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**Datasheet for the decision
of 23 July 2019**

Case Number: T 2458/16 - 3.5.05

Application Number: 10820486.8

Publication Number: 2485131

IPC: G06F3/048, G06F3/14, G06F17/30,
G06Q30/00

Language of the proceedings: EN

Title of invention:
OBJECT DISPLACEMENT METHOD FOR A WEB PAGE

Applicant:
Rakuten, Inc.

Headword:
OBJECT DISPLACEMENT METHOD FOR A WEB PAGE / RAKUTEN

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - (no) - effect not made credible within the
whole scope of claim

Decisions cited:

Catchword:



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Case Number: T 2458/16 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 23 July 2019

Appellant: Rakuten, Inc.
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 24 June 2016
refusing European patent application No.
10820486.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair A. Ritzka
Members: N. H. Uhlmann
G. Weiss

Summary of Facts and Submissions

- I. The appeal is against the examining division's decision to refuse European patent application No. 10820486.8.
- II. The decision under appeal is a decision according to the state of the file making reference to the reasons given in the communication of 6 June 2016 which refers to the following document:

D1 US 2008/091553.
- III. The Examining Division held that the main request and the first to third auxiliary requests do not meet the requirements of Article 56 EPC.
- IV. In a statement setting out the grounds of appeal, the appellant requested that the decision under appeal be set aside and that a patent be granted based on the claims of the main and the first auxiliary request, the former corresponding to the main request underlying the decision under appeal.
- V. The board arranged for oral proceedings to be held.
- VI. In the summons, the board set out its provisional view of the case. The board considered that the requirements of Articles 123(2), 84 and 56 EPC had not been met.
- VII. In response, the appellant filed by letter dated 21 June 2019 an amended main request and the first auxiliary request to replace all requests previously on file and submitted further arguments.
- VIII. Oral proceedings were held on 23 July 2019 and attended by the appellant's representative.
- IX. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims of the main request or the first

auxiliary request, both requests submitted by letter dated 21 June 2019.

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

"A Web page (600) containing a plurality of elements and arranged to displace icons, the plurality of elements providing links to associated Web pages, the Web page (600) having embedded therein an object displacement program, the object displacement program causing a user terminal displaying the Web page to execute an object displacement method comprising:

a recognizing step of recognizing a plurality of display areas of the elements in the Web page (600);

a target element setting step of setting one or more target elements among the plurality of elements as a target element of the icons;

a deciding step of deciding the number of initial positions of the icons based on access data pertaining to each of the elements, the access data comprising at least one of the number of page views of a Web page linked from each of the elements during a past certain time period, a click-through rate of a link corresponding to each of the elements during a past certain time period, and an order quantity of a product sold or a service provided through a Web page linked from each of the elements during a past certain time period;

an initial position setting step of setting initial positions of the icons in the Web page (600) outside the display areas of the elements;

a target position setting step of setting a target position within the display area of each of the one or more set target elements for each of the icons; and

an object displacement step of displacing each of the icons by designating a path lying outside the display areas of the elements in the Web page (600) between the initial position and the display area of a respective set target element, and displacing of each of the icons to a respective target position or a predetermined range from a respective target position,

wherein the display areas include information relating to products sold and/or services provided via said associated Web pages, and clicking on a said link results in a transition to an associated Web page."

XI. Claim 1 of the first auxiliary request differs from claim 1 of the main request in that the wording:

"the object displacement method further comprises an access load detection step for detecting current server loads of Web servers that provide Web pages linked from each of the elements, and

the target element setting step comprises setting the one or more target elements among elements for which the server load is less than a certain threshold"

has been added before the full stop.

Reasons for the Decision

1. The application pertains to a Web page which comprises a plurality of elements. The elements provide links to associated Web pages and information relating to products sold or services provided via those Web pages.

The problem addressed is how to indicate additional information to the user of the Web page.

The solution suggests displacing, on the Web page, a number of icons towards elements on the page to indicate, for example, the popularity of a product.

2. Prior art

Document D1 discloses techniques for improving the experience of online shopping. A customer is shown the activity of other customers pertaining to products or groups of products in an online store.

Main request

3. The board is satisfied that the independent claims as amended meet the requirements of Articles 123(2) and 84 EPC.

4. Patentability

4.1 It was not disputed by the appellant that document D1 discloses all features of the subject-matter of claim 1 except that:

(a) D1 relates to the displaying of icons and not to displacing them.

(b) Only target positions of icons are disclosed in D1.

(c) D1 does not disclose an object displacement step of displacing each of the icons by designating a path lying outside the display areas of the elements in the Web page between the initial position and the display area of a respective set target element, and of displacing each of the icons to a respective target position or a predetermined range from a respective target position.

4.2 The board considers that these distinguishing features lead to the effect of providing an alternative presentation of information which is based on access data pertaining to elements on a Web page.

4.3 In the board's judgement, this is not a technical effect. The access data pertaining to elements on a Web page may be of non-technical nature, for example, order quantity of a product sold or a service provided through a Web page linked from each of the elements during a past certain time period (claim 1, lines 18 to 20). Furthermore, it is not apparent if, and to what extent, the information presented to the user of the Web page correlates with the access data. Independent claim 1 does not comprise any features in this regard. In view of figures 7 to 10 of the present application, it appears that the same number of icons may move to and arrive at all elements (product images).

4.4 The appellant submitted in the statement setting out the grounds of appeal a number of technical problems allegedly underlying the invention as claimed.

The board is not convinced.

4.5 The distinguishing features do not lead to a more efficient use of screen space. First, in document D1 (Figure 3) and in the application (Figure 10, claim 1, lines 23 to 25), the icons at the target position cover similar parts of the elements. Second, the claimed Web page uses the available screen space rather less efficiently due to the space needs of the path lying outside the display areas of the elements.

Consequently, the question on whether a more efficient use of screen space is a technical effect does not need to be addressed. Likewise, decisions T 928/03, T 1562/11, T 1237/10, T 1375/11 and T 1741/08 are not pertinent.

4.6 The graphical user interface is not improved by the distinguishing features. As is apparent from figures 7 to 10 and the wording of the independent claims

(claim 1, lines 23 to 25), the human-shaped icons at the target position do obscure the elements of the Web page. Hence, the invention does not enable a more accurate selection of a link to a Web page.

4.7 In view of section 4.3 above, the invention does not provide an indication of a state of a technical system.

4.8 The appellant argued further that the invention as claimed could be "applied to a wider range of layouts" and would be able to "deal with a wider range of access conditions without changing the method of indicating same, because it does not rely on space being available in the margins of display areas".

The board disagrees. Neither the claims nor the description of the application relate to any specific layouts or specific access condition values. Moreover, the icons as claimed are displayed, at least in part, inside of the margins of display areas (see section 4.6 above), and the screen space is not used more efficiently (see section 4.5 above).

The subject-matter claimed, hence, does not address conflicting technical requirements.

4.9 At the oral proceedings, the appellant submitted that the distinguishing features would solve the following problem:

"How to resolve the tension between a desire to indicate number of icons and a desire to indicate a particular area of the screen?"

4.10 The board holds that the distinguishing features (see section 4.1) do not solve this problem. As is apparent from figures 7 to 10 of the application, during the displacement of the icons, a user does not get any indication on the target element. Figure 8 depicts

positions of human-shaped icons in the course of the displacement process. The final target elements of the two icons on the right are not indicated to the user. Likewise, the target element of the icon positioned between the "product image 5" and "product image 6" is not apparent for the user. The target element becomes clear only when an icon arrives at this target element. Document D1, however, discloses a plurality of icons positioned at a target element.

When there are only two target elements, as visualised in the video sequence presented by the appellant at the oral proceedings, the user may receive an indication on the target element of an icon during the displacement process. Claim 1, however, is not limited in this way.

- 4.11 The appellant argued that the distinguishing features would amount to an alternative solution. The board, as a rule, agrees with this argument. However, as set out in sections 4.2 and 4.3, the alternative solution does not lead to a technical effect.
- 4.12 The board would like to note that the use of moving icons has disadvantages with regard to accessibility for visually impaired persons.
- 4.13 In view of these considerations, the board judges that the subject-matter of claim 1 does not involve inventive step based on document D1 as the closest prior art and the lack of technical effect of the distinguishing features.

First auxiliary request

5. Patentability

5.1 Document D1 does not disclose the features added to claim 1:

"the object displacement method further comprises an access load detection step for detecting current server loads of Web servers that provide Web pages linked from each of the elements, and

the target element setting step comprises setting the one or more target elements among elements for which the server load is less than a certain threshold".

5.2 The appellant submitted that "providing a user with information about conditions of a technical system is of itself technical" and that the user of the Web page is guided with regard to resource availability.

5.3 The board agrees that the current server load is information about the conditions of a technical system. However, the Web page as claimed does not provide the user with the (values of the) current server loads. Instead, the current server load is used for "setting the one or more target elements among elements for which the server load is less than a certain threshold".

5.4 The user is not consistently provided with guidance with regard to the current server loads. First, if no icons arrive at an element, it might be due to a very high server load or a very low order quantity of a product sold or service provided through a Web page linked from this element. Second, if an element is set as a target element due to a low server load, this will only be visible for the user if, at the same time, the order quantity is not zero and thus icons arrive at

this target element. In other words, the part of the target element setting step specified on page 2, lines 15 to 17, of claim 1 influences the information displayed to the user **only when** the corresponding element is linked to a Web page through which a sufficient number of products are sold. In this regard, claim 1 does not define any specific mapping between order quantity and the number of initial positions of icons.

Consequently, the user is not always provided with guidance with regard to the current server loads. The effects referred to by the appellant (section 5.2) are thus not consistently achieved. The appellant did not suggest other effects and the board is not aware of any.

- 5.5 Document D1 hints, in general terms, at the access load detection step in paragraphs 39 (last sentence) and 57 (second sentence).
- 5.6 In view of the above considerations, the board judges that the subject-matter of claim 1 does not involve inventive step.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated