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**Datasheet for the decision
of 28 March 2017**

Case Number: T 1268/14 - 3.5.06

Application Number: 06814399.9

Publication Number: 1934784

IPC: G06F7/00, G06F17/30

Language of the proceedings: EN

Title of invention:

METHODS AND SYSTEMS TO ENHANCE PUBLICATION INFORMATION WITH A
COMMUNICATION FEATURE

Applicant:

eBay Inc.

Headword:

Enhancing publication information/EBAY

Relevant legal provisions:

EPC 1973 Art. 56

Keyword:

Inventive step - (no)

Decisions cited:

Catchword:



Beschwerdekammern
Boards of Appeal
Chambres de recours

European Patent Office
D-80298 MUNICH
GERMANY
Tel. +49 (0) 89 2399-0
Fax +49 (0) 89 2399-4465

Case Number: T 1268/14 - 3.5.06

D E C I S I O N
of Technical Board of Appeal 3.5.06
of 28 March 2017

Appellant: eBay Inc.
(Applicant) 2145 Hamilton Avenue
San Jose, CA 95125 (US)

Representative: Collins, John David
JCIP Limited
Hillington Park Innovation Centre
1 Ainslie Road
Glasgow G52 4RU (GB)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 20 December
2013 refusing European patent application No.
06814399.9 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman W. Sekretaruk
Members: M. Müller
S. Krischer

Summary of Facts and Submissions

- I. The appeal lies against the decision of the examining division, with reasons dispatched on 20 December 2013, to refuse European patent application No. 06 814 399.9 for lack of inventive step, Article 56 EPC 1973.
- II. Notice of appeal was filed on 17 February 2014, the appeal fee being paid on the same day. A statement of grounds of appeal was received on 29 April 2014. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of claims 1-13 according to a main request or claims 1-11 according to one of two auxiliary requests, all as subject to the decision and as re-filed with the grounds of appeal, the other documents on file being drawing sheets 1-4 as published, in combination with description pages 2, 3, 5 and 7-16 as published and 1, 4, 6 and 17 as filed on 2 October 2013.
- III. In an annex to a summons to oral proceedings, the board introduced a document, namely

D3: WO 01/86390 A2,

and informed the appellant of its preliminary opinion that claim 1 of all requests lacked inventive step over D3.
- IV. During the oral proceedings the appellant filed a new set of claims 1-9 as an additional, third auxiliary request.
- V. Claim 1 of the main request reads as follows:

"A system to enhance publication data to facilitate communication between a viewing user (12) and publishing users (20) associated with instances of publication data, the system comprising:

a user interface generator (21) to generate a user interface (13) to publish the publication data (30) to the viewing user (12); and

a verification module (24) including a parsing module (22) adapted to parse publication data (30) to be published to identify instances of publication data (30) associated with publishing users (20) by comparing parsed terms with predetermined terms associated with publishing users (20), wherein the verification module (24) is adapted to determine whether the identified publication data instances satisfy predetermined criteria by accessing a database (28);

wherein the user interface generator (21) is adapted to communicate with the verification module (24) to publish publication data instances in association with communication initiation information for any publication data instances that satisfy the predetermined criteria, the communication initiation information including identification information to identify a communication module (26) and a network address of a publishing user's computer (18), the user interface generator (21) being adapted to publish the communication initiation information to be selectable by a viewing user (12) at a viewing user's computer (10) to initiate a communication from the viewing user's computer (10) to the publishing user's computer (18)."

Claim 1 of the first auxiliary request is identical to claim 1 of the main request, except that the following paragraph has been added at its end:

"... wherein the communication initiation information identifies a communication module (26) for a type of communication, and the user interface generator (21) is adapted to publish the communication initiation information to be selectable by a viewing user (12) to select the communication module (26) to initiate a communication from a viewing user's computer (10) to the publishing user's computer (18)."

Claim 1 of the second auxiliary request is identical to claim 1 of the main request, except that the following paragraph has been added at its end:

"... wherein the parsing module (22) is adapted to parse the publication data (30) to identify universal resource locaters [sic] to extract domains as the terms, and to compare the domains of the universal resource locaters [sic] to a plurality of domains that are respectively associated to a plurality of publishing users (20)."

Claim 1 of the third auxiliary request is identical to claim 1 of the first auxiliary request, except that the following paragraph has been added at its end:

"... wherein the type of communication module (26) comprises any one of a voice over internet protocol (VoIP) communication module, an electronic message communication module, and an instant messaging communication module."

VI. At the end of the oral proceedings, the chairman announced the board's decision.

Reasons for the Decision

The invention

1. The application relates to a system and method for "enhancing publication information" (see title and page 1, lines 13-15).
- 1.1 "Publication information" (or "published information") is disclosed as comprising essentially any kind of information that is displayed to the user, typically on the basis of an HTML file (see page 5, lines 13-16), search results or advertisements being specifically mentioned (see page 1, lines 18-19). It is observed that the published information may contain a reference to an article (or to a product or service) which is of interest to the user. In this situation, the user might want to contact the seller of that article or, more generally, the "entity associated with the published information" (page 1, lines 18-25).
- 1.2 It is observed that users often do not do so because of the effort involved (lines 26-30).
- 1.3 As a solution, the invention proposes to "enhance" the published information. If the latter contains a predefined bit of text, for instance one or more keywords ("pizza"/"Palo Alto"; page 11, line 26, to page 12, line 4), "communication initiation information" is inserted. This is typically a piece of HTML which, when displayed on a suitable browser, enables the user to direct the browser to a given URL or to initiate a VoIP call (see e.g. page 5, line 28, to page 6, line 19; page 8, line 21, to page 9, line 12; page 11, lines 6-11). This communication is made possible by a suitable "communication module" in

the client computer (see page 4, lines 25-28; figure 1, nos. 10 and 26).

- 1.4 In order to determine the presence of the relevant piece of text, the invention proposes the use of a parser. It is further disclosed that the enhancement may be made dependent on the user satisfying "further criteria" such as being registered or having paid for the service (see page 7, lines 4-9; page 7, line 19, to page 8, line 12; page 11, lines 1-39).

The prior art

2. D3 deals with targeted online advertisement. In its prior-art section, it discloses that it was known for advertisements to be associated with particular keywords and that these advertisements were displayed to users mentioning the corresponding keywords in the search query (page 2, lines 10-22). Beyond that, D3 discloses customising content delivered to individual users by inserting hyperlinks into the content (page 4, last paragraph, page 9, paragraph 1, and page 11, lines 8-19) if it contains a particular keyword (e.g. the word "book") or "data pattern" (page 9, lines 9-19, page 19, line 27, to page 20, line 10, page 26, lines 9-23, and page 51, lines 1-9). The inserted hyperlinks may differ depending on the type of user (page 12, lines 9-30), on the user's browsing history or on other user characteristics such as gender, age, occupation or geographical location (see page 13, lines 1-11, and page 52, lines 13-29). They may also depend on a "viewpoint" associated with a user. For each user, there may be several such viewpoints from which the user can choose (page 11, line 29, to page 12, line 8). D3 also discloses that a hyperlink to

be inserted into the content may replace an existing hyperlink (see page 39, lines 14-23).

Terminology and claim construction

3. Claim 1 of all requests refers to the "publishing users" and the "publishing user's computer". The publishing user is disclosed as being the entity responsible for the published content, typically the seller of a product or service (page 1, lines 20-25). In the board's view, the publishing user's computer must be construed as any computer which performs the pertinent tasks on behalf of the user, irrespective of ownership or location. Specifically, the board considers that a web server hosting the "publishing user's" website or that user's email server qualify as the "publishing user's computer".

4. Claim 1 of all requests refers to the initiation of "communication" between the viewing user's computer and the publishing user's computer. The appellant argued during oral proceedings that the term "communication" had to be construed narrowly as excluding communication between the browser and the web server, a typical example from the application being VoIP communication.

- 4.1 Claim 1 of the main and the first and second auxiliary requests leaves the nature of the communication undefined. In some passages, the application distinguishes the browser application from the communication modules (see page 4, lines 25-30, and page 5, lines 13-19). Elsewhere, however, the application discloses the "communication initiation information" as including a URL, a hypertext link or a web address, and the communications as possibly establishing "a web session" (page 11, lines 6-11,

13-16 and 23-25), and it refers expressly to "HTTP communication" (page 5, line 17).

- 4.2 The board thus takes the view that the "dialogue" between the client computer and the web server based on the HTTP protocol qualifies as communication in the sense of the claims. Accordingly, the client-side HTTP protocol module constitutes a "communication module" as claimed. The board also considers that this interpretation is warranted by the broad claim language and does not conflict with the description.
- 4.3 The board is aware that claim 1 of the third auxiliary request limits the communication modules to VoIP, electronic messaging or instant messaging, thereby excluding HTTP-based communication modules from the scope of the claims.

Inventive step

Main request

5. It is undisputed that D3 discloses "enhanc[ing] publication data" and a suitable "user interface generator". Unlike the appellant, however, and as just explained (point 4.2), the board also considers that D3 discloses "facilitat[ing] communication between a viewing user [...] and publishing users".
- 5.1 From this perspective, the hyperlinks of D3 constitute "communication initiation information" which is published in association with "publication data instances", which includes a network address (such as "www.bookstore.com"; see page 10, line 4) and which is "selectable" by the viewing user (by clicking).

- 5.2 D3 further discloses making the manner in which "identified publication data instances" (such as occurrences of predetermined terms in a search result) are processed dependent on the evaluation of certain "criteria". For instance, the term "The Committee" is "published" in association with a link to a bookstore if the user is a frequent book buyer, and with a link to a movie retailer if the user is more interested in movies (see paragraph bridging pages 9 and 10). In the board's judgement this means that D3 constitutes the claimed publishing of "publication data instances in association with [specific] communication initiation information" for "publication data instances that satisfy [certain] predetermined criteria", namely the viewing user's preferences.
6. D3 does not expressly disclose (a) a "parsing module" for parsing the publication data to identify terms of interest, and does not mention (b) a "communication module".
- 6.1 As regards (a), the board considers that using a parser is the obvious way of identifying keywords or "data patterns" in text and thus cannot establish inventive step over D3.
- 6.2 As regards (b), the board notes that the addresses disclosed in D3 (e.g. "www.bookstore.com") identify the host but leave open the protocol with which the client is to interact with it. In that sense, they do not identify the "communication module" in question (see also point 4.2 above). However, an address in the form of "www.bookstore.com" is, strictly speaking, a shorthand for a URL such as "http://www.bookstore.com" and it would be obvious for the skilled person to use this more explicit form as "communication initiation

information". In "http://www.bookstore.com", the "http" prefix identifies the HTTP protocol and thus the HTTP protocol client as the communication module.

- 6.3 As a consequence, claim 1 lacks inventive step over D3, Article 56 EPC 1973.

First auxiliary request

7. Claim 1 comprises the additional feature that "the communication initiation information identifies a communication module (26) for a type of communication, and the user interface generator (21) is adapted to publish the communication initiation information to be selectable by a viewing user (12) to select the communication module (26) to initiate a communication from a viewing user's computer (10) to the publishing user's computer (18)".
- 7.1 The board considers that it would be obvious in the scenario of D3 that advertisers may want to offer their potential customers the option of getting in touch via email. The corresponding option could be expressed as a URL of the form "mailto:info@bookstore.com", the "mailto" prefix identifying the email "communication module" and "info@bookstore.com" identifying the "network address". It would be straightforward in D3 to insert a "mailto" URL instead of (or in addition to) an HTTP hyperlink.
- 7.2 The board also considers it obvious to leave it to the user to decide whether to connect to an advertiser's webpage or to send an email and, thereby, to select the respective "communication module".

- 7.3 The board concludes that claim 1 of the first auxiliary request also lacks inventive step over D3, Article 56 EPC 1973.

Second auxiliary request

8. Claim 1 of the second auxiliary request contains the additional feature that "the parsing module (22) is adapted to parse the publication data (30) to identify universal resource locaters as to extract domains as the terms, and to compare the domains of the universal resource locaters to a plurality of domains that are respectively associated to a plurality of publishing users (20)".
- 8.1 The board notes that host names or web addresses may be mentioned directly in texts. Since this is the case, it is obvious, in the board's judgement, that advertisers may want to use such addresses (e.g. "www.bookstore.com") as keywords or data patterns, i.e., in the words of the claims, to use "domains as the terms". This implies the need to carry out the required comparisons on domains.
- 8.2 The system of D3 requires only minimal adaptation to implement this idea. In fact, D3 must merely be enabled to detect such URLs in the content. In the board's view this is technically straightforward, and D3 apparently already provides this functionality (see page 39, lines 14-23).
- 8.3 The appellant argued during the oral proceedings that the parser according to the invention could be simpler than that of D3 when advertisers limited the "terms" in questions to "domains", because the parser could be limited to detecting "www" in the content rather than

more complex data patterns. The board disagrees. Firstly, to distinguish two domains like "www.bookstore.com" and "www.movies.com" from each other it is insufficient to locate the prefix "www". Secondly, domains defined as strings of characters can be processed just like other individual keywords. And, thirdly, it can be assumed that advertisers select their preferred keywords independently of the potential complexity of detecting them in the content. The skilled person would thus have to adapt the parser to whatever choice the advertiser may have made and would, in the board's view, find it straightforward to do.

- 8.4 The board concludes that claim 1 of the second auxiliary request also lacks inventive step, Article 56 EPC 1973.

Third auxiliary request

9. Claim 1 of the third auxiliary request specifies that the communication modules are for voice over IP (VoIP), for electronic messaging (i.e. email) or for instant messaging.
- 9.1 As argued above, the board considers it obvious in the context of D3 to support email communication by means of "mailto" links, in addition to or instead of HTTP links. This already covers one of the three communication alternatives mentioned.
- 9.2 For fundamentally the same reason, the board considers it obvious to provide also other "types of communication" for selection by the user.
- 9.3 Therefore, claim 1 of the third auxiliary request also lacks inventive step, Article 56 EPC 1973.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



C. Eickhoff

W. Sekretaruk

Decision electronically authenticated