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**Datasheet for the decision  
of 26 May 2020**

**Case Number:** T 1150/13 - 3.5.01

**Application Number:** 09157878.1

**Publication Number:** 2133836

**IPC:** G06Q30/00

**Language of the proceedings:** EN

**Title of invention:**

Analyzing return on investment of advertising campaigns using cross-correlation of multiple data sources

**Applicant:**

Tra Inc.

**Headword:**

Linking data/TRA

**Relevant legal provisions:**

EPC Art. 56, 84, 123(2), 128(4)

EPC R. 144

RPBA 2020 Art. 15

**Keyword:**

Inventive step - protection of privacy by linking customer data with a key instead of personally identifiable information (no - not technical)

Postponement of oral proceedings - representative unable to identify authorised person (no - reason in sphere of appellant)

Exclusion from file inspection - details of arrangements for providing instructions to a representative (no - not prejudicial to appellant's legitimate interest)

**Decisions cited:**

T 0003/90, T 1839/11, T 2522/10, T 0379/01



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Case Number: T 1150/13 - 3.5.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.01**  
**of 26 May 2020**

**Appellant:** Tra Inc.  
(Applicant) 230 Park Avenue Suite 610  
New York NY 10169 (US)

**Decision under appeal:** **Decision of the Examining Division of the European Patent Office posted on 19 December 2012 refusing European patent application No. 09157878.1 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** W. Chandler  
**Members:** A. Wahrenberg  
Y. Podbielski

## Summary of Facts and Submissions

I. This is an appeal by the applicant (appellant) against the decision of the examining division to refuse the European patent application No. 09157878.1 on the grounds of lack of clarity (Article 84 EPC), added subject-matter (Article 123(2) EPC), and lack of inventive step (Article 56 EPC).

II. In the statement of 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 "claims in the enclosed Main Request". However, no claims were enclosed. The appellant requested oral proceedings in the event that the Board was minded to reject the main requests.

III. In the communication accompanying the summons to oral proceedings, the Board assumed that the appellant's request referring to the "enclosed Main request" was made in error, and that the appellant relied on the refused set of claims. The appellant did not dispute this.

IV. Claim 1 of the refused set of claims reads:

A computer system for processing data, the system comprising:

a tier of a processing system configured to receive data from one or more data suppliers 136 comprising at least a content delivery source 104 located in a household 102 of a consumer, the received data comprising a first identifier associated with the

household 102 assigned by the data supplier 136;

means 134 for generating a thesaurus 138 relating each first identifier associated with the household 102 to a second identifier comprising personally identifiable information associated with the same household 102, wherein the means 134 for generating a thesaurus 138 assigns a key to the second identifier; and

a module 132 configured to use the thesaurus 138 and the key to produce data associated with the household 102 without the second identifier associated with the household 102.

- V. In the communication accompanying the summons to oral proceedings, the Board tended to agree with the examining division that there were problems of lack of clarity and added subject-matter. Also, the Board did not see any error in the examining division's conclusion that the invention in claim 1 lacked an inventive step. The Board essentially agreed with the examining division's reasoning on this point.
- VI. In a letter dated 31 January 2020, the appellant requested that the oral proceedings scheduled for 10 March 2020 be postponed. The appellant also requested that the letter itself be excluded from file inspection.
- VII. With its communication dated 10 February 2020, the Board informed the appellant that the reason indicated by the appellant was not a serious reason justifying the change of the date of the oral proceedings. Therefore, the oral proceedings would take place as scheduled. Furthermore, the Board was not minded to grant the request for exclusion from file inspection. However, the letter would be provisionally excluded

from the public file until a final decision on the matter had been reached.

- VIII. In an electronic submission on 24 February 2020, the appellant indicated that nobody would attend the oral proceedings.
- IX. The Board interpreted that appellant's statement as a withdrawal of the request for oral proceedings, in accordance with decision T 3/90 and the subsequent case law (Case Law of the Boards of Appeal of the EPO, 9th edition, III.C.4.3.2). The oral proceedings were consequently cancelled.
- X. On 6 March 2020, the appellant's representative informed the EPO that he withdrew his representation in respect of the application.

## **Reasons for the Decision**

1. *The invention*
- 1.1 The invention concerns the protection of privacy of information.
- 1.2 Claim 1 refers to a computer system comprising a "tier of a processing system configured to receive data", "means for generating a thesaurus", and a "module configured to use the thesaurus". This is all rather vague. Looking at the description and drawings, it appears that the "tier" in claim 1 corresponds to, or at least covers, the marketing research company (132) in Figure 1B. The market research company compiles data about households for measuring the effectiveness of

advertisements. The data is received from one or more data suppliers (136), including a digital television set-top-box (DTSB) that supplies clickstream data and other data relating to the household's viewing habits.

The received data comprises a "first identifier". This could be a customer account number used as an identifier of the household by the data supplier. The first identifier does not contain personally identifiable information (PII), such as a name or an address.

- 1.3 In order to link data relating to the same household from different data suppliers, there is a "thesaurus" (138) that does just that. The thesaurus seems to be generated by a third party entity ("List matcher" 134) that is trusted with PII (see Figure 1B and paragraph [0065]). The List matcher uses household addresses (corresponding to the "second identifier" in claim 1) to link the account numbers ("first identifiers") from different data suppliers and assigns a "key" (TRA\_KEY) to each household (paragraph [0065]). The key does not contain any PII.
- 1.4 The marketing research company (132), obtains the thesaurus from the third party and uses it (this is the task of the "module" in claim 1) to link customer account numbers relating to the same household. Since neither the customer account numbers, nor the thesaurus, contains PII, privacy can be preserved (paragraph [0065]).
- 1.5 The Board notes that, in claim 1, lines 8-10, the thesaurus relates the first identifier (account number) to the second identifier comprising PII (address). In other words, the thesaurus in claim 1 contains PII,

which is against the aim of the invention as stated in the description and also as defined in claim 1 according to its last feature. Furthermore, in claim 1, the key appears to be separate from the thesaurus, whereas in the description, it appears to be part of the thesaurus (paragraph [0065], lines 53 to 58; the key *replaces* the address as an identifier of the household).

These mismatches between the claim and the description are a problem under both Article 84 (lack of support by the description) and 123(2) EPC.

For the purpose of assessing inventive step, the Board interprets the claim in the light of the description and drawings (Figure 1B and paragraph [0065]) as set out under point 1.3 above.

## 2. *Inventive step*

2.1 The examining division considered that the subject-matter of claim 1 contained a mix of technical and non-technical features. The features of receiving the data, generating the thesaurus (and assigning the key), and using the thesaurus (and key) to produce data about a household, without access to PII, were considered to be abstract, administrative steps devoid of technical character.

The skilled person, starting from a notorious networked computer system and given the task of implementing the administrative method, would have arrived at the claimed invention without inventive skill.

2.2 In the grounds of appeal, the appellant argued that the invention saved bandwidth and improved data security.



The bandwidth savings came from the use of a central authority for generating the link between data from different sources. Without it, the marketing research company would have to obtain and store many different customer IDs.

The Board, however, does not see that the invention provides any savings in bandwidth. Neither claim 1 nor the description defines the amount of data stored at and sent between the different entities. Indeed, bandwidth savings is not mentioned as an issue anywhere in the application. The data needs to be stored somewhere within the system, and although a central data store might have some benefits, it creates overhead as well.

In the Board's view, the role of the central List matcher has to do with trust and not with storage/bandwidth. For some reason, the List matcher has access to PII, which allows it to generate the link between different customer accounts. This is an administrative rather than a technical issue.

Furthermore, the Board takes the view that the protection of privacy, by replacing PII (an address) with non-PII (a key) is not technical. It is an administrative scheme or a mental act.

- 2.3 The Board agrees with the examining division that the invention merely amounts to the implementation of a non-technical method on a computer system. The skilled person would provide suitable computer and network means for implementing the functions of the required administrative entities.

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

3. *The request for postponement of the oral proceedings and exclusion from file inspection.*

3.1 On 31 January 2020, the appellant's representative requested postponement of the oral proceedings scheduled for 10 March 2020, because he had been unable to identify the person at the appellant's company authorised to provide him with instructions on the case. The representative was making investigations with a view to identify the authorised person, but anticipated that this would take some time. Thus, in order to give sufficient time to the instructing party to consider and respond to the summons to oral proceedings, the representative requested that the oral proceedings be rescheduled to a later date. The appellant also requested that its letter be excluded from file inspection.

3.2 According to Article 15(2) and (2)(a), first sentence, RPBA 2020 (OJ EPO, 2019, A63) a change of date may, for serious reasons, be allowed at the Board's discretion following receipt of a written and reasoned request.

Article 15(2)(b) RPBA 2020 gives examples of the serious reasons that may justify a change of the date. Where a party is represented these relate to the unavailability of the representative (Article 15(2), first sentence, RPBA 2020). In the present case no such unavailability has been suggested. What has been given as a reason lies entirely in the sphere of the appellant and could in the Board's view have been alleviated. It therefore does not constitute a serious reason for changing the date of the oral proceedings.

For these reasons the Board refused the request.

- 3.3 As regards the request for exclusion from file inspection, Rule 144 EPC identifies parts of the file which are excluded from file inspection under Article 128(4) EPC. These include documents excluded from inspection by the President of the EPO on the ground that such inspection would not serve the purpose of informing the public about the European patent application or the European patent.

Pursuant to Article 1(2)(a) of the Decision of the President of the European Patent Office dated 12 July 2007 concerning documents excluded from file inspection (OJ EPO 2007, Special edition No.3, J.3., p.125, hereinafter "the President's decision") documents are excluded from file inspection at the reasoned request of a party or his representative, if their inspection would be prejudicial to the legitimate personal or economic interests of natural or legal persons.

- 3.4 The appellant argues that details of the arrangement for providing instructions to a representative do not serve to inform the public about the application and that such information is not normally obtainable from a file. The Board agrees that this is the case. However, for a request for exclusion from file inspection to succeed the appellant must show, additionally, that making the relevant information public would be prejudicial to its legitimate personal or economic interest (see in this regard T 1839/11, points 3.1 to 3.3, and T 2522/10 of 28.1.2014, point 10). The Board takes the view that ignoring the latter requirement would not only be contrary to the President's decision, but would also not be warranted given that exclusion from file inspection is an exception from the general

principle of public file inspection and the provisions for exclusion thus have to be construed narrowly (see also T 379/01, point 6.1).

- 3.5 In the present case the appellant has neither argued why the publication of the letter dated 31 January 2020 would be prejudicial to the appellant's legitimate personal or economic interest nor does the Board consider that that this would be the case. It therefore rejects the request for exclusion of the appellant's letter dated 31 January 2020 from file inspection.

## Order

### For these reasons it is decided that:

1. The appeal is dismissed.
2. The request that the appellant's letter dated 31 January 2020 be excluded from file inspection is refused.

The Registrar:

The Chairman:



T. Buschek

W. Chandler

Decision electronically authenticated