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**Datasheet for the decision
of 3 December 2021**

Case Number: T 1259/15 - 3.4.03

Application Number: 12153622.1

Publication Number: 2624185

IPC: G06Q10/08

Language of the proceedings: EN

Title of invention:

Handheld device and method for determining the location of physical objects stored in storage containers

Applicant:

Rotho Kunststoff AG

Headword:

Relevant legal provisions:

EPC Art. 56

Keyword:

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

Decisions cited:

T 1554/07, T 1023/10

Catchword:



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Case Number: T 1259/15 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 3 December 2021

Appellant: Rotho Kunststoff AG
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Representative: IPrime Rentsch Kaelin AG
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 2 February 2015
refusing European patent application No.
12153622.1 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman G. Decker
Members: M. Stenger
J. Thomas

Summary of Facts and Submissions

- I. The appeal concerns the decision of the Examining Division to refuse European patent application No. 12153622 for lack of inventive step. The Examining Division found that the subject-matter of the independent claims as originally filed consisted of a mix of technical and non-technical features (points 2.1.2 and 2.2.1 of the contested decision). The features found non-technical are listed under point 2.1.3 of the impugned decision.
- II. It is referred to the following documents:
- D1: Wikipedia: "Barcode", INTERNET ARTICLE, 31 January 2012, XP055104155, retrieved from the Internet on 25 February 2014
- D2: Wikipedia: "QR code", INTERNET ARTICLE, 28 January 2012, XP055104157, retrieved from the Internet on 25 February 2014
- D6: Wikipedia: "Object hyperlinking", INTERNET ARTICLE, 24 November 2011), XP055104169, retrieved from the Internet on 25 February 2014
- III. The appellant requests that the contested decision be set aside and, as a main request, that a patent be granted on the basis of the application documents as originally filed, comprising claims 1 to 15. On an auxiliary basis, the appellant requests that a patent be granted on the basis of claims 1 to 15 filed with the grounds of appeal.

IV. In response to the Board's communication under Article 15(1) RPBA 2020, the appellant did not provide any response on the merits of the case. Instead, the appellant announced with a letter dated 23 November 2021 that neither the appellant nor the professional representative would attend the oral proceedings in person on 3 December 2021.

V. Claim 1 of the main request is worded as follows:

A handheld device (1) for determining the location of a physical object (21, 22, 23) which is stored in one of a plurality of storage containers (31, 32, 33, 34), the device (1) comprising:

a reader system (1.1) configured to read on the storage container (31, 32, 33, 34) in which the physical object (21, 22, 23) is placed a visual code (31.1, 32.1, 33.1) which is provided on each of the containers and comprises a unique container identifier (31.2);

a data entry system (1.2) configured to capture in the handheld device (1) object data (21.2) identifying the physical object (21, 22, 23) and to store the object data (21.2) in a data store (1.4) linked to the container identifier (31.2) of the storage container (31, 32, 33, 34) in which the physical object (21, 22, 23) is placed;

the data entry system (1.2) being further configured to capture in the handheld device (1) query data (21.1) which defines the physical object (21, 22, 23); and

a query module (1.6) configured to determine the container identifier (31.2) of the storage container (31, 32, 33, 34) containing the physical object (21,

22, 23) by comparing the query data (21.1) to the object data (21.2) in the data store (1.4), and to indicate the location of the physical object (21, 22, 23) by showing on a display of the handheld device (1) the container identifier (31.2) of the storage container (31,32, 33, 34) containing the physical object (21, 22, 23).

VI. Claim 1 of the auxiliary request differs from claim 1 of the main request in that

- the container identifier (31.2) is defined to be *unique* not only in the feature relating to the reader system in which it is first mentioned in the claim, but wherever a container identifier (31.2) is mentioned in the claim,

and in the following additional feature at the end of the feature relating to the reader system (1.1):

- *wherein the reader system (1.1) is configured to extract the unique container identifier (31.2) from the visual code (31.1, 32.1, 33.1);*

VII. The main arguments of the appellant may be summarised as follows:

In Board of Appeal decisions T 1554/07 and T 1023/10, the deciding boards had judged novel combinations of known technical features, in combination with features that taken alone would be considered to be business related, as providing a(n inventive) technical effect.

The features that were found to be non-technical by the Examining Division provided, in *combination* with the other features of the independent claims, the technical

effect that by merely entering query data defining a physical object, the container having stored the physical object can be identified. The *combination* of features according to the claims solved the problem to provide rapidly and accurately access to a physical object stored in one or a plurality of storage containers (grounds of appeal, points 14, 16, 17, 26, 27 and 37).

Further, although the skilled person could have designed a handheld device according to the independent claims, they could also have designed a different handheld device because there was no teaching in the prior art that would have prompted the skilled person to design a handheld device according to the invention in view of this objective technical problem (grounds of appeal, points 27 to 32).

Reasons for the Decision

1. The appeal is admissible.
2. Main request, independent claim 1
- 2.1 Technical and non-technical features

Generally, logically associating two items to each other and/or to information *per se* does not contribute to the solution of a technical problem and is thus not technical.

The effect mentioned by the appellant of identifying the container in which a physical object is stored is achieved by such a logical association of these two items *alone*, and is independent of the manner in which this logical association is implemented, be it in the

form of an electronic database, of a list on paper or memorised by a person.

The Board is therefore not aware of any particular technical effect achieved by the *combination* of features defined in the independent claims, contrary to the argument of the appellant.

Instead, the only technical effect achieved by the features of independent claim 1 is the automation of a *per se* non-technical method for associating items with each other and/or location information, using a handheld device.

2.2 Non-technical aspects

The following aspects of claim 1 represent a logical association of two items *per se* and are therefore considered to be a mere administrative scheme and mental act, as set out by the Examining Division (section 2.1.3 of the contested decision):

A method for determining the location of a physical object which is stored in one of a plurality of storage containers, comprising:

- determining information that uniquely identifies the container;
- determining object data identifying the physical object;
- associating the object data with the information that uniquely identifies the storage container in which the physical object is placed;
- determining object data identifying the physical object to be found;
- determining the container associated with the physical object to be found; and

- indicating the location of the physical object using the determined information that uniquely identifies the storage container containing the physical object to be found.

2.3 Technical aspects

The only technical aspect of independent claim 1 is that a handheld device with a display, a reader system, and a data entry system as well as a(n associated) data store are used (see also point 2.1.4 of the contested decision).

2.4 Closest prior art

Smartphones were generally known at the filing date of the present application (2 February 2012). They commonly comprised cameras, touch screens (i.e. displays and data entry systems for capturing data) and memories (data stores for storing data). The cameras were *inter alia* used to read barcodes, that is they were used to read visual codes and extracting unique identifiers therefrom. Therefore, at the priority date of the present application, standard smartphones comprised all the technical aspects of the independent claims of the present application.

In addition, smartphones were commonly used in the fields of logistics, for inventory purposes and in asset management well before the filing date of the present application, in particular for scanning tags/ barcodes and for retrieving and/or entering information.

This is exemplified in D1 (first paragraph, last sentence) and in D2 (section *Uses*, first two paragraphs). A further example is disclosed in D6,

which discloses that mobile devices like mobile telephones could be used to read tags to identify objects and locations (see the components listed in the section *System components*).

To summarise, standard smartphones disclosed all the technical aspects of the independent claims of the main request and were further commonly used for similar purposes as the handheld device in the present application at its filing date.

Thus, such generally known smartphones are suitable to be used as representing the closest prior art in the present case, as set out by the Examining Division (point 2.1.6 of the contested decision).

2.5 Distinguishing features

The subject-matter of independent claim 1 thus differs from a generally known standard smartphone only by the non-technical method steps listed above and under point 2.1.3 of the contested decision.

2.6 Objective technical problem / inventive step

The objective technical problem can then be formulated as how to automate these non-technical method steps, as set out by the Examining Division. Such an automation is considered to represent a straightforward task for the skilled person, whereby the subject-matter of independent claim 1 of the main request lacks an inventive step within the meaning of Article 56 EPC.

Therefore, the Board concurs with the arguments and conclusions of the Examining Division as expressed in points 2.1.6, 2.1.7 and 2.2.1.

3. Further arguments of the appellant

3.1 Decisions cited by the appellant

One might learn from Board of Appeal decisions T 1554/07 and T 1023/10 cited by the appellant (grounds of appeal, points 16 and 17) that terms and expressions which are normally interpreted as being business related may, in combination with technical features, in specific cases and under certain circumstances, possibly be considered to contribute to a technical effect.

In the present application, however, the non-technical logical association method steps are *independent* of the technical implementation as set out above. Thus, they do not contribute to the solution of a technical problem.

3.2 Could/would

As mentioned above, logically associating different items to each other *per se* is not considered to be technical. The corresponding method steps can therefore be considered a non-technical aim or a requirement specification to be automated using generally known smartphones, as set out by the Examining Division (point 2 of the contested decision). The skilled person *would* thereby arrive at the subject-matter of the independent claims of the main request without the exercise of an inventive step.

4. Auxiliary request

Claim 1 of the main request already defined that the container identifier is *unique* in the feature relating to the reader system. Repeating the term *unique*

wherever the container identifier appears in the claim does not restrict the scope of the claim. In any case, the definition that the container identifier is *unique* has to be regarded as being part of the logical association method steps and does thereby not contribute to the solution of a technical problem.

Furthermore, at the filing date of the present application, smartphone cameras were actually used to read and decode (unique) barcodes (see e.g. the passages of D1, D2 and D6 cited above). Thus, it would have been a straightforward task for the skilled person to use this generally known capability of standard smartphones (representing the closest state of the art) when implementing the non-technical aspects as set out above, thereby arriving at the additional feature of independent claim 1 of the auxiliary request

wherein the reader system (1.1) is configured to extract the unique container identifier (31.2) from the visual code (31.1, 32.1, 33.1)

without the exercise of an inventive step.

Hence, the subject-matter of independent claim 1 of the auxiliary request is not inventive under Article 56 EPC, either.

5. None of the requests on file meets the requirements of Article 56 EPC. Consequently, the appeal must fail.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



S. Sánchez Chiquero

G. Decker

Decision electronically authenticated