

**Internal distribution code:**

- (A) [ - ] Publication in OJ
- (B) [ - ] To Chairmen and Members
- (C) [ - ] To Chairmen
- (D) [ X ] No distribution

**Datasheet for the decision  
of 14 November 2022**

**Case Number:** T 2712/18 - 3.5.01

**Application Number:** 13169844.1

**Publication Number:** 2669854

**IPC:** G06Q10/00

**Language of the proceedings:** EN

**Title of invention:**

Avoiding a redundant display of a notification on multiple user devices

**Applicant:**

Apple Inc.

**Headword:**

Synchronisation server/APPLE

**Relevant legal provisions:**

EPC Art. 56, 123(2), 111(1)

RPBA Art. 12(4)

RPBA 2020 Art. 11

**Keyword:**

Technical contribution - distinguishing features of  
synchronisation server (yes - no mere automation of  
constraints imposed by business aspects)  
Remittal to the department of first instance (yes)

**Decisions cited:**

T 0641/00, T 1082/13



**Beschwerdekammern**  
**Boards of Appeal**  
**Chambres de recours**

Boards of Appeal of the  
European Patent Office  
Richard-Reitzner-Allee 8  
85540 Haar  
GERMANY  
Tel. +49 (0)89 2399-0  
Fax +49 (0)89 2399-4465

Case Number: T 2712/18 - 3.5.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.01**  
**of 14 November 2022**

**Appellant:** Apple Inc.  
(Applicant) One Apple Park Way  
Cupertino CA 95014 (US)

**Representative:** Rooney, John-Paul  
Withers & Rogers LLP  
2 London Bridge  
London SE1 9RA (GB)

**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 5 June 2018  
refusing European patent application No.  
13169844.1 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** M. Höhn  
**Members:** W. Zubrzycki  
C. Schmidt

## **Summary of Facts and Submissions**

- I. This is an appeal against the decision of the examining division to refuse European patent application No. 13169844.1 on the grounds that claim 1 of the sole request contained added subject-matter and lacked an inventive step (Articles 123(2) and 56 EPC). Concerning the lack of inventive step, the contested decision stated that the subject-matter of claim 1 related to the obvious implementation of a business method on a general purpose networked computer system (Article 56 EPC). The contested decision mentioned document D1 (US2010/0332682) as the evidence of such a system, but did not discuss it in any detail.
- II. In the statement setting out the grounds of appeal, the appellant requested that the decision be set aside and a patent be granted on the basis of the main request, corresponding to the refused request, or alternatively one of the first to sixth auxiliary requests, filed therewith. The appellant requested oral proceedings in the event that the Board refused the main request or any of the auxiliary requests.
- III. In a communication dated 9 May 2022, the Board set out its preliminary opinion that the main, first and second auxiliary requests contained added subject-matter (Article 123(2) EPC). Furthermore, the Board informed the appellant that it intended to remit the case to the department of first instance for further examination on the basis of the third auxiliary request.
- IV. With a letter dated 26 August 2022, the appellant withdrew its auxiliary request for oral proceedings on the condition that the Board remit the case for

assessing the novelty and inventiveness of the third auxiliary request.

V. Claim 1 of the main request reads:

*"A non-transitory program storage device, readable by at least one processor and comprising instructions stored thereon to cause the at least one processor to: identify, by a server computer system, a plurality of associated devices, wherein the server computer system tracks notifications that are present on the plurality of associated devices; receive, at the server computer system (108), indications from a first device (106A) of the plurality of associated devices that notifications have been received by the first device, wherein the notifications are associated with different applications of the first device; receive, at the server computer system, indications that the notifications have been viewed on one or more of the plurality of associated devices; identify, by the server computer system (108), that the first device is in receipt of the notifications; and send, by the server computer system (108), indications that the notifications have been viewed to the first devices"*

VI. Claim 1 of the first auxiliary request reads:

*"A non-transitory program storage device, readable by at least one processor and comprising instructions stored thereon to cause the at least one processor to: receive, at a server computer system (108), a first communication from a first device (106A) of a plurality of associated devices, wherein the first communication indicates that a first notification has been received*

*by the first device;  
receive, at the server computer system, a second communication, wherein the second communication indicates that a second notification corresponding to the first notification has been viewed on a second device of the plurality of associated devices;  
determine, by the server computer system (108), that the first device is in receipt of the first notification; and  
send, by the server computer system (108), a third communication to the first device, wherein the third communication causes the first notification to be deleted from the first device to prevent a notification corresponding to the second notification from being viewed on the first device after the second notification has been viewed on the second device."*

VII. Claim 1 of the second auxiliary request reads:

*"A non-transitory program storage device, readable by at least one processor and comprising instructions stored thereon to cause the at least one processor to:  
receive, at a server computer system (108), indications from a first device (106A) of a plurality of associated devices that notifications have been received by the first device, wherein the notifications are associated with different applications of the first device;  
receive, at the server computer system, an indication that a particular notification has been viewed on one or more of the plurality of associated devices;  
identify, by the server computer system (108), that the particular notification corresponds to one of the notifications of which the first device is in receipt;  
and send, by the server computer system (108) to the first device, an indication that the particular notification has been viewed and should be removed from*

*a user interface of the first device."*

VIII. Claim 1 of the third auxiliary request reads:

*"A method, comprising:  
receiving, by a processor (605) of a first device (106A) of a plurality of associated devices, a first notification associated with a first application of the first device and with a first information service provided by a first server;  
receiving, by the processor of the first device, a second notification associated with a second application associated with the first device and with a second information service provided by a second server;  
communicating, by the first device, to a synchronization server computer system (108) that the first and second notifications have been received;  
determining, by the processor (605) of the first device (106A), that the first notification has been viewed on the first device (106A);  
sending to the synchronization server computer system, by the processor (605) of the first device (106A), an indication that the first notification has been viewed on the first device (106A) and should be removed from any of the plurality of associated devices on which the first notification is present; and  
removing the second notification from a user interface of the first device responsive to an indication from the synchronization server computer system that the second notification has been viewed on one of the plurality of associated devices."*

IX. Claim 7 of the third auxiliary request reads:

*"A non-transitory program storage device (665), readable by at least one processor (605) and comprising*

*instructions stored thereon to cause the at least one processor (605) to:*  
*receive over a network, at a first device (106A) of a plurality of associated devices, a plurality of messages, each message from a different server-based source;*  
*generate, by the first device, a user interface including a first notification associated with a first application and a second notification associated with a second application based on the plurality of messages;*  
*communicate, by the first device, to a synchronization server computer system (108) that the first notification and the second notification were received;*  
*determine, by the first device (106A), that the first notification has been viewed on a display element (610) of the first device (106A);*  
*send, by the first device (106A), an indication that the first notification has been viewed on the first device (106A) to the synchronization server computer system (108), wherein the synchronization server computer system is different from the server-based sources; and*  
*remove, by the first device, the second notification from the user interface responsive to an indication from the synchronization server computer system that the second notification has been viewed on another device."*

- X. The appellant argued that claim 1 of the main request and the auxiliary requests did not contain added subject-matter and involved an inventive step.



## Reasons for the Decision

### 1. The invention

- 1.1 The invention concerns an arrangement in which a user sets up multiple electronic devices ("plurality of associated devices" in the claims), for example a mobile phone and a desktop computer, to receive content ("notifications") from Internet services ([3] and [18]). Looking at Figure 2, in such an arrangement notifications are provided to local applications 205A-205D by servers 104A-104D ("a first server" and "a second server" in the claims of the third auxiliary request). For example, an email server 104C provides emails to a local email application 205C and a weather server 104D provides weather updates and forecasts to a local weather application 205D ([20]).

The problem with this arrangement is that multiple electronic devices contain overlapping notifications and the user has to sift through notifications which they possibly already viewed on another device ([3] and [33]). The invention seeks to avoid the redundant display of notifications which have already been viewed on one of the user's devices ([13]).

- 1.2 Looking at Figure 3, the invention provides a synchronisation server 108 tracking which notifications are received and which user devices they are displayed on ([33]). To this end, the user devices inform the synchronisation server about each received notification ([31] and [32]).

The synchronisation server also receives from a user device an indication that the user selected and viewed

a particular notification on it ([41]). Upon receiving such an indication, the synchronisation server sends an indication that the notification has been viewed to each user device on which it is present ([41] to [43]). Upon receipt of this indication, the user devices may remove the viewed notification from a user interface displaying it ([43]).

- 1.3 Claim 1 of the refused main request and the first and second auxiliary requests is directed to the method carried out by the synchronisation server, referred to as a server computer system.

Independent claims 1 and 7 of the third auxiliary request are directed to the method performed by a user device of the plurality of associated user devices. Apart from one inconsequential grammatical error correction, these claims correspond to independent claims 7 and 13 of the main request.

2. Admissibility, Article 12(4) RPBA 2007

The Board admits the first, second and third auxiliary requests into the proceedings. While Article 12(4) RPBA 2007 gives the Board discretion not to admit requests which could have been presented in the first instance proceedings, the Board considers that the admission of these auxiliary requests is conducive to procedural economy, because the requests do not present the Board with new complex issues and are a bona fide attempt to overcome the objections raised in the decision.

This applies in particular to the third auxiliary request which comprises only claims which correspond, or essentially correspond, to the claims of the refused

main request.

3. The Board judges that the main, first and second auxiliary requests do not meet the requirements of Article 123(2) EPC for the following reasons.

- 3.1 Main request

- 3.1.1 The contested decision stated that the wording "*identify, by a server computer system, a plurality of associated devices*" introduced into claim 1 in the first instance proceedings contained added subject-matter.

- 3.1.2 The appellant argued in the statement setting out the grounds of appeal that the amendment is derivable from the application at paragraph [24] disclosing that "*a user account at synchronization server 108 may maintain a record of each of the user's devices 106*". The appellant argued that the user account allowed the server to identify devices.

However, the Board judges that the amendment, by not mentioning the user account, generalises paragraph [24] in an inadmissible way.

- 3.1.3 The Board notices that in the first instance proceedings the appellant had offered paragraphs [4], [5] and [33] as further basis (see the letter of 20 April 2016, page 1). However, the Board judges that the amendment is not derivable from those paragraphs either. The reasons are that paragraphs [5] and [33] do not mention identifying devices and paragraph [4] discloses that one or more additional user's device are identified in response to receiving an indication that a notification has been viewed on a first device. The

latter is not a valid basis for the amendment defining that the server identifies the associated devices before receiving any indication from them.

3.2 First and second auxiliary requests

3.2.1 Claim 1 of the first and second auxiliary requests were amended in appeal by inserting the following underlined wordings:

- "wherein the third communication causes the first notification to be deleted from the first device" (claim 1 of the first auxiliary request)
- "send, by the server computer system (108) to the first device, an indication that the particular notification has been viewed and should be removed from a user interface of the first device" (claim 1 of the second auxiliary request)

3.2.2 Paragraph [43] of the published application, offered by the appellant as basis for these amendments, discloses that upon receipt of an indication that a particular notification was viewed, the user devices may identify the notification concerned and remove it from a user interface displaying it. The Board is of the opinion that this is not a direct and unambiguous basis for the wording "*the third communication causes the first notification to be deleted from the first device*" and for the feature defining that the indication, sent by the server, specifies that "*the particular notification ... should be removed from a user interface of the first device*".

4. The Board judges that the third auxiliary request is clear and meets the requirements of Article 123(2) EPC for the following reasons:

4.1.1 While independent claims 1 and 7 of the third auxiliary request are part of the refused main request, the contested decision did not discuss these claims and no objections were raised against them. The independent claim 1, on which the contested decision was based, was deleted in the set of claims according to the third auxiliary request.

Furthermore, the objections raised for the main request, other than those against inventive step, are moot for these claims for following reasons:

4.1.2 The objection under Article 123 (2) EPC arising for the main request does not apply to the claims of the third auxiliary request, as they do not include the offending wording (see point 3.1.1 above).

4.1.3 The contested decision mentions at point 12 that the effect of rejecting duplicate notifications is not derivable from claim 1 of the main request. While not explicitly stated in the decision, this is effectively an objection of missing essential features (Article 84 EPC). However, this objection does not apply to the independent claims of the third auxiliary request either, as they clearly define that the notification viewed on one device is removed from another one.

4.2 With respect to the question of whether or not the third auxiliary request involves an inventive step, the Board judges that a comparison to written prior art is necessary.

4.2.1 The contested decision sets out that the technical features of claim 1 of the main request were limited to the provision of the plurality of associated devices and a server computer system executing instructions

provided on a non-transitory storage. These aspects did not go beyond a general purpose networked computer system performing its commonly known functions (decision, pages 3 and 4).

- 4.2.2 As regards the performed method steps, the contested decision stated that they constituted a non-technical business method, because the task of managing notifications was an administrative one and the steps of receiving and sending notifications and indications did not *per se* have technical character (decision, page 3, penultimate paragraph).

In a communication dated 14 December 2017, the examining division additionally argued that avoiding presenting duplicate notifications to a user was an administrative problem.

- 4.2.3 Referring to the COMVIK approach (T 641/00 - *Two identities/COMVIK*), the contested decision argued that the claimed business method was given to the skilled person as a requirements specification to be implemented on the general purpose networked computer system, which was the starting point for assessing inventive step.

Faced with this problem, the skilled person would have arrived at the claimed implementation without inventive step, as part of their daily work (decision, page 4, two last paragraphs and page 5, second paragraph).

- 4.2.4 The appellant argued that exchanging messages between the synchronisation server and the user devices was part of the technical solution and the features defining this functionality should be considered for

inventive step.

4.2.5 The Board agrees with this argument and also takes the view that claim 1 of the main request contains more technical features than the use of the general purpose computer system to implement a business method. This applies *a fortiori* to the narrower independent claims 1 and 7 of the third auxiliary request.

4.2.6 The Board also agrees that the claim implements a non-technical administrative requirement given to the skilled person for implementation within the technical problem.

However, the requirements specification ends with providing notifications to the user at several locations e.g. at home and in the office, thereby assuring that the user views each notification only once.

4.2.7 It is established case law that the business person giving the non-technical requirements to the skilled person does not have technical appreciation of how business concepts are implemented on a computer system (see T 1082/13, Reasons, point 4.8). However, the provision of the synchronisation server and the decision on what electronic messages to communicate in order to remove viewed notifications from the user devices require such understanding of computer technology and involve technical considerations on how this technology can be used to implement the above administrative requirement. These steps have the character of a communication protocol. It follows that these features could not be envisaged by the business person and are technical implementation choices which

are in the sphere of the technically skilled person.

4.2.8 Accordingly, the Board judges that the following features of claims 1 and 7 of the third auxiliary request are part of the technical implementation and, therefore, subject to the assessment of inventive step:

- providing a user device programmed to:
  - run two applications and to receive notifications for these applications from two different servers
  - inform the synchronisation server which notifications have been received and which among them have been viewed
  - remove a notification from a user interface on which it is displayed in response to the indication, from the synchronisation server, that the notification has been viewed
- providing the synchronisation server programmed to track received and viewed notifications based on the information received from the user devices and to provide to the user devices the indication that a notification has been viewed on one of them.

4.2.9 The Board judges that it cannot be convincingly argued that the technically skilled person starting from the general purpose networked computer system and facing the problem of implementing the above requirements specification would have provided these implementation features by applying his routine skills.

Some of these features, for example receiving at the user device notifications from two servers, can probably be regarded as part of the skilled person's common general knowledge. However, the features specifying the use of the synchronisation server and the exchanged messages clearly go beyond such



knowledge.

4.2.10 The examining division did not assess the claimed subject-matter with regard to the pertinent written prior art. The contested decision states that the general purpose networked computer system serving as the starting point was so well known that it did not require any written evidence. While it briefly mentions that in case of doubts concerning the existence of such a system, document D1 could be consulted, it does not discuss D1's teaching in any detail.

5. The Board decided to remit the case to the examining division.

5.1 According to Article 111(1) EPC the Board may exercise any power within the competence of the examining division, which was responsible for the decision under appeal, or remit the case to that department for further prosecution. Article 11 RPBA 2020 lays down that the Board shall not remit a case to the department of the first instance, unless special reasons present themselves for doing so.

5.2 It is not appropriate to carry out a complete examination of novelty and inventive step of the third auxiliary request on the basis of the pertinent written prior art for the first time in appeal proceedings because this is contrary to the primary object of the appeal proceedings to review the appealed decision (Article 12(2) RPBA 2020).

The Board judges that these are special reasons justifying the remittal to the examining division (Article 11 RPBA 2020).

- 5.3 Accordingly, the Board remits the case to the examining division for assessing novelty and inventiveness of the third auxiliary request with regard to D1 or, as the case may well be, the results of an additional search.
6. Given that the appellant withdrew its auxiliary request for oral proceedings on the condition that the Board remits the case to the first instance for assessing novelty and inventiveness of the third auxiliary request, the decision can be taken in writing.

## Order

### For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the examining division on the basis of the third auxiliary request for further examination of novelty and inventive step.

The Registrar:

The Chairman:



T. Buschek

M. Höhn

Decision electronically authenticated