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**Datasheet for the decision  
of 21 March 2023**

**Case Number:** T 0223/20 - 3.5.01

**Application Number:** 15713059.2

**Publication Number:** 3132409

**IPC:** G06Q30/02, G06Q50/00

**Language of the proceedings:** EN

**Title of invention:**

TARGETED DATA BASED ON SOCIAL MEDIA INTERACTION

**Applicant:**

rewardStyle, Inc.

**Headword:**

Targeted advertisement based on likes/REWARDSTYLE

**Relevant legal provisions:**

EPC Art. 56

RPBA 2020 Art. 13(2)

**Keyword:**

Inventive step - targeted data based on likes (no - not technical) - timestamp (no - implementation of non-technical requirement)

Amendment after summons - cogent reasons (no)

**Decisions cited:**

T 1670/07



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Case Number: T 0223/20 - 3.5.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.01**  
**of 21 March 2023**

**Appellant:** rewardStyle, Inc.  
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**Representative:** Uexküll & Stolberg  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 2 August 2019  
refusing European patent application No.  
15713059.2 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** W. Chandler  
**Members:** A. Wahrenberg  
D. Rogers

## **Summary of Facts and Submissions**

- I. This case concerns the applicant's appeal against the examining division's decision to refuse European patent application No. 15713059.2 for added subject-matter (Article 123(2) EPC) and lack of inventive step (Article 56 EPC).
- II. In the grounds of appeal, the appellant requested that the examining division's decision be set aside and that a patent be granted on the basis of the refused main or first or second auxiliary request, or the new third or fourth auxiliary request, all (re-)filed with the grounds of appeal. The appellant also requested that, if the Board intended to decide the case based on Article 123(2) or 84 EPC, the case be remitted to the examining division.
- III. In the communication accompanying the summons to oral proceedings, the Board tended to consider that the main request lacked clarity (Article 84 EPC) and contained added matter (Article 123(2) EPC). The Board was inclined to reject the appellant's request for a remittal to the examining division. The Board also tended to the view that all the requests lacked an inventive step (Article 56 EPC).
- IV. In a letter dated 21 February 2023, the appellant submitted arguments in favour of clarity, support in the original application, and inventive step. The appellant furthermore filed a fifth and a sixth auxiliary request.
- V. Oral proceedings took place by videoconference. The appellant's final requests were to set the decision

under appeal aside and to grant a patent on the basis of the main request, or one of auxiliary requests 1 to 6. The main request and auxiliary requests 1 to 4 were filed with the grounds of appeal, and auxiliary requests 5 and 6 were filed under cover of the letter dated 21 February 2023. In addition, the appellant maintained the request for remittal to the examining division in the event that the board intended to make a decision based upon Article 123(2) or 84 EPC.

VI. Claim 1 of the main request reads:

A system configured to provide targeted data based on social media interaction, the system comprising:

- a computer automated information unique identifier creation device (206) which is in network communication with at least one social media network computing device (104) and which communicates with a publisher user's computing device (112),
- the publisher user's computing device (112) being configured to share (210) a selected digital media and/or related textural caption with the information unique identifier creation device (206),
- the information unique identifier creation device (206) being configured to generate and to return an information unique identifier in response (212) to the selected digital media and/or the related textual caption from the publisher user's computing device (112),
- the publisher user's computing device (112) being configured to post the selected digital media and the generated information unique identifier (214) on the social media network computing device (104),
- the social media network computing device (104) being configured to accept the posting of the selected digital media and the generated information unique

identifier (214) from the publisher user's computing device (112),

- wherein a plurality of member user's computing devices (118) being configured to access the posted digital media on the social media network computing device (104) and to provide a ranking (218) of the posted digital media,

- the social media network computing device (104) being configured to receive the ranking (218) of the posted digital media from each of the plurality of member user's computing devices (118) for the posted digital media and an associated time stamp for each ranking,

- a computer automated digital media ranking monitor device (208) configured to periodically access the social media network computing device (104) to request (220) a report of the posted digital media rankings, wherein the social media network computing device (104) provides (222) the posted digital media ranking and the associated time stamp for each ranking for each of the plurality of the member user's computing devices (118), and

- a computer automated communications device (204) configured to communicate targeted data to a computing device (118) associated with each of the member users as a function of each member user's posted digital media ranking if the associated time stamp is after a previous time stamp.

VII. The first auxiliary request adds the following features at the end of claim 1:

- wherein a time stamp associated with a last transmission for a specific social media network member user being determined; and

- wherein the targeted information to the specific

social media network member user being communicated if the time stamp associated with the posted digital media ranking for the specific social media network member user is after the time stamp associated with the last transmission for the specific social media network member user.

VIII. The second auxiliary request differs from the first auxiliary request in that the last three features are amended as follows:

... after a ~~previous~~ time stamp associated with a last electronic communication,

- wherein the computer automated communications device (204) being configured to retrieve the~~a~~ time stamp associated with a last electronic communication transmission for sent to a specific social media network member ~~user being determined~~; and

- wherein the computer automated communications device (204) being configured to communicate the targeted information to the specific social media network member user ~~being communicated~~ if the time stamp associated with the posted digital media ranking for the specific social media network member user is after the time stamp associated with the last electronic communication transmission sent to~~for~~ the specific social media network member user.

IX. Claim 1 of the third auxiliary request differs from the main request by the deletion of "and an associated time stamp for each ranking" in the seventh feature, "and the associated time stamp for each ranking" in the eight feature, and "if the associated time stamp is after a previous time stamp" in the ninth feature, as well as the addition of the following features at the end:

- wherein, on a per-user basis, the computer automated communications device (204) retrieves the time stamp for the last electronic communication sent to the respective member user's computing device (118), and then retrieves from the data storage device the information associated with a plurality of member user rankings posted most recently following the time stamp,

- wherein separate email correspondence containing the related item data/metadata is then generated based on each of the plurality of retrieved rankings and the plurality of generated email correspondences are added to a communications outbox queue, and

- wherein the communications outbox queue is sequentially emptied, and each email correspondence is sent to the member user's computing device until the queue is emptied.

X. Claim 1 of the fourth auxiliary request differs from the third auxiliary request in that the second feature is amended as follows:

- the publisher user's computing device (112) being configured to select digital media and/or related textural caption from the publisher user's computing device (112), and to share (210) the selected ...;

and in that the fifth feature is amended as follows:

- ... from the publisher user's computing device (112), and to store the selected digital media and the generated information unique identifier in a data storage device.

XI. Claim 1 of the fifth auxiliary request adds to the main request the word "periodically" after "configured to" in the ninth feature, and the following features at the



end:

- wherein, when active, the computer automated communications device (204) obtains from the system a list of active member users for receipt of electronic correspondence (706) containing targeted data based on the member user's ranking activities, and

- wherein, on a per-user basis (708), the computer automated communications device (204) retrieves the time stamp for the last electronic communication sent to the respective user (710), and then retrieves from a data storage device (110) the information associated with the ten member user rankings posted most recently following the time stamp (712).

XII. Claim 1 of the sixth auxiliary request replaces "if the associated time stamp is after a previous time stamp" at the end of claim 1 of the main request with:

"and the associated time stamp, and as a function of a time associated with a previous communication of a targeted data transmission to the computing device (118) associated with each of the member users".

## **Reasons for the Decision**

1. *Inventive step (Article 56 EPC)*

1.1 The Board first considers the fourth auxiliary request, as it was agreed during the oral proceedings that it provides a more narrow definition of the invention than the higher ranking requests. Although the fourth auxiliary request is not based on the wording of the first and second auxiliary request, the appellant

agreed that the latter requests did not include anything that was not also in the fourth auxiliary request. Thus, if the fourth auxiliary request is not allowable for lack of inventive step, the higher ranked requests must fail for the same reason.

- 1.2 The invention in claim 1 of the fourth auxiliary request concerns providing targeted data such as advertisements to a user, based on their social media interactions. During the oral proceedings, it was common ground that claim 1 defined, or at least covered, the following subject-matter.
- 1.3 A publisher (using device 112 in Figure 2) posts some content on a social media network (104). Other users of the social media network (user of device 118) "rank" e.g. like the post. The likes are monitored (by device 208) and targeted data are provided (by device 204) to the social media users via email, based on their likes. For example, a user who liked a video of a cute puppy on social media may receive advertisements for dog toys.
- 1.4 Claim 1 refers to a "unique identifier" which is generated by an "information unique identifier creation device" (206) for the social media post. Although the identifier is not used in the claim, it can be assumed that its purpose is to identify the post so that it can be monitored.
- 1.5 Claim 1 also defines retrieving a time stamp of the last communication sent to the user and then retrieving rankings posted "most recently" following the time stamp. It is those rankings that are taken into account when generating targeted data to the user.

1.6 The examining division argued in connection with the main request that providing targeted data to a user based on how this user ranked social media posts was a business concept. The feature of taking into account only the most recent rankings following the last communication of targeted data was considered to be part of this business concept. It solved the non-technical problem of providing the most relevant data from a business point of view and avoiding sending the same information twice.

Starting from a notoriously known computer system implementing a social network, the distinguishing features merely amounted to an obvious implementation of the business scheme.

1.7 The Board finds the examining division's reasoning sound and convincing and does not see any reason to depart from it.

1.8 The appellant argued that claim 1 related to a system and not a commercial method. There were technical interactions between technical components. The system received digital input data which was stored. A unique identifier was generated for the input data. This allowed other systems to identify the data so that it could be ranked. The ranking indicated the relevance of the data, and the time stamp identified when the ranking occurred. Such rankings and time stamps were highly relevant in computer technology, for example in various communication protocols. Just because the claim referred to "targeted data" and "social media interactions", the inherently technical character of the data processing should not be dismissed.

Furthermore, basing the targeted data only on rankings occurring after the time stamp of the previous message prevented repeated, unnecessary communications. This reduced bandwidth requirements and avoided network congestion, which were technical effects relevant for inventive step under the "Comvik approach".

1.9 The Board is not convinced by the appellant's arguments.

The Board does not deny that the claimed system has technical character overall, or that rankings and time stamps may play a technical role in a technical system. However, in the present case, the ranking is a like on a social media post, and the time stamps are used to ensure that the user gets up to date information. The Board does not consider this to be a technical problem. It is rather part of the business requirements as the examining division said in the decision under appeal.

The appellant's arguments that the invention reduces data traffic and therefore solves a technical problem does not persuade the Board. Sending advertisements is not technical. By the same logic, not sending or reducing the number of advertisements cannot be technical either. It is true that a decision to send or not to send an electronic message has an effect on the data network. However, that does not mean that the decision is itself technical. The effect on the network is rather an example of "technical leakage", i.e. where the intrinsic technical nature of the implementation leaks back into the intrinsically non-technical nature of the problem (T 1670/07 - Shopping with mobile device/NOKIA). The mere interaction with technical elements is not enough to make the whole process

technical.

1.10 For these reasons, the Board judges that claim 1 of the fourth auxiliary request lacks an inventive step (Article 56 EPC).

1.11 The main request and the first to third auxiliary request lack inventive step (Article 56 EPC) for the same reasons.

## 2. *Admission, fifth and sixth auxiliary requests*

2.1 The fifth and sixth auxiliary requests were filed after the summons to oral proceedings. Under Article 13(2) RPBA 2020, amendments made after notification of a summons to oral proceedings shall, in principle, not be taken into account unless there are exceptional circumstances, which have been justified with cogent reasons.

2.2 The appellant submitted that the amendments were made as a reaction to the Board's clarity and added-matter objections in the communication accompanying the summons to oral proceedings (points 4.1 and 4.2). These objections were raised for the first time by the Board in appeal proceedings, and, according to the established case law, this justified the filing of amended claims.

2.3 The Board agrees that a new objection belongs to the sort of exceptional circumstances envisaged in Article 13(2) RPBA 2020. However, such exceptional circumstances do not give the appellant carte blanche to file any amendments. The appellant must show, in a clear and logical manner, why the amendments are justified in view of these circumstances. That is what

is meant by cogent reasons in Article 13(2) RPBA 2020.

In the communication, the Board raised clarity and added-matter objections. The appellant argued that the word "periodically" in claim 1 of the fifth auxiliary request addressed the Board's objection under Article 123(2) EPC. The other additional features were said to address the clarity objection with regard to the "time stamp" feature in claim 1 of the main request.

However, auxiliary requests 1 to 4, which were all filed with the grounds of appeal, already contained features which clarified the time stamp feature in the main request to some degree, and the appellant did not explain why the fifth auxiliary request was necessary in view of the auxiliary requests already on file, in particular the fourth auxiliary request. Furthermore, the appellant did not explain why the slightly different wording in claim 1 of the fifth auxiliary request compared to the previous auxiliary requests was justified in view of the objection raised by the Board. For example, unlike in the fourth auxiliary request, claim 1 of the fifth auxiliary request does not refer to an "outbox queue". The "outbox queue" is also present in paragraph [0068] of the application as filed, which the appellant indicated as basis for the amendments in the fifth auxiliary request.

For these reasons, the Board does not consider that the appellant has given cogent reasons which justify the admission of the fifth auxiliary request, and therefore does not admit the fifth auxiliary request into the appeal proceedings.

2.4 The sixth auxiliary request was said to correspond to the granted claims of the corresponding US application.

No justification for submitting this request after the summons to oral proceedings in appeal proceedings was provided. Therefore, the Board sees no reason to admit this request into the appeal proceedings.

**Order**

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

The appeal is dismissed.

The Registrar:

The Chairman:



T. Buschek

W. Chandler

Decision electronically authenticated