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**Datasheet for the decision
of 27 November 2018**

Case Number: T 1761/14 - 3.4.03

Application Number: 02704664.8

Publication Number: 1388135

IPC: G07F19/00

Language of the proceedings: EN

Title of invention:

PAYMENT INSTRUMENT AUTHORIZATION TECHNIQUE

Applicant:

F. Poszat HU, L.L.C.

Headword:

Relevant legal provisions:

EPC 1973 Art. 56

Keyword:

Inventive step - (no) - mixture of technical and non-technical features

Decisions cited:

T 0641/00

Catchword:



Beschwerdekammern
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Case Number: T 1761/14 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 27 November 2018

Appellant: F. Poszat HU, L.L.C.
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 27 February
2014 refusing European patent application No.
02704664.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman G. Eliasson
Members: M. Stenger
T. Bokor

Summary of Facts and Submissions

- I. The appeal concerns the decision of the Examining Division to refuse European patent application no. 02704664 for lack of inventive step using document WO 00/33497 A2 (D5) as representing the closest state of the art.

- II. The appellant requested in the grounds for appeal that the decision be set aside and that a patent be granted according to a main request or to one of first to sixth auxiliary requests, all filed with the grounds for appeal. In a seventh auxiliary request, an adaptation of the description, if considered necessary, was requested (grounds for appeal, point 5.7). The main request corresponds to the request on which the contested decision is based. Further, oral proceedings were requested in the event the patent was not to be granted as requested.

- III. In a communication in preparation of the oral proceedings, the Board gave its preliminary opinion that the subject-matter of the independent claims of the main request and the auxiliary requests did not involve an inventive step.

- IV. With letter dated 20 November 2018, the appellant indicated that he had no intention to attend the oral proceedings scheduled for 27 November 2018. These were consequently held in his absence.

- V. Claim 1 of the main request has the following wording (labelling (a) to (e) added by the Board):

A method of protecting a payment instrument in non-face-to-face transactions,

(a) the payment instrument being issued by an issuing entity (20) and associated with an authorized instrument holder (1),

(b) the authorized instrument holder being subject to authentication by a trusted third party (15) with whom the payment instrument holder has previously registered by submitting personal information,

the method comprising:

(c) the authorized instrument holder (1) communicating with the issuing entity (20) to block, on a default basis, authorization of the payment instrument for non-face-to-face transactions unless authorized to unblock the payment instrument by the trusted third party (15);

(d) prior to a non-face-to-face transaction (S5), the authorized instrument holder (1) communicating (S2) with the trusted third party (15) to subject him or herself to authentication based on the personal information and to request that the payment instrument be unblocked for the non-face-to-face transaction (S5);

and

(e) the trusted third party (15) authenticating the authorized instrument holder (1), and if the authentication result is positive, communicating (S4) with the issuing entity (20) to request unblocking of the payment instrument for the non-face-to-face transaction (S5).

VI. Claim 1 of the first auxiliary request differs from claim 1 of the main request in that the authorization of the payment instrument defined in step (c) is blocked

- *only*

for non-face-to-face transaction.

VII. Claim 1 of the second auxiliary request differs from claim 1 of the main request in that step (e) comprises, before the sub-step of communicating, the additional feature of

- *generating an unblock payment receipt for the transaction and*

VIII. Claim 1 of the third auxiliary request differs from claim 1 of the main request in that the non-face-to-face transaction of step (d) is defined to be

- *with a merchant server*

and in that step (e) comprises at its end the additional feature of

- *and communicating with the merchant server to assure the merchant server that the authorised instrument holder is an authorised user of the payment instrument.*

IX. Claim 1 of the fourth auxiliary request differs from claim 1 of the main request by the additional features of both the second and the third auxiliary requests.

- X. Claim 1 of the fifth auxiliary request differs from claim 1 of the second auxiliary request in that it comprises at its end the additional feature of (labelling (f) added by the Board):

(f) the issuing entity matching a merchant payment authorisation request to an unblock payment receipt for the transaction and unblocking the payment instrument for the transaction.

- XI. Claim 1 of the sixth auxiliary request differs from claim 1 of the fifth auxiliary request in that it comprises at its end the additional feature of (labelling (g) added by the Board):

(g) and logging the search for a matching unblock payment receipt at the trusted third party.

- XII. The arguments of the appellant, as far as they are relevant to the present decision, may be summarised as follows.

The independent claims of the main request differed from D5 by

(i) the provision of a trusted third party (ttp), involving an additional registration with the ttp, a further authorisation in addition to the one required from the issuing entity and additional communication between the ttp and the issuing entity (section 3.2 and section 4.3, paragraph 1 of the grounds for appeal),

and

(ii) a differentiation between face-to-face and non face-to-face transaction types (section 3.3 and section 4.3, paragraph 6 of the grounds for appeal).

Further, starting from D5, the skilled person would have no motivation to introduce a third party since such a third party would not be able to activate the account of D5 and would add a layer of complication to the system (section 4.3, paragraphs 3, 4 and 5).

In addition, nothing in D5 suggested to distinguish between different types of transactions and to block the account number for non-face-to-face transactions but to keep it available for other types of transactions (section 4.3, paragraph 6 of the grounds for appeal).

Concerning the auxiliary requests, the appellant essentially argued that their additional features were not disclosed in any of the cited documents and served to further distinguish the subject-matter of the independent claims from D5 (point 5. and its sub-points of the grounds for appeal).

Reasons for the Decision

1. The appeal is admissible.
2. General considerations

The application as a whole is directed at increasing security in *business* transactions in a *technical* environment (see, e.g., the part BACKGROUND OF THE INVENTION). The application therefore comprises a mixture of non-technical and technical features; this applies also to the claims.

Thereby, the principles as set out in T641/00 are to be applied, according to which features which do not contribute to the technical character of the invention cannot support the presence of inventive step, but 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.

The Board notes that the technical means mentioned in the application, for example computers, servers, networks and storage media (see pages 13 to 18 of the description) all have to be considered as being part of the common general knowledge at the priority date of the application (24 January 2001).

3. D5

Document D5 concerns a method of protecting the transfer of funds from an account, particularly in Internet transactions.

To that end, an account holder requests a limited-use account number which is issued by a financial institution. This number is blocked by default and activated for one or more transactions only upon an explicit request transmitted from the account holder to the financial institution. This request involves authentication by means of a PIN or other personal information.

The method disclosed in D5 is implemented using technical means (page 5, line 20 to page 6, line 5). Thus, D5 is directed at a business method in a technical environment and comprises a mixture of

technical and non-technical features just like the application itself.

The Board notes that the technical means mentioned in D5 are described on a very general level. This further demonstrates that such such technical features were commonly known at the priority date of the present application.

4. Main request

4.1 Preliminary remark

The Board notes that claim 1 of the main request is formulated in such an abstract manner that it does not necessarily require any technical feature at all. Its subject-matter could thus be seen as being excluded from patentability, as noted in the communication of the Board preparing the oral proceedings (point 3.6).

However, the main purpose of the application is increasing security in online transactions (see section BACKGROUND OF THE INVENTION). Thus, although the features of claim 1 are formulated in such an abstract manner that they could in principle be performed without using any technical equipment at all, they will be interpreted for the purpose of the present decision as if they were performed using the (generally known) technical means mentioned in the rest of the application.

4.2 D5 compared to claim 1

In the wording of claim 1, D5 discloses

A method of protecting a payment instrument (*limited-use account number*, see abstract) in non-face-to-face

transactions (*Internet and other online transactions*, page 2, lines 8 to 11; *over the telephone or the Internet*, page 2, line 29 to page 3, line 6; *execute a transaction over the Internet*, page 7, lines 19 to 22),

(a) the payment instrument being issued by an issuing entity (*account issuer 10*, abstract, or *financial institution 10*, page 5, lines 8 to 11) and associated with an authorized instrument holder (*account holder 12*, page 5, lines 9 to 11),

(b) the authorized instrument holder being subject to authentication by the issuing entity with whom the payment instrument holder has previously registered (*to verify the identity of the person making the request*, page 7, lines 26 to 28) by submitting personal information (*a PIN, the account holder's birthday*, page 7, lines 28 to 30),

the method comprising:

(c) the authorized instrument holder communicating with the issuing entity to block, on a default basis, authorization of the payment instrument for non-face-to-face transactions (this is done automatically in D5 when the account is established by the financial institution, see page 5, lines 8 to 11. Such an account is inevitably established only on request of the account holder) unless authorized to unblock the payment instrument by the issuing entity (*activated only upon an explicit request by the account holder*, page 5, lines 9 to 11);

(d) prior to a non-face-to-face transaction (S5), the authorized instrument holder communicating with the issuing entity to subject him or herself to

authentication based on the personal information and to request that the payment instrument be unblocked for the non-face-to-face transaction (page 2, lines 12 to 16 and page 7, lines 13 to 30);

and

(e) the issuing entity authenticating the authorized instrument holder, and if the authentication result is positive, unblocking of the payment instrument for the non-face-to-face transaction (page 7, lines 26 to 30; the verification of the identity of the person making the request implies that the limited-use account number is only activated if the verification is successful; see also claim 6).

4.3 Distinguishing features

- 4.3.1 The subject-matter of claim 1 of the main request thus differs from D5 in that
- a trusted third party (ttp) instead of the issuing entity performs the authentication and registering steps of feature (b),
 - the communication of step (d) is directed to the ttp instead of the issuing entity,
- and
- the ttp instead of the issuing entity performs the authentication of the authorised instrument holder and, if the result is positive, communicates with the issuing entity to request unblocking of the payment instrument of step (e).

Thus, a ttp is provided which acts as an intermediary between the authorised instrument holder and the issuing entity.

These differentiating features correspond to distinction (i) as identified by the appellant (see section XII. above).

- 4.3.2 The subject-matter of claim 1 of the main request further differs from D5 in that steps (c), (d) and (e) explicitly mention that the transaction is a non-face-to-face transaction.

This corresponds to distinction (ii) as identified by the appellant (see section XII. above).

- 4.3.3 The Board thus comes to the same conclusion as the appellant regarding the differentiating features (see section XII. above).

4.4 Inventive step

Providing a trusted third party (like a notary) in addition to the issuing entity/financial institution as defined in distinction (i) pertains to an administrative or business concept that does *per se* not contribute to the technical character of the invention.

The same applies to the additional registrations, authentications and communications involved according to distinction (i) and to distinguishing between face-to-face and non face-to-face transaction types according to distinction (ii).

It must be concluded that claim 1 of the main request differs from D5 by a modified business concept.

The Board can accept the argument of the appellant that the skilled person would, starting from D5, have no motivation to introduce a ttp (and thus distinction (ii)) into the system of D5 (see section XII. above)

only insofar as motivation *by technical reasons* is concerned.

However, in the present case and applying the principles as set out in T641/00, the person skilled in the art of computer technology is provided with the modified business concept including the provision of a ttp as a *constraint to be met*.

That is, the motivation to introduce a ttp/distinction (i) into the system of D5 is provided by the modified business concept instead of technical reasons.

The same applies to distinction (ii). In this respect, the Board notes that the application explicitly mentions that the distinction between card present/face-to-face and card not present/non-face-to-face transactions was instituted by banks and not by engineers or computer scientists (page 4, line 30 to page 5, line 1).

Consequently, the skilled person would only be faced, as objective technical problem to be solved, with the task of implementing the different, but given business concept underlying claim 1 using the generally known technical means mentioned in D5.

Such an implementation naturally involves adapting the generally known technical means, including registrations in data bases and communications using the networks, disclosed in D5 to the different business concept.

However, the application does not mention (and the Board is not aware of) any particular technical difficulty the skilled person would encounter when trying to do so. Instead, these adaptations have to be

considered to be straightforward tasks for the skilled person.

The solution to the technical problem as defined above has therefore to be considered to be obvious to the skilled person, whereby the subject-matter of independent claim 1 of the main request does not involve an inventive step according to Article 56 EPC 1973.

The Board thus comes to the same conclusion as the Examining Division (see point 2.1.7 of the contested decision).

5. Auxiliary requests

5.1 First to sixth auxiliary requests

The only clearly *technical* element comprised in the additional features of the independent method claims of auxiliary requests 1 to 6 is the *merchant server* present in the third and the fourth auxiliary request. Such a merchant server is, however, inherent to Internet/online transactions (and is thus also disclosed in D5) and can therefore not be the basis for the acknowledgement of an inventive step.

The other elements of these additional features relate in substance to *further modified business concepts* only and can thus be seen as further constraints to be met according to the approach of T0641/00. In that respect, it does not matter whether these elements are disclosed in D5 (or any of the other documents mentioned by the appellant, see section XII. above) or not.

The objective technical problem to be solved can again be seen as being the implementation of these further constraints.

As is the case for the main request, although such an implementation would naturally involve adapting generally known technical means disclosed in D5 to the new business concepts, the application does not mention (and the Board is not aware of) any particular difficulty the skilled person would encounter when trying to do so.

Therefore, the subject-matter of each of the independent method claims of the auxiliary requests does not involve an inventive step according to Article 56 EPC 1973, either.

5.2 Seventh auxiliary request

Since none of the first to sixth auxiliary request is allowable, it is not necessary to discuss the seventh auxiliary request (adaptation of the description) in this decision.

6. Since none of the requests on file fulfills the requirements of the EPC, the appeal must fail.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



S. Sánchez Chiquero

G. Eliasson

Decision electronically authenticated