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**Datasheet for the decision  
of 9 March 2022**

**Case Number:** T 2027/17 - 3.5.01

**Application Number:** 12196923.2

**Publication Number:** 2610807

**IPC:** G06Q30/06

**Language of the proceedings:** EN

**Title of invention:**

Offering a customized collection of products

**Applicant:**

Adidas AG

**Headword:**

Offering a customized collection of products/ADIDAS AG

**Relevant legal provisions:**

EPC Art. 56

**Keyword:**

Inventive step - simultaneous pre-customising common features of a set of products (no - non-technical)

**Decisions cited:**

G 0003/08, T 1805/08



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Case Number: T 2027/17 - 3.5.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.01**  
**of 9 March 2022**

**Appellant:** Adidas AG  
(Applicant) Adi-Dassler-Strasse 1  
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**Representative:** Bardehle Pagenberg Partnerschaft mbB  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 18 April 2017  
refusing European patent application No.  
12196923.2 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** W. Chandler  
**Members:** N. Glaser  
C. Schmidt

## **Summary of Facts and Submissions**

- I. This appeal is against the decision of the examining division to refuse the European patent application No. 12196923.2 pursuant to Article 97(2) EPC on the grounds of lack of inventive step (Article 56 EPC).
- II. In the statement setting out the grounds of appeal, the appellant requested that the decision of the examining division be set aside and that a patent be granted on the basis of the refused main request, re-filed therewith. Oral proceedings were requested on an auxiliary basis.
- III. In the communication accompanying the summons to oral proceedings the Board set out its preliminary opinion that claim 1 did not involve an inventive step over D1 and common general knowledge.
- IV. In response, the appellant indicated that it would not attend the oral proceedings. There were no further submissions.
- V. The Board informed the appellant that, since the appellant would not be represented at the oral proceedings, the oral proceedings were cancelled.
- VI. Claim 1 reads as follows:

*"A computer-implemented method (200) of pre-customizing products, comprising:  
providing (202), by a group customization server (110) to an electronic computing device (130) via a network (150), digital representations of a plurality of*

*products available for selection by a first user associated with the electronic computing device (130); receiving (204), by the group customization server (110), a selection of a subset of the plurality of products from the electronic computing device (130), the subset including at least two of the plurality of products;*

*customizing (206), by the group customization server (110), the subset of the plurality of products in response to an input by the first user, wherein customizing the subset includes selecting a common feature of the products in the subset and simultaneously manipulating the common feature of the products in the subset;*

*storing (208), by the group customization server (110), a unique group identifier associated with the subset, the group identifier identifying the subset of products after customization by the first user;*

*receiving, by the group customization server (110) from the first user via the electronic computing device (130), customization limits on the further customization available to a second user;*

*associating, by the group customization server (110), one or more individual identifiers with the subset, wherein the individual identifiers are set by the first user and correspond to identities of individuals who are authorized to further customize the subset of products;*

*providing (212), by the group customization server (110) to an individual customization server (120), digital representations of the subset of the plurality of products previously customized by the first user for further customization by the second user different than the first user;*

*providing (310), by the individual customization server (120) to a second electronic computing device (140)*

*associated with the second user via the network (150), digital representations of the subset to the second user;*  
*receiving (312), by the individual customization server (120) from the second electronic computing device (140) via the network (150), a selection of at least one product of the subset from the second user; and further customizing (314), by the individual customization server (120), the selected products in response to an input by the second user;*  
*wherein the method further includes:*  
*receiving (304), by the individual customization server (120), a user identifier from the second user;*  
*determining (306), by the individual customization server (120), whether the received user identifier matches any of the one or more individual identifiers;*  
*and*  
*performing the operations of providing (310) digital representations of the subset, receiving (312) a selection from the second user, and further customizing (314) the selected products only if it is determined that the received user identifier matches one of the one or more individual identifiers."*

## **Reasons for the Decision**

1. The invention
- 1.1 The invention relates to the customisation of products, such as sports clothing and equipment, over a network, see paragraph [0003] and Figure 4A.
- 1.2 Conventional approaches, see paragraphs [0005] and [0006], are said to have evolved from individual tailoring, namely customising single products for single customers. These approaches are said to be

inconvenient and inefficient for the customisation of more than one product for groups of customers, e.g. sports team equipment.

1.3 The invention proposes a two-stage customisation process, with a *pre-* and a *post-customisation* stage, see paragraph [0007]. A first user, such as a team coach, sets common customisations, such as a team logo or colour, for a collection of products and thereby defines a *pre-customisation* of a common feature of the collection of products (Figure 4B). Thereafter, the products may be *post-customised* by individuals, such as team players or the public. Team players may add their name, number, marks showing a number of touchdowns and other physical or performance attributes (Figure 5B). The individual customisations may be limited by the administrator, see paragraph [0008].

1.4 The invention is implemented on a "group customization server" (110), an "individual customization server" (120) and one or more electronic computing devices (130-140), all interconnected via a network (150).

2. Article 56 EPC

2.1 The examining division did not dispute that the method of claim 1 involved technical considerations, but considered them to be known from D1.

2.2 In the Board's view, the technical details of the invention are the group customisation server, the individual customisation server and one or more electronic computing devices, all interconnected via a network, and exchanging digital representations.

These features do not require any particular hardware or functional configuration, see paragraphs [0021], [0022], [0024] and [0025] of the application.

The digital representations can be any suitable digital representation, for example, digital images, textual descriptions, see paragraph [0029]. User input is thereby to be understood as selecting a digital representation of a product which is displayed on a display device of an electronic computing device of the user, see [0029] and [0032].

2.3 The Board agrees with the division that D1 is the closest prior art. D1 discloses a system for the online customisation of consumer products, see paragraph [0001].

The D1 system contains one or more servers, and several computing devices with input and display devices for user input, which are all connected over a network, see paragraphs [0032] to [0037]. The user interfaces provide users with the possibility to select a default design of a product or that provided by another user, to modify it and to store it for later retrieval and to share with other users, see paragraphs [0049] and [0050]. Modifications of designs include an upload of images and of text messages, as well as a definition of their orientation, size and location on the product, see paragraphs [0018], [0073] and [0074].

Limits can be set on the manner in which one or more users can change a design, see paragraph [0061]. The initial user may partially or totally lock out one or more other users from changing a design. In other words, D1 allows setting design alteration rights. Paragraph [0066] discloses that changes are stored on

a central server together with, among others, the identification of an object being changed, a user ID and a part ID. This discloses, or at least motivates, the use of a set of "individual identifiers" which indicate the set of users who are eligible for further customisation for one specific subset of pre-customised items.

Digital designs may be created and modified in a *staged process*, starting from an initial design, which is partially locked, but which may be further altered, see paragraph [0090]. Users may start from an initial design made by someone else, for example, a team coach, see paragraphs [0090] and [0091], who has already decided on the consistent look of the outfitting of an entire team, that is, the shoes, trousers, jerseys, and so on. This discloses, or least motivates, the use of a "group identifier" which uniquely identifies the products of a subset of *pre-customised* products.

2.4 Furthermore, the Board is of the opinion that D1 is not limited to a single collaborative session for each product, as argued by the appellant. Paragraph [0049] discloses that designs may be shared with other users, intermediate designs may be stored and changes may be undone. Thereby, the changes are stored on a central server together with identifiers, user ID and part ID, see paragraph [0066]. Several consecutive sessions can be run, see paragraph [0055], whereby a previously created session ID is reused. Also, claim 1 does not exclude that all steps are executed within a single session.

2.5 Thus the Board agrees with the examining division that claim 1 differs from D1 by the features labelled a) to d) in points 1.5 and 1.7 of the decision, namely:



a) *the selection of a subset includes at least two of the plurality of products,*  
b) *customizing the subset includes selecting a common feature of the products in the subset and simultaneously manipulating the common feature of the products in the subset;*  
c) *providing digital representations of the subset of the plurality of products previously customized for further customization;*  
d) *a group customization server performing the initial customisation tasks (first page of claim 1), which are handed over to an individual customisation server (second page of claim 1) for further customisation by a second user.*

- 2.6 The Board agrees with the division that features a) and b) define a business requirement, that is, the desire to individually customise "branded" products of a subset of products for the reasons set out below. This business requirement is also known from D1.
- 2.7 *Providing digital representations in feature c) is known from D1, see point 2.3 above.*
- 2.8 It is a matter of design choice to split functions between an individual customisation server and a group customisation server as in feature d). Using common general knowledge and routine skills, the person skilled in the art would make such a change to D1 which already discloses that server functionality may be split over several servers, see point 2.3 above.
- 2.9 The appellant essentially argued that claim 1 involved two independent customisation stages, including two kinds of identifiers and simultaneous pre-customising common features of a set of products. This was not

disclosed in D1 which rather performed a collaborative design session for each single product. Furthermore, the features of claim 1 which the division considered to differentiate it from D1, see point 1.7 of the impugned decision, were not a mere business method, but achieved a technical effect.

In the first stage a *common feature* of a given subset of products was selected and simultaneously customised across the entire subset of products. There was no need for individual sessions for each and every product, as in D1, but all could be simultaneously handled across an entire subset within one single session. This saved memory, network and processing resources.

In the second stage, individual users could post-customise their products. Both customisations were handled independently from one another, which was reflected in the provision of two different kinds of identifiers. A "group identifier" uniquely identified a subset of *pre-customised* products, see paragraphs [0042] and [0052], whereas a set of "individual identifiers" indicated the set of users eligible for further customisation for one specific subset of pre-customised items, see paragraphs [0043] and [0055]. This reduced the usage of resources, as there was no need to keep customisation sessions coherent. The identifiers allowed starting or resuming customisation at any time.

2.10 In the Board's view simultaneous customisation means, see paragraph [0038] of the application, that it is a user who selects a feature which he or she desires to be common to all products in a subset of products. Thus, both the subset of products and the common feature are user-defined. For example, a logo selected

by the user for a T-shirt, is placed on shorts and socks in the subset of products. In other words, the expression "*simultaneously manipulating*" a common feature only means that a user-selected feature for one product is set as a feature common to all products of the subset. In the Board's view this is a user-driven decision in the sense of a mental act. The application remains at an abstract level and does not disclose or imply any further technical manipulation of individual products.

- 2.11 The conclusion of G 3/08, point 13.3, can be applied to the situation in the present case. This states: "... *Designing a bicycle clearly involves technical considerations (it may also involve non-technical, e.g. aesthetic, considerations) but it is a process which at least initially can take place in the designer's mind, i.e. it can be a mental act and to the extent that it is a mental act would be excluded from patentability, just as in the cited cases T 833/91, T 204/93 and T 769/92 (cf. also T 914/02, General Electric, dated 12 July 2005, Reasons, point 2.3 and T 471/05, Philips, dated 06 February 2007, Reasons, points 2.1 and 2.2).*"
- 2.12 The Board agrees with the division that the two stage customisation process with *pre- and post-customisation* of the products of a subset of products would be driven by a marketing and business idea. The application, see paragraphs [0003], [0033] and [0034], discloses that a group of products, such as shoes, socks, shorts and T-shirt, are "branded". These branded products share a common feature, such as the same colour or logo for the equipment of a football team. The products are *pre-customised*, see paragraph [0040], last line. Brand owners define particular locations of a trademark on

the product. In other words, the claimed invention covers a method of individually customising branded products which have been "pre-customised" by brand owners.

3. The Board concludes that claim 1 lacks an inventive step over D1 and common general knowledge (Article 56 EPC).
4. Finally, the Board judges that there was no incorrect legal assessment of Articles 52(1) and 56 EPC, as argued by the appellant on page 2 and pages 18 to 21 of the grounds of appeal, for the following reasons:
  - 4.1 The statement in paragraph 1.2. of the reasons of the impugned decision refers to the problem as formulated in [0005] and [0006] of the application rather than to a position taken by the division about the invention, as argued by the appellant. It cannot therefore be concluded that the examining division took a position which right from the outset contradicted its own assessment, because the examining division simply summarised the content of the application.
  - 4.2 Moreover, the automation of the business method, defined by features a) to c), are to be read in combination with points 1.10 and 1.11 of the impugned decision which in the Board's view set out how the implementation of the business method is done.
  - 4.3 The assessment of the division in this respect is in-line with the findings of T 1805/08 cited by the appellant, because the examining division did not include features with a technical character into the definition of the business scheme.

**Order**

**For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chairman:



T. Buschek

W. Chandler

Decision electronically authenticated