physical record for the account. The Board therefore considers that the technical problem is how to implement the payment scheme in a secure way on the known wireless hardware.

2.7 The Board considers that providing account records for the corresponding cash amounts, associating them with a wireless device, transmitting the instructions from the first wireless device and automatically transferring them would be straight-forward for the skilled person. The claim gives no further details of the

implementation such as the form they take (memory, database, protocols etc.).

- 2.8 The Board agrees with the appellant that, according to D1, only one wireless device is involved. However, in the Board's view knowing about the possibility to use a wireless device for one party renders it obvious for the skilled person to use such a device also for the other party. The difference over D1 of having a second wireless device therefore does not provide for an inventive technical contribution.
- 2.9 That the use of a fixed code as security code was known in the art was acknowledged in the application (see [0035] of the published application with reference to US 5598475 and US 6980655). Since this reference to prior art is the only concrete disclosure of how such codes might be used, the Board does not see any possible inventive contribution with regard to their technical implementation. Moreover, the Board judges that the skilled person would consider using such known codes faced with the ever present problem of improving security.
- 2.10 Since further aspects in claim 1 regarding the use of such a fixed code are not clearly disclosed in the application as filed, irrespective of whether they are technical or non-technical, they cannot be considered for assessing inventive step.
- 2.11 These features therefore do not render the claimed subject-matter of independent claim 1 non-obvious.
- 2.12 Similar arguments apply, *mutatis mutandis*, to corresponding independent claims 11 and 15.

2.13 The subject-matter of claims 1, 11 and 15 therefore does not involve an inventive step (Article 56 EPC) in the light of a system for carrying out financial transactions using wireless devices, such as that disclosed in D1 and the skilled person's common general knowledge.

## Order

### **For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chairman:



T. Buschek

W. Chandler

Decision electronically authenticated