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Datasheet for the decision of 13 June 2019

Case Number: T 0791/16 - 3.5.05

Application Number: 12794160.7

Publication Number: 2570952

IPC: G06F19/00, G06F13/00, G06F17/30, G06Q50/10

Language of the proceedings: EN

Title of invention:
EVALUATION INFORMATION SPECIFYING DEVICE, EVALUATION INFORMATION SPECIFYING METHOD, EVALUATION INFORMATION SPECIFYING PROGRAM, AND COMPUTER-READABLE RECORDING MEDIUM RECORDING SAID PROGRAM

Applicant:
Rakuten, Inc.

Headword:
Review evaluation/RAKUTEN

Relevant legal provisions:
RPBA Art. 13(1)
EPC Art. 123(2), 56

Keyword:
Late-filed request - admitted (no)
Amendments - added subject-matter (yes)

Decisions cited:

Catchword:

Europäisches Patentamt
European Patent Office
Office européen des brevets

Beschwerdekammern

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Case Number: T 0791/16 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 13 June 2019

Appellant: (Applicant)	Rakuten, Inc. 1-14-1, Tamagawa Setagaya-ku Tokyo 158-0094 (JP)
Representative:	Hoffmann Eitle Patent- und Rechtsanwälte PartmbB Arabellastraße 30 81925 München (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 2 October 2015 refusing European patent application No. 12794160.7 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair	A. Ritzka
Members:	E. Konak
	G. Weiss

Summary of Facts and Submissions

I. The appeal is against the decision of the examining division to refuse the application for lack of an inventive step (Article 56 EPC).

II. With its statement setting out the grounds of appeal, the appellant filed claims of an auxiliary request. The appellant requested that the decision be set aside and a patent be granted based on the main request on which the contested decision is based or the auxiliary request filed with the statement setting out the grounds of appeal. As an additional measure, it requested oral proceedings.

III. In its preliminary opinion annexed to the summons to oral proceedings, the board raised objections under Articles 84 and 56 EPC.

IV. With a letter of reply received on 10 May 2019, the appellant filed claims of a main request, an auxiliary request 1 and an auxiliary request 2. It also informed the board that it would not attend the oral proceedings.

V. Oral proceedings were held in the absence of the appellant.

VI. Claim 1 of the main request reads as follows:

"An evaluation information identifying device comprising:
an extracting unit (16) comprising determining means and extracting means ,

the determining means being configured to set a first correlation determination condition that, based on a plurality of evaluation information containing evaluations by evaluators on an evaluation target provided by a supplier and posted for the evaluation target, when a proportion of a number of evaluation information containing positive evaluations to a number of evaluation information by one evaluator on a plurality of evaluation targets provided by one supplier is a specified percentage or more, determines that there is a correlation between the one supplier and the one evaluator, and to determine presence or absence of a correlation between a supplier and an evaluator based on the first correlation determination condition, and
the extracting means being configured to set a first extraction condition that, when it is determined by the determining means that there is a correlation between the supplier and the evaluator based on the first correlation determination condition, evaluation information corresponds to evaluation information by the evaluator on the evaluation target provided by the supplier, and to extract the evaluation information corresponding to the first extraction condition as specific evaluation information; and
an outputting unit (17) for performing specified processing based on the specific evaluation information extracted by the extracting means."

VII. Claim 1 of the first auxiliary request reads as follows (additions to claim 1 of the main request are underlined and deletions are ~~struck through~~):

"An evaluation information identifying device comprising:

an extracting unit (16) comprising determining means and extracting means ,
the determining means being configured to set a first correlation determination condition that, based on a plurality of evaluation information containing evaluations by evaluators on an evaluation target provided by a supplier and posted for the evaluation target, when a proportion of a number of evaluation information containing positive evaluations to a number of evaluation information by one evaluator on a plurality of evaluation targets provided by one supplier is a specified percentage or more, determines that there is a correlation between the one supplier and the one evaluator, and to determine presence or absence of a correlation between a supplier and an evaluator based on the first correlation determination condition, and
the extracting means ~~being~~ configured to set a first extraction condition that, when it is determined by the determining means that there is a correlation between the supplier and the evaluator based on the first correlation determination condition, evaluation information corresponds to evaluation information by the evaluator on the evaluation target provided by the supplier, and to extract the evaluation information stored in a review history storing unit (12) corresponding to the first extraction condition as specific evaluation information; and
an outputting unit (17) for performing specified processing based on the specific evaluation information extracted by the extracting means, wherein
the determining means is configured to set a second correlation determination condition that, when a number of evaluation information containing positive evaluations on one evaluation target posted within a specified period of time from a reference time related

to the evaluation target, using a stored time when posting of the evaluation information becomes available that is an acquisition date of a user ID to obtain authentication of access to a system that accepts the posting, is a specified number or more, determines that there is a correlation between a supplier of the one evaluation target and an evaluator of the positive evaluation information, and determines presence or absence of a correlation between a supplier and an evaluator based on the second correlation determination condition, and
the extracting means is configured to set a second extraction condition that, when it is determined by the determining means that there is a correlation between the supplier and the evaluator based on the second correlation determination condition, evaluation information corresponds to evaluation information by the evaluator on the evaluation target provided by the supplier, and to extract the evaluation information further corresponding to the second extraction condition as the specific evaluation information."

VIII. Claim 1 of the second auxiliary request reads as follows (additions to claim 1 of auxiliary request 1 are underlined and deletions are ~~struck through~~):

"An evaluation information identifying device comprising:
a review posting accepting unit (11) configured to accept posting of reviews on an evaluation target from terminals (T) through a network (N);
a review evaluation accepting unit (14) configured to accept review evaluations containing evaluations on the posted reviews as evaluation information from the terminals (T);

a review history storing unit (12) configured to store, for each review, information related to the review evaluations as the evaluation information on the posted review;
an extracting unit (16) comprising determining means and extracting means,
the determining means being configured to set a first correlation determination condition that, based on a plurality of the evaluation information containing evaluations by evaluators on the evaluation target provided by a supplier and posted for the evaluation target, when a proportion of a number of evaluation information containing positive evaluations to a number of evaluation information by one evaluator on a plurality of evaluation targets provided by one supplier is a specified percentage or more, determines that there is a correlation between the one supplier and the one evaluator, and to determine presence or absence of a correlation between a supplier and an evaluator based on the first correlation determination condition, and
the extracting means configured to set a first extraction condition that, when it is determined by the determining means that there is a correlation between the supplier and the evaluator based on the first correlation determination condition, evaluation information corresponds to evaluation information by the evaluator on the evaluation target provided by the supplier, and to extract the evaluation information stored in ~~a~~ the review history storing unit (12) corresponding to the first extraction condition as specific evaluation information;
a compiling unit (18) configured to give points to an evaluator of evaluation information based on a number of posted evaluation information and a level of evaluation on the evaluation information; and

an outputting unit (17) ~~for performing specified processing based on the specific evaluation information extracted by the extracting means~~ configured to cause the compiling unit (18) to give points in accordance with a proportion of a number of the specific evaluation information to a number of evaluation information posted for one evaluation target to an evaluator having posted evaluation information on the one evaluation target means, wherein
the determining means is configured to set a second correlation determination condition that, when a number of evaluation information containing positive evaluations on one evaluation target posted within a specified period of time from a reference time related to the evaluation target, using a stored time when posting of the evaluation information becomes available that is an acquisition date of a user ID to obtain authentication of access to a system that accepts the posting, is a specified number or more, determines that there is a correlation between a supplier of the one evaluation target and an evaluator of the positive evaluation information, and determines presence or absence of a correlation between a supplier and an evaluator based on the second correlation determination condition, and
the extracting means is configured to set a second extraction condition that, when it is determined by the determining means that there is a correlation between the supplier and the evaluator based on the second correlation determination condition, evaluation information corresponds to evaluation information by the evaluator on the evaluation target provided by the supplier, and to extract the evaluation information further corresponding to the second extraction condition as the specific evaluation information."

Reasons for the Decision

1. All three requests on file were filed after the appellant filed its statement setting out the grounds of appeal and may thus be admitted and considered at the board's discretion under Article 13(1) RPBA. In accordance with case law, the boards may exercise their discretion not to admit late-filed requests if they are not clearly allowable. Requests are clearly allowable if the board can quickly ascertain that they do not give rise to new objections and overcome all outstanding objections (cf. "Case Law of the Boards of Appeal of the EPO", 8th edition, July 2016, IV.E.4.4, "Criteria for consideration of amended claims").

2. In the present case, the board raised objections under Article 84 EPC in the summons to oral proceedings (section 2.1) to the inconsistent terminology used in the then main and auxiliary requests on file, namely the use of the terms "determining unit" and "extracting unit" for seemingly the same entity (since the same reference sign is used for both in the claims and on page 18, line 11 of the description). In its reply to the summons, the appellant added the feature of an "extracting unit (16) comprising determining means and extracting means" to claim 1 of both requests which are the current main request and auxiliary request 1. The same feature was also added to claim 1 of the new auxiliary request 2. This amendment is allegedly based on the same passage of the description cited by the board. Page 18, line 11 of the description refers to the functional components of the evaluation information identifying device 1 and mentions "an extracting unit 16 (determining means, extracting means)". It cannot be derived directly and unambiguously from this passage or elsewhere in the application that the two means within

parentheses are components included in the extracting unit. Therefore, all three requests give rise to new objections under Article 123(2) EPC.

3. The board also raised detailed objections under Article 56 EPC in the summons to oral proceedings to the then main and auxiliary request. The appellant did not reply to these objections and the only amendment made by the appellant is simply to overcome the board's objections under Article 84 EPC (see the appellant's letter received on 10 May 2019, point I.3). Therefore, the amendments made to the main request and auxiliary request 1 are also not suitable for overcoming the board's outstanding objections under Article 56 EPC.

4. In its assessment of inventive step in the summons to oral proceedings (section 3.3.4), the board noted that the content of review and evaluation postings was not technical and that the classification method of the invention which relies on content does not make a technical contribution to the art, even if the classified information were to be interpreted as electronic review postings on a web server. The appellant's submissions in section II of its letter received on 19 May 2019 do not address these objections and the amendments in auxiliary request 2 is simply to overcome some of the board's objections under sections 2.1, 2.2, 3.2 and 3.3.3 of the summons (see the appellant's letter received on 10 May 2019, point I.4). Therefore, the amendments made to auxiliary request 2 are also not suitable for overcoming the board's outstanding objections under Article 56 EPC.

5. Therefore, the board does not admit the requests filed with the letter received on 10 May 2019 into the proceedings under Article 13(1) RPBA.

6. As there are no requests on file, the appeal is to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chair:

B. ter Heijden A. Ritzka

Decision electronically authenticated