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**Datasheet for the decision
of 15 April 2021**

Case Number: T 1141/17 - 3.5.01

Application Number: 05753764.9

Publication Number: 1774463

IPC: G06Q30/00

Language of the proceedings: EN

Title of invention:

DYNAMIC BUSINESS METHOD AND APPARATUS FOR DIRECT MARKETING

Applicant:

Fraser, Eileen A.

Headword:

Automatic selection of a marketing script/FRASER

Relevant legal provisions:

EPC Art. 56

Keyword:

Inventive step - using ANI and DNIS to identify the caller and callee (no - obvious implementation of non-technical requirements)

Decisions cited:

T 0641/00



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Case Number: T 1141/17 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 15 April 2021

Appellant: Fraser, Eileen A.
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 14 December
2016 refusing European patent application No.
05753764.9 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman M. Höhn
Members: A. Wahrenberg
C. Schmidt

Summary of Facts and Submissions

- I. This case concerns the appeal of the applicant against the decision of the examining division to refuse the European patent application No. 05753764.9.
- II. The examining division considered that the claimed invention lacked an inventive step over a conventional system combining telephony and computer processing technologies as exemplified by document D1 (US6597685 B). The distinguishing features were found to provide an obvious automation of a set of administrative, i.e. non-technical, steps.
- III. In the statement setting out the 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 annexed to the statement of grounds.
- IV. In the communication accompanying the summons to oral proceedings, the Board raised objections under Articles 84 and 123(2) EPC, and tended to agree with the examining division that the claimed invention lacked an inventive step (Article 56 EPC).
- V. With a letter dated 16 March 2021, the appellant filed an amended set of claims ("Main request 2") replacing the main request filed with the statement of grounds.
- VI. Oral proceedings took place with the appellant's consent as a videoconference. The appellant's final request was that the decision under appeal be set aside and that the patent be granted on the basis of

"Main Request 2".

VII. Claim 1 of "Main request 2" reads:

A computer system for linking a marketer to customers comprising:

a) a customer communications device utilized by a prospective customer, connected to a first communications link and which initiates a customer communication having an Automatic Number Identification (ANI) unique identification number of the customer communications device and a unique Dialed Number Identification Service (DNIS) linking number identification and sends the customer communication to the first communications link;

b) a marketer communications device utilized by a marketer connected to the first communications link and which receives the customer communication and the ANI unique identification number and the unique DNIS linking number identification from the customer communications device;

c) a computer operated by the marketer connected to the marketer communications device via a second communications link and which receives the ANI unique identification number and the unique DNIS linking number identification from the marketer communications device;

d) a tangible memory apparatus operably connected to the computer via a communications channel and having a database containing customer information associated with ANI unique identification numbers and a plurality of scripts to be used by the marketer in communicating

with the prospective customer, the scripts divided into a plurality of customer value segments, being high, medium, low or risk or a combination thereof;

wherein said computer:

uses the ANI unique identification number of the customer communication device to locate customer information of the prospective customer from the database and calculate a modeling score of the prospective customer based upon the customer information of the prospective customer and the unique DNIS dialed number identification;

selects a script, based on the modeling score of the prospective customer, from the tangible memory apparatus contemporaneously with a time at which the customer communications device provides the ANI unique identification number; and

displays the script to the marketer, to be used by the marketer to communicate with the prospective customer, prior to any communication with the prospective customer.

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

The examining division labelled too many features as non-technical.

Claim 1 was directed to a computer system, which was inherently technical in nature. Each of the parts of claim 1 described a component of the computer system, e.g. communications devices, a computer, a memory apparatus, and how these were connected, all of which were inherently technical in nature. Claim 1 described

the use of the communications devices to initiate and receive a communication which was a technical process. The communication comprised ANI and DNIS numbers, which were assigned by technical means by, for example, a public telephone network. The computer received the ANI and DNIS numbers via technical means comprising a communications channel. The computer used the ANI as a search parameter for searching and retrieving customer information from a database stored in a memory apparatus, which was an inherently technical process. The computer used the retrieved information and the DNIS to calculate a modeling score, which was also a technical process. The computer then selected a script from a database of scripts and displayed the script to the marketer by means of the communications channel and the marketer communications device, all of which were inherently technical in nature.

The script was selected contemporaneously which in reality meant less than 7/10th of a second. In other words, the selection took place before the caller said "hello". This was a technical effect that contributed towards inventive step.

Although ANI and DNIS were well known and designed to provide the recipient of the telephone call with information about the caller and the called number, no further prior art had been cited, nor had any common general knowledge been evidenced, which might have prompted the skilled person to use ANI and DNIS to identify a relevant script in a database.

Reasons for the Decision

1. *Background*

1.1 The invention concerns the automatic selection of a customised telemarketing script (see page 4, lines 12 to 14 of the published application).

1.2 When a potential customer calls a number in an advertisement, the call is often received by a sales representative firm that represents many businesses (page 3, lines 5 to 16). Thus, the sales representative needs to find the marketing script associated with the product or service that the customer is calling about.

Furthermore, it is advantageous to use a script that is targeted to the prospective customer (page 3, lines 17 to 23). For example, a person who is likely to make a high value purchase may receive a different offer than a person who is likely to make a low value purchase, or unlikely to make a purchase at all.

1.3 The invention uses Automatic Number Identification (ANI, also referred to as "Caller I.D.") to identify the calling customer, and Dialed Number Identification Service (DNIS) to identify the dialed number associated with the product or service in the advertisement.

A computer (135) that is coupled to the marketer's telephone device uses the ANI number received from the telephone system to locate customer information in a database. The customer information is, together with the DNIS information, used to calculate a "modelling score", i.e. a value corresponding to the segments "high", "medium", and "low". The modelling score is, in

turn, used to select a script from a database (150). The script is displayed to the marketer who uses it to communicate with the customer. The selection of the script takes place contemporaneously with the time at which the customer's telephone device provides its ANI number.

2. *Inventive step (Article 56 EPC)*

2.1 The invention in claim 1 comprises a mixture of technical and non-technical features. The Board agrees with the appellant that the claimed computer system and its components have technical character. However, the invention also involves non-technical aspects related to marketing.

2.2 The established approach for assessing such mixed-type inventions is the "Comvik approach" (see T 641/00 - *Two identities/COMVIK*, and The Case Law of the Boards of Appeal, 9th edition, 9.1.3 b)). Under the Comvik approach, only the technical features which contribute to the solution of a technical problem by providing a technical effect are taken into account for the purpose of assessing inventive step under Article 56 EPC. The non-technical features which make no technical contribution may legitimately form part of the technical problem to be solved as a set of requirements to be met.

2.3 Applying the Comvik approach to the present case, the Board considers that the following included in or underlying claim 1 is part of a non-technical business concept:

- A customer, having an identity contacting a business (also having an identity) about a product or service;

- A marketer dealing with the customer on behalf of the business;
- Selecting a marketing script from a plurality of marketing scripts divided into a plurality of customer value segments (high, medium, low or "risk" or a combination thereof) based on the customer's "modelling score" and the relevant business, product or service;
- presenting the selected script to the marketer.

Being non-technical in nature, the above features cannot contribute to inventive step. Instead, they form a set of requirements which are part of the problem to be solved.

- 2.4 Starting from a conventional communication system combining a telephone system and a computer system, such as the one disclosed in D1, the invention in claim 1 distinguishes itself by the use of the ANI to locate customer information in a database, the calculation of a modeling score based upon the customer information and the DNIS, the selection of a stored script based on the modeling score contemporaneously with a time at which the customer communications device provides the ANI, and the display of the script to the marketer.
- 2.5 In line with the Comvik approach, the Board considers that the problem to be solved by the distinguishing features is how to automate the method of selecting a customised script defined under point 2.3 above.
- 2.6 In the Board's view, the technical implementation of the non-technical requirements, including the use of ANI and DNIS to identify the customer (caller) and the contacted business (callee) respectively, and the use of the computer to contemporaneously look up

information in a database, calculate the modelling score, and select and display a relevant script, would have been obvious to the skilled person in the art of telecommunications and computer systems. ANI and DNIS were well known and designed to provide the recipient of the telephone call with information about the caller and the dialled number. The skilled person would have provided suitable means for storing and retrieving data, including the use of the ANI as an identifier for storing and retrieving customer information in a database.

3. The appellant argued that, while known, the ANI and DNIS numbers had never been used for looking up customer information in a database and for calculating a modelling score for selecting a script. The use of the ANI and DNIS in this way enabled selection of the script contemporaneously, which really meant less than 7/10th of a second. The invention thus achieved a low response time, which was a technical effect that contributed to inventive step in a non-obvious manner.
4. In the Board's assessment, however, the low response time is an effect of the automation, i.e. the use of a computer to select a script. Computers are technical, but the Board judges that it would have been obvious to use one for selecting a script in accordance with the requirement specification. The Board notes that neither the claim, nor the application as a whole, specifies any particular technical implementation details which could support a low response time beyond that achieved by merely using a computer.
5. For these reasons, the Board judges that the subject-matter of claim 1 of the sole request

("Main Request 2") lacks an inventive step
(Article 56 EPC).

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



T. Buschek

M. Höhn

Decision electronically authenticated