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Datasheet for the decision
of 17 September 2018

Case Number: T 1384/15 - 3.5.07

Application Number: 08154400.9

Publication Number: 1980961

IPC: G06F17/30

Language of the proceedings: EN

Title of invention:
System and method for aggregation and monitoring of multimedia
data stored in a decentralized way

Applicant:
Swiss Reinsurance Company Ltd.

Headword:
Class-action prediction/SWISS RE

Relevant legal provisions:
EPC Art. 56, 84

Keyword:
Claims - clarity - both requests (no)
Inventive step - both requests (no)

Decisions cited:
G 0003/08, T 1358/09, T 2467/09

Case Number: T 1384/15 - 3.5.07

D E C I S I O N
of Technical Board of Appeal 3.5.07
of 17 September 2018

Appellant: (Applicant)	Swiss Reinsurance Company Ltd. Mythenquai 50/60 8022 Zürich (CH)
Representative:	Leimgruber, Fabian Alfred Rupert ThomannFischer Elisabethenstrasse 30 4010 Basel (CH)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 27 January 2015 refusing European patent application No. 08154400.9 pursuant to Article 97(2) EPC**

Composition of the Board:

Chairman	R. Moufang
Members:	R. de Man
	C. Barel-Faucheux

Summary of Facts and Submissions

I.   The applicant (appellant) appealed against the decision
        of the Examining Division refusing European patent
        application No. 08154400.9.

II.   Citing no documents, the Examining Division refused the
        application for lack of inventive step in the subject-
        matter of the independent claims. At the search stage,
        the Search Division had issued a declaration under
        Rule 63 EPC as in force until 1 April 2010 to the
        effect that carrying out a meaningful search into the
        state of the art had not been possible. At the
        examination stage, the Examining Division had not
        performed an additional search.

III.   In the statement of grounds of appeal, the appellant
        filed two annexes corresponding to a main request and a
        first auxiliary request, each annex containing the text
        of amended claims 1 and 16.

IV.   In a communication accompanying a summons to oral
        proceedings, the Board raised a number of clarity
        objections and expressed the preliminary view that the
        subject-matter of claim 1 of both annexes lacked
        inventive step over notorious prior art.

V.   In its written submissions, the appellant filed two
        sets of amended claims as annexes A and B.

VI.   Oral proceedings were held on 17 September 2018. At the
        end of the oral proceedings, the chairman pronounced
        the Board's decision.

VII.   The appellant requested that the decision under appeal
        be set aside and:

-   as a main request, that it be concluded that the
    newly filed claims were clear and that the case be
    remitted to the Examining Division for assessing
    inventive step on the basis of the claims filed as
    annex A or B;
-   as a first auxiliary request, that a patent be
    granted on the basis of the claims filed as
    annex A; and
-   as a second auxiliary request, that a patent be
    granted on the basis of the claims filed as
    annex B.

VIII. Claim 1 of annex A reads as follows:

"Method for triggering upcoming class actions and/or
legal actions based on a predefinable exposure
threshold, one or more linkable search key words
(310,311,312,313) being stored in a memory (31), a
computing unit (10) accessing, via a network (50),
network nodes (40,41,42,43) connected to source
databases (401,411,421,431), and data from the source
databases (401,411,421,431) being selected based on the
search key words (310,311,312,313), characterized

     in that at least one rating parameter
(320,321,322) is stored in a memory (32) assigned to a
search key word (310,311,312,313) and/or to a
combination of search key words (310,311,312,313)
wherein the rating parameter (320,321,322) comprises an
evaluation topic with corresponding evaluation
attributes,

     in that an assignment of at least one source
database (401,411,421,431) comprising a network address
of the source database (401,411,421,431) and/or a link
to the source database (401,411,421,431) and categories

and/or groups of the source database (401,411,421,431) is stored assigned to a search key word (310,311,312,313) and/or a combination of search key words (310,311,312,313),

in that, by means of a filter module (30), the computing unit (10) accesses the source databases (401,411,421,431) of the network nodes (40,41,42,43), scans their content according to the defined search key word (310,311,312,313) and/or a combination of search key words (310,311,312,313) and generates a scorecard (330,331,332) for data sets found in the source databases (401,411,421,431) of the network nodes (40,41,42,43) for each rating parameter (320,321,322) in connection with the assigned search key words (310,311,312,313) and the assigned source databases (401,411,421,431) using a content-based indexing technique,

in that the generation of the scoreboard for each rating parameter (320,321,322) is performed with respect to a time-based rating based on the temporal correlation of when and which content was entered to the respective source databases (401,411,421,431) and an exposure-based frequency rating, wherein the exposure-based frequency is generated as a function of detected one or more exposure variables comprised by the evaluation topic with corresponding evaluation attributes,

in that, by means of a parameterization module (20), a variable frequency value (21) is generated at least partially dynamically based on the scorecard (330,331,332) for the respective rating parameter (320,321,322) with respect to their exposure-based frequency, which variable frequency value (21)

corresponds to network (50) class action frequency
variations and/or legal action frequency variations
with respect to time, and

in that, by means of a tracing unit based on a
generated assigned distribution of the variable
frequency values (21), a predefined exposure threshold
is triggered, whereas a trigger signal is generated
with respect to time and the variable frequency values
(21) and transmitted for activation to an automated
receiving work unit."

IX.   Claim 1 of annex B differs from claim 1 of annex A in
        that the following paragraph has been inserted before
        the last paragraph:

        "in that, by means of the parameterization module (20),
        one or more of the rating parameters (320,321,322) are
        generated dynamically and added to the rating
        parameters (320,321,322) during the generation of the
        scorecard (330,331,332) by means of dynamically
        checking the multimedia data and/or data of the
        scorecard 330,331,332 by way of association according
        to a rating parameter (320,321,322) during indexing,"

X.   The appellant's arguments where relevant to the
        decision are discussed in detail below.

Reasons for the Decision

1.   The appeal complies with the provisions referred to in
        Rule 101 EPC and is therefore admissible.

2.   *The application*

2.1   The application relates to a system and method for
        aggregating and monitoring "multimedia data stored in a
        decentralised way triggering upcoming class actions".
        The "Technical Object" section, in paragraph [0009] of
        the A1 publication, explains that the system and method
        proposed in the application are meant to assist
        companies with risk management and due diligence
        related to legal actions.

2.2   The system's architecture is illustrated in Figure 1
        and described in paragraphs [0019] to [0022].

        Figure 1 shows a computing unit 10 connected via a
        network 50 to network nodes 40 to 44, which can include
        web servers, chat servers, email servers, news servers,
        e-journal servers, group servers and other file
        servers. The network nodes are connected to source
        databases 401, 411, 421, 431 and 441. The source
        databases contain multimedia data.

        The computing unit 10 is coupled to memories 31 and 32.
        Memory 31 contains "linkable search key words" 310 to
        315. Memory 32 contains "rating parameters" 320 to 325.
        Each rating parameter is assigned to a search keyword
        or a combination of search keywords.

        The rating parameters "include the evaluation topic,
        e.g. a selected risk for a certain company, class
        action, legal action, court case, etc. with
        corresponding evaluation attributes" (paragraph
        [0021]).

The rating parameters can also contain "limitations
with respect to the network 50 and/or specific network
nodes 40-43" (paragraph [0022]).

3.   *The appellant's requests*

3.1   The Board understands the appellant's main and first
        and second auxiliary requests as two substantive
        requests, namely that the decision under appeal be set
        aside and that a patent be granted on the basis of the
        claims filed as annex A or, in the alternative, on the
        basis of the claims filed as annex B, in combination
        with procedural requests relating to how the Board
        should deal with the substantive requests. In
        particular, with its main request the appellant
        requests the Board to deal only with clarity and to
        remit the case to the Examining Division for assessing
        inventive step.

3.2   The Board notes that it is not bound by the appellant's
        procedural requests. Nevertheless, it considers it
        appropriate to assess compliance with the requirement
        of clarity first.

4.   *Clarity*

4.1   Claim 1 of annex A is directed to a method "for
        triggering upcoming class actions and/or legal
        actions", but it does not contain any features relating
        to the triggering of such actions. At the oral
        proceedings, the appellant explained that the invention
        was about measuring the probability that a class action
        or other type of legal action would occur, which is in
        line with the Board's understanding of the application.
        The Board concludes that the expression "for triggering
        upcoming class actions and/or legal actions" is at odds

with the application as a whole and renders the claim
unclear within the meaning of Article 84 EPC.

4.2   According to claim 1 of annex A, the computing unit 10
        accesses the source databases, scans their content
        "according to" a search keyword or a combination of
        search keywords and, for each rating parameter,
        generates a "scorecard" for data sets found in the
        source databases.

        Claim 1 further specifies that the generation of the
        scorecard (here the claim states "scoreboard", but at
        the oral proceedings the appellant confirmed that
        "scorecard" was meant) is performed "with respect to a
        time-based rating based on the temporal correlation of
        when and which content was entered to the respective
        source databases and an exposure-based frequency
        rating, wherein the exposure-based frequency is
        generated as a function of detected one or more
        exposure variables comprised by the evaluation topic
        with corresponding evaluation attributes".

        In the Board's view, this formulation does not allow
        the reader of the claim to establish with any certainty
        what a "scorecard" is and how and from what kind of
        data it is generated. To start with, no other part of
        the claim refers to "exposure variables", let alone
        explains what is specifically meant by them. This means
        that it also cannot be understood in what sense the
        "exposure-based frequency" or "exposure-based frequency
        rating" is generated "as a function" of exposure
        variables. Although "when and which content was entered
        to the respective source databases" can be understood
        as referring to the points in time at which the data
        sets found had been entered in their respective source
        databases, the claim leaves undefined how a "time-based

rating" is "based" on the temporal correlation between
these points in time and the "exposure-based frequency
rating" (which apparently is also a function of time),
how scorecard generation is performed "with respect to"
such a rating and, finally, what specific type of
information is produced that makes up the "scorecard".

At the oral proceedings, the appellant attempted to
explain what was behind terms such as "scorecard",
"exposure-based frequency" and "exposure variables".
But Article 84 EPC requires the claims to be clear; it
is not sufficient that the terms used in a claim can be
linked to plausible concepts if the wording of the
claim does not allow the reader to determine the matter
for which protection is sought.

Hence, this is a further reason why claim 1 of annex A
is not clear (Article 84 EPC).

4.3   The same objections apply to claim 1 of annex B, which
        is therefore likewise unclear (Article 84 EPC).

5.   *Inventive step*

5.1   Although claim 1 of both annex A and annex B is
        unclear, the appellant's explanations given at the oral
        proceedings, which accord with the Board's initial
        understanding as expressed in its communication, allow
        the Board to assess inventive step.

5.2   From a technical point of view, the computing unit of
        claim 1 of annex A retrieves, for a number of "rating
        parameters", multimedia data from a number of source
        databases to which it is connected via a network. For
        each rating parameter, this retrieval of data is based
        on search keywords associated with the rating parameter

and is limited to the source databases assigned to the
search keywords.

The retrieved data (the "found data sets") is then
processed on the basis of various parameters and
principles, *inter alia* with the help of scorecards,
resulting in the generation of a "trigger signal" (the
claim mentions a further concept, namely that of
"variable frequency values", linking the generation of
the trigger signal to the generated scorecards).

The "trigger signal" is transmitted "for activation" to
an "automated receiving work unit". According to
paragraph [0011] of the description, this may refer to
signalling a financial computing system to activate or
block certain financial transactions.

5.3   Precisely how the retrieved data is to be processed
        with the help of scorecards in order to achieve the
        generation of a "trigger signal" with the desired
        properties is not clearly defined in the claim (see in
        particular point 4.2 above), and the Board has some
        doubt that the application as filed discloses this in a
        sufficiently clear and complete manner. But for the
        purpose of assessing inventive step in the present
        case, the following conceptual understanding of the
        invention suffices.

        As the appellant explained at the oral proceedings, the
        goal of the invention is to estimate the probability
        that, in a particular context, certain legal actions
        such as class actions will be instigated. The main idea
        behind the invention is that upcoming legal actions can
        be predicted by analysing the content of certain
        information sources, such as web-sites, internet chat
        rooms and email forums (see paragraph [0023]). If the

frequency of critical postings about a particular
topic, for example postings mentioning side effects of
a drug, has recently risen, the probability that a
legal action will be brought will have increased.

Hence, the various claim features relating to the
processing of the retrieved data are intended to
specify procedural steps for analysing information
extracted from relevant data sources to come to an
estimation of the likelihood of an upcoming legal
action and for deciding whether (financial) action
needs to be taken.

5.4   Computing units, computer networks and network nodes
       connected to source databases (database servers) were
       notorious at the priority date of the present
       application, i.e. their existence in April 2007 cannot
       be reasonably disputed (cf. decision T 2467/09,
       reasons 8). It was also notorious to search databases
       on the basis of keywords or combinations of keywords.
       The appellant indeed did not dispute this.

5.5   In the Board's view, the data processing scheme of
       claim 1 of annex A, as explained in point 5.3 above, is
       based only on non-technical considerations about how to
       make predictions about upcoming class actions or legal
       actions on the basis of cognitive data such as internet
       postings. This non-technical data processing scheme
       specifies, in particular, rating parameters together
       with relevant types of multimedia data and keywords,
       and the transaction which is to be activated or
       blocked.

       The Board judges that the skilled person, starting from
       a notorious computer network connecting database
       servers and client computing units and faced with the

problem of implementing the non-technical data
processing scheme, would arrive at the claimed subject-
matter without the exercise of inventive skill. In
particular, he would, for each rating parameter, store
relevant search keywords and links or network addresses
of relevant database servers in a memory of a computing
unit and implement a suitable "filter" software module
to retrieve the required data from the databases. He
would also transmit a specification of a transaction to
be activated or blocked to the appropriate financial
system as a "trigger signal".

5.6   At the oral proceedings, the appellant did not contest
that the subject-matter of claim 1 of annex A lacked
inventive step if the data processing scheme were found
to be non-technical. But it argued that the scheme did
in fact provide a technical contribution. Although the
prediction of an upcoming legal action was admittedly
not a technical result, automation of the process of
making such predictions was. Conventionally, the
probability that a legal action would be brought was
estimated by a lawyer, who analysed the situation in
view of legal principles and his experience. The
invention did not suggest programming a computer to
function in the same way as a lawyer, which would be
difficult if not impossible. Instead, it proposed a
very different scheme which was amenable to
implementation on a computer. The person developing
this scheme was neither a legal expert nor a computer
specialist but a technical expert in between the legal
expert and the computer specialist. All the features of
the scheme contributed to the solution of a technical
problem, namely the automation of predicting upcoming
legal actions, and thus made a technical contribution.

5.7   The Board cannot accept this argument. Although it is
          true that automating a particular activity by suitably
          programming a computer is technical because it involves
          the use of technical computer means, it does not follow
          that all the steps involved in automating the activity
          are technical.

          In the present case, the automation is based on the
          idea that the probability of a legal action can be
          derived from what people write on web-sites and in
          internet chat rooms and email forums. The Board agrees
          with the appellant that this idea is neither a pure
          business idea nor a purely legal idea, but what matters
          is that it does not reflect any technical principles.
          In particular, the mere fact that the idea lends itself
          to being implemented on a computer (in so far as it can
          be sufficiently understood despite the lack of clarity)
          does not mean that it is technical (see opinion G 3/08,
          OJ EPO 2011, 10, reasons 13.5 and 13.5.1, and decision
          T 1358/09 of 21 November 2014, reasons 5.5).

5.8   The Board is also not convinced by the analogy that the
          appellant attempted to draw in its statement of grounds
          of appeal with, for example, an earthquake prediction
          system. The present invention does not involve making a
          prediction about physical processes on the basis of
          measured physical quantities and a model based on
          technical considerations about such processes; instead,
          it involves the retrieval of cognitive information and
          a scheme for processing that information not based on
          technical considerations.

5.9   The appellant also argued that determining which source
          databases were more relevant for certain rating
          parameters was a technical issue, as it was based on
          the structure and functionality of those databases. In

the Board's understanding, however, whether the data
contained in a particular source database is relevant
for a certain rating parameter (e.g. the probability
that a class action will be brought) depends on the
cognitive meaning of the data stored in the database.
In any event, the claim does not reflect any
considerations about the structure and functionality of
different source databases.

5.10   In view of the above, the Board reaches the conclusion
        that the subject-matter of claim 1 of annex A lacks
        inventive step (Article 56 EPC).

5.11   Claim 1 of annex B adds to claim 1 of annex A a step of
        dynamically generating rating parameters by means of a
        "parameterization" software module. Since the dynamic
        generation of rating parameters (dynamic in the sense
        that new rating parameters are somehow produced in the
        process of generating the scorecard for another rating
        parameter) is part of the non-technical data processing
        scheme, and since it is obvious to implement this non-
        technical step (again, to the extent that the
        application sufficiently discloses it) by means of a
        suitable software module, the subject-matter of claim 1
        of annex B too lacks inventive step (Article 56 EPC).

6.   *Conclusion*

        Since neither of the appellant's substantive requests
        complies with the EPC, the appeal is to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

I. Aperribay   R. Moufang

Decision electronically authenticated