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Datasheet for the decision
of 20 April 2021

Case Number: T 0589/17 - 3.5.01

Application Number: 09252240.8

Publication Number: 2221759

IPC: G06Q20/00

Language of the proceedings: EN

Title of invention:
Shop terminal and information processing server

Applicant:
Sony Group Corporation

Headword:
Guiding the user to a shop/SONY

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - guiding customer to make a purchase (no - non-technical)
- using POS information at server to check if customer has followed guidance (no - obvious implementation)
- transmitking bonus to customer's phone (no - obvious implementation)

Decisions cited:
T 1463/11, T 0641/00

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Case Number: **T 0589/17 - 3.5.01**

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 20 April 2021

Appellant: (Applicant)	Sony Group Corporation 1-7-1 Konan Minato-ku Tokyo 108-0075 (JP)
Representative:	D Young & Co LLP 120 Holborn London EC1N 2DY (GB)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 12 October 2016 refusing European patent application No. 09252240.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	W. Chandler
Members:	A. Wahrenberg
	P. Schmitz

Summary of Facts and Submissions

I.   The case concerns the applicant's appeal against the
         decision of the examining division to refuse European
         patent application No. 09252240.8 for lack of inventive
         step (Article 56 EPC). The examining division
         considered that features distinguishing the claimed
         invention from the prior art disclosure D1
         (US 2006/144927) were either non-technical or obvious.

II.   In the statement of grounds of appeal, the appellant
         requested that the decision to refuse the application
         be set aside and that a patent be granted on the basis
         of the main request, or the first or second auxiliary
         request "discussed below". However, only the main and
         first auxiliary request were filed and discussed, and
         no second auxiliary request was filed or mentioned.

III.   In a communication accompanying the summons to oral
         proceedings, the Board raised an objection of added
         subject-matter (Article 123(2) EPC) and gave a
         preliminary opinion agreeing with the examining
         division's conclusion that the subject-matter claimed
         in the main and first auxiliary requests lacked an
         inventive step over D1 (Article 56 EPC).

IV.   With a letter dated 18 March 2021, the appellant filed
         an amended main request and an amended first auxiliary
         request.

V.   Oral proceedings before the Board took place as a
         videoconference on 20 April 2021. The appellant's final
         requests were that the decision under appeal be set
         aside and that a patent be granted on the basis of the
         main request or the first auxiliary request filed with

a letter dated 18 March 2021.

VI.   Claim 1 of the main request reads:

An information processing server (2) comprising:

    identification information receiving means (53) for
receiving identification information from an
information processing device (8), said information
processing device being installed in a shop and
obtaining said identification information from an
integrated circuit chip (12);

    guidance completion information receiving means
(53) configured to receive guidance completion
information from an information processing device (8)
installed in a shop as a guidance source, the guidance
completion information including

        identification information obtained by said
information processing device and

        guidance destination shop identifying
information identifying a shop as a guidance
destination, guidance to the guidance destination
having been given by said information processing
device, for said identification information; and

    comparing means (51) configured to compare the
guidance completion information received from the
information processing device (8) of the shop as said
guidance source with identification information
received from said information processing device (8) of
the shop as said guidance destination,

    the information processing server further

comprising:

monetary value changing information generating means for generating monetary value changing information for changing the monetary value information stored by said integrated circuit chip included in a portable telephone of a user that received guidance information from said information processing device installed in a shop as a guidance source on a basis of a result of comparison by said comparing means; and

monetary value changing information transmitting means for transmitting the generated said monetary value changing information to said portable telephone.

VII.   Claim 1 of the first auxiliary request reads:

A system comprising:

a first information processing device (8) installed in a shop as a guidance source, wherein the first information processing device (8) is configured to perform a payment process while communicating with an integrated circuit chip (12) included in a portable telephone (7) by noncontact communication, and the first information processing device (8) is configured to obtain identification information from the integrated circuit chip (12); and

an information processing server (2) comprising:

identification information receiving means (53) for receiving said identification information from the first information processing device (8);

guidance completion information receiving means

(53) configured to receive guidance completion information from the first information processing device (8), the guidance completion information including

identification information obtained by said first information processing device and

guidance destination shop identifying information identifying a shop as a guidance destination, guidance to the guidance destination having been given by said first information processing device, for said identification information; and

comparing means (51) configured to compare the guidance completion information received from the first information processing device (8) with identification information received from a second information processing device (8) of the shop as said guidance destination,

the information processing server further comprising:

monetary value changing information generating means for generating monetary value changing information for changing the monetary value information stored by said integrated circuit chip included in the portable telephone of a user that received guidance information from said first information processing device on a basis of a result of comparison by said comparing means; and

monetary value changing information transmitting means for transmitting the generated said monetary value changing information to said portable

telephone.

VIII.   The appellant's arguments can be summarised as follows:

While the invention involved a mixture of technical and non-technical features, some of the technical features had been overlooked.

In the earlier decision T 1463/11 (*Universal merchant platform/CardinalCommerce*), the following points were made regarding the approach of assessing whether features would be required by a notional business person or implemented by the technical person tasked by the business person to implement the business requirements:

   reasons 16: *"...the notional business person might not do things a real business person would. He would not require the use of the internet, wireless, or XXXX processors. This approach ensures that, in line with the Comvik principle, all the technical matter, including known or even notorious matter, is considered for obviousness and can contribute to inventive step."*

   reasons 21: *"However, the choice of where a particular computation is carried out in a distributed system will normally have implications for availability, for latency and so on, and those are technical matters."*

Hence, a feature concerning where a computation was carried out in the distributed system, or any requirement to use a particular form of technology for implementation, should be seen as a technical feature that had to be considered as part of the solution, not the business requirement specification.

In claim 1 of the main request, the following features could therefore be regarded as technical:

1. The identification information from the integrated circuit chip included in the user's portable telephone was used as the means of tracking the user's progress from the first shop to the second shop.
2. The guidance completion information was received at the server from the information processing device in the shop acting as the guidance source.
3. The identification information from the integrated circuit chip was received at the server from the information processing device in the shop acting as the guidance destination.
4. The comparison of the guidance completion information and the identification information was performed at the server.
5. The monetary value changing information was generated based on the comparison at the server.
6. The monetary value changing information was transmitted from the server to the user's portable telephone.

D1 merely described using the IC chip for making an electronic payment, not using the IC chip as a means for tracking the user's progress from a first shop to a second shop.

By using the IC chip to track the user, rather than requiring the user to present a coupon received from the first shop, any need for either the user or the shopkeeper in the second shop to perform any specific actions was avoided. Consequently, the time for processing the transaction in the second shop was reduced.

The business requirements provided by the notional
business person did not specify that the processing of
identification information should take place at a
server rather than at the shop terminal. The same
applied for the means for paying the bonus. Whether the
bonus was provided to the customer by the second shop's
terminal or to the customer's telephone by the server
was a technical choice of the technically skilled
person.

Reasons for the Decision

1.   *The invention*

1.1   The invention concerns a system for sending customers
        (users) between shops in a franchise group (paragraph
        [0001] of the published application). As shown in
        Figure 1, the system comprises a server (2) and a
        plurality of shop terminals (8), one in each shop (81).

1.2   The basic idea is the following: when the user
        purchases something with his mobile phone in a first
        shop (e.g. Yamada Set Meals in Figure 1), he is
        "guided" to a second shop (e.g. Cacao Coffee Shop). If
        the user purchases something in the second shop, he
        receives a bonus in his mobile payment account.

1.3   Claim 1 of the main request is directed to the server
        (2) in Figure 1.

        The server receives "identification information" from
        an "information processing device". During the oral
        proceedings, the appellant explained that this

corresponded to the "transaction log" received from any one of the "shop terminals" (8) in Figure 1. The transaction log contains the payments made with the mobile phone and includes identification information read from an IC chip in the phone.

The server also receives "guidance completion information" from the shop that acts as a "guidance source", i.e. Yamada Set Meals in the example above. The term "guidance completion information" is somewhat misleading as this information does not indicate that the deal has been completed, but rather includes the phone's identification information and information identifying the shop to which the user is guided (the guidance destination, Cacao Coffee Shop in the example above). It corresponds to the "guidance log" in Figure 1.

The server compares the guidance completion information with subsequently received transaction logs to determine whether the customer has made a purchase at the guidance destination. If so, the server transmits "monetary value changing information" to the user's phone, e.g. in the form of an email with a link to a web site where the user can load money into his mobile payment account (Figure 14).

1.4   Claim 1 of the first auxiliary request is directed to a system which, in addition to the server in claim 1 of the main request, comprises the shop terminal in the first shop. Claim 1 of the first auxiliary request specifies that this shop terminal (information processing device) is configured to perform contactless payment with the mobile phone.

2.   *Main request, inventive step (Article 56 EPC)*

2.1   The invention in claim 1 of the main request consists
        of a mixture of technical and non-technical features.
        Such mixed-type inventions are assessed according to
        the "Comvik approach" (T 641/00 - *Two identities/
        COMVIK*, and the Case Law of the Boards of Appeal, 9th
        edition, I.D.9.1.3), i.e. by taking into account only
        the technical features in the assessment of inventive
        step. The non-technical features which make no
        technical contribution are instead considered as being
        part of the formulation of the technical problem to be
        solved in the framework of the problem and solution
        approach.

2.2   The starting point in the prior art is D1, which
        discloses a system comprising a shop terminal (POS
        device 104) and a transaction gateway (102) coupled to
        a number of transaction services (118 to 124), for
        example identity verification and payment. The shop
        terminal has a reader for reading ID information from a
        card, e.g. a smart card, and means for transmitting the
        ID information to the transaction gateway (paragraphs
        [0017] and [0018]). The transaction gateway routes the
        ID information to an identity validation service (120)
        which compares the received ID information with
        information stored in a database (paragraphs [0024] and
        [0025]). In other words, the system in D1 comprises one
        or more servers for processing payment data and
        identification information received from shop
        terminals.

2.3   D1 does not disclose that the server receives and
        processes identification information and guidance
        completion information as in claim 1.

In claim 1 of the main request, the identification information read from the IC chip included in the user's phone is used to determine that the user has made a purchase in the second shop. D1 merely discloses the use of an IC chip for making payments and for providing identification.

Furthermore, D1 does not disclose that the server transmits monetary value changing information to the user's phone.

2.4   The disputed point in this case concerns which of the distinguishing features are technical and contribute to inventive step and which features are non-technical and part of the problem to be solved.

In the communication accompanying the summons to oral proceedings, the Board considered that sending a customer from a first shop to a second shop and giving the customer a bonus when purchasing something in the second shop was a business idea. In the Board's view, this idea already implied some form of checking whether the customer had made the purchase in the second shop, as well as paying out the bonus directly to the customer in monetary form rather than providing a discount in the second shop. The problem to be solved was thus considered as how to implement the business idea on the system of D1.

2.5   The appellant argued that, by using the IC chip in the mobile phone to track the user rather than requiring the user to present a coupon in the second shop, and by paying the bonus directly to the user's mobile payment account, there was no need for the user or shopkeeper at the second shop to perform any special actions. Thus, the invention had the technical effect of

reducing the processing time for conducting a
transaction at the second shop.

Furthermore, using a central server for tracking the
user and transmitting monetary value changing
information to the user's mobile phone was a technical
solution that was not suggested in the prior art. The
appellant referred to decision T 1463/11, which
distinguished between features required by a "notional
business person" and the technical implementation
carried out by the technically skilled person. The
notional business person would not require the use of
technical means, such as a server. That was the task of
the skilled person and, therefore, this feature had to
be evaluated for inventive step.

The appellant pointed out that the invention in
T 1463/11 concerned the relocation of certain functions
of merchant machines to a central server, and the
deciding Board considered this to be technical. For the
same reasons as in T 1463/11, the use of a central
server rather than a shop terminal for paying out the
bonus was a technical choice providing technical
advantages.

2.6   The Board is not persuaded by the appellant's
        arguments. The alternative solution of using a coupon
        and giving a discount at the second shop is a different
        business scheme which requires a different technical
        implementation. That does not mean that the idea
        underlying the present invention is technical. The
        relevant criterion for assessing technicality is
        whether the feature or features in question provide a
        technical effect over the prior art chosen as starting
        point. Any effects compared to a hypothetical,
        alternative computer-implemented business method cannot

be taken into account for the purpose of assessing inventive step in accordance with the problem and solution approach.

The Board does not see any technical effect over D1 other than the implementation of the idea defined in paragraph 2.4 above. In the Board's view, this idea can indeed by formulated by the the notional business person in T 1463/11.

2.7   Furthermore, while the business person cannot require the use of a server which is a technical feature, he can specify that a certain task be performed by a central administrative entity. In the present case, the use of a central entity for handling the bonus scheme is an organisational matter related to the franchising business model. This is in contrast to the server in T 1463/11 which centralised the management of plug-ins i.e. software components.

2.8   Starting from the disclosure of D1 and given the task of implementing the business idea defined above, the Board is of the view that the skilled person would have used the server or servers in D1 for comparing information received from the source POS and the destination POS in order to check whether the guidance had been completed. Although D1 does not disclose payments using a mobile phone, this was known at the priority date, and it is not presented in the present application as making an inventive contribution (see paragraphs [0009] to [0012]).

Furthermore, the skilled person would have considered using the same mobile payment system for paying out the bonus, and given the requirement of using a central entity for paying the bonus directly to the user, the

skilled person would have used the server to transmit
"monetary value changing information" to the user's
phone.

Even if the payment of the bonus by a central entity
directly to the user's account was not part of the
business requirements, the Board considers this to be
at least an obvious alternative to using the second
shop terminal to top up the mobile payment account.

2.9   In conclusion, the skilled person would have arrived at
        the subject-matter of claim 1 of the main request
        without inventive skill. Therefore, an inventive step
        is lacking (Article 56 EPC).

3.   *First auxiliary request*

3.1   The Board's reasons for rejecting the main request
        already take into account the additional features of
        the first auxiliary request. Therefore, the first
        auxiliary request is not allowable for the same reasons
        as the main request.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

C. Rodriguez Rodriguez   W. Chandler

Decision electronically authenticated