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**Datasheet for the decision  
of 6 June 2024**

**Case Number:** T 0367/21 - 3.5.01

**Application Number:** 15747545.0

**Publication Number:** 3164837

**IPC:** G06Q20/22, G06Q20/32, G06Q20/38

**Language of the proceedings:** EN

**Title of invention:**  
ELECTRONIC PAYMENT SYSTEM AND RELATIVE METHOD

**Applicant:**  
Ricci, Francesco

**Headword:**  
Electronic payment system/RICCI

**Relevant legal provisions:**  
EPC Art. 54, 56

**Keyword:**  
Inventive step - transferring funds in real time using SEPA  
(no - not technical)

**Decisions cited:**  
T 0641/00, T 1670/07



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Case Number: T 0367/21 - 3.5.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.01**  
**of 6 June 2024**

**Appellant:** Ricci, Francesco  
(Applicant) Via Galileo Galilei 7  
47822 Santarcangelo di Romagna (IT)

**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted on 26 November  
2020 refusing European patent application No.  
15747545.0 pursuant to Article 97(2) EPC.

**Composition of the Board:**

**Chairman** W. Chandler  
**Members:** L. Falò  
L. Basterreix

## **Summary of Facts and Submissions**

- I. This is an appeal against the examining division's decision to refuse European patent application No. 15747545.0.
- II. The examining division refused the application for lack of novelty or inventive step of the main request in view of D1, EP 2 698 755. The first auxiliary request was not admitted because it was considered *prima facie* not allowable under Article 123(2) EPC. The second auxiliary request was not admitted because it was considered *prima facie* not allowable under Articles 123(2) and 56 EPC.
- III. In the statement setting out the grounds of appeal, the appellant requested that the decision of the examining division be set aside and a patent be granted on the basis of the main or one of the first to fourth auxiliary requests, filed or re-filed with the statement of grounds of appeal. The main request was identical to the refused main request. There was a further auxiliary request for oral proceedings "in case of disagreement with the Board of Appeal". The following documents were annexed to the statement of grounds:

SEPA CREDIT TRANSFER RULEBOOK

SEPA INSTANT CREDIT TRANSFER (SCT INST) SCHEME RULEBOOK

EPI: The European Payments Initiative

EXPERT OPINION by Mr. Enrico Ambrosi

- IV. The appellant provided further reasons concerning the patentability of the claims with letter of 19 June 2023.
- V. In the communication accompanying the summons to oral proceedings, the Board set out its preliminary view that claim 1 of the main request was novel vis-a-vis D1 but not inventive in view of D2, and that claim 1 of the auxiliary requests also lacked an inventive step in view of D2. The Board further raised clarity objections (Article 84 EPC) against claim 1 of the main, first and second auxiliary request, and of added subject-matter (Article 123(2) EPC) against claim 1 of the second and fourth auxiliary request.
- VI. In a letter of reply, the appellant provided further reasons concerning the patentability of the claims.
- VII. Oral proceedings took place on 6 June 2024. Following the appellant's request, they were conducted in person.
- VIII. Claim 1 of the main request reads:

*"System to carry out instantaneous electronic payments between a payer and a receiver, the payer having a payer's current account (203) at a payer's bank (204), the receiver having a receiver's current account (207) at a receiver's bank (206), characterised in that said system comprises:*

*a first device (202) intended to be used by the payer and configured, to exchange commercial data and information of identification with a second device (209) and to communicate with the payer's current account (203) from remote;*

*a second device (209) intended to be used by the receiver and configured, to exchange of commercial data and information of identification with said first device (202) and to communicate with the receiver's current account (207) from remote;*

*wherein the first device (202) and second device (209) are configured, to synchronize and connect each other upon exchanging identification information;*

*wherein the first device (202) is configured, to connect with the payer's bank and immediately order payments to the payer's bank (204) on the basis of identification data and commercial details received from the second device (209) to immediately send funds from the payer's current account (203) to the receiver's current account (207);*

*wherein the payer's bank (204) is configured to connect with the receiver's bank and transfer funds in real time from the payer's current account (203) to the receiver's bank (206) through a SEPA system or a similar one configured to make real time transactions in response to the payment order received from the first device;*

*wherein the receiver's bank (206) is configured, to immediately make available the funds at the receiver's current account, as said funds arrive on the current account (207);*

*wherein the second device (209) is configured, to connect with the receiver's bank and check the arrival of funds on the bank receiver's current account (207);*

*wherein the second device (209) is configured, to confirm the payment reception to the first device (202), through the emission of a payment receipt or by showing the payment just received, on its display or, by sending a confirmation message;*

*wherein the first device (202) and the second device (209) are controlled by software, directly installed, configured to elaborate codes of: identification of the parties, commercial of the goods subject to transaction, of confirmation and of execution of the transaction".*

- IX. Claim 1 of the first auxiliary request differs from the same claim of the main request by the addition, before the characterising portion, of the feature

*"the payer's bank (204) being different from the receiver's bank (206)".*

- X. Claim 1 of the second auxiliary request differs from the same claim of the main request essentially by the addition, in the step describing the inter-bank connection, of the feature

*"said system implementing an interbank network with a Clearing and Settlement Mechanism".*

- XI. Claim 1 of the third and fourth auxiliary request differs from the same claim of the main and second auxiliary request, respectively, by the deletion of the expression *"or a similar one"* in the step describing the inter-bank connection.

- XII. The appellant essentially argued as follows:

The system of D2 and, more generally, the systems known at the priority date of the application were not suitable to achieve a real-time transfer of funds, because transactions were processed in batches at regular, predetermined intervals (e.g. at the end of a working day). Moreover, the system of D2 required devices capable of establishing a near field communication link, and the use of SMS protocol made it unsuitable to manage real-time transactions. Compared with the prior art, the claimed system provided higher security and simplified the fund transfer process.

### **Reasons for the Decision**

1. The invention concerns performing instant payments and other types of financial transactions between payer and payee ("receiver") without the mediation of a third party (page 1, second paragraph to page 2, first paragraph).

Looking at Figure 2, in order to start a transaction the payer's 202 and receiver's 209 mobile terminals exchange transaction information 1, 2 with each other over a wireless network. Based on this information, the payer's mobile terminal connects to the payer's bank 204 and orders it to transfer funds in "real time" to the receiver's bank 205 (see description, page 2, second paragraph after "Invention summary"). The funds are transferred using a SEPA system or an equivalent one (page 4, third paragraph). The receiver's mobile terminal then connects to the receiver's bank 5 to check whether the funds have been received and, if so, sends a confirmation message or provides a payment receipt 6 to the payer.

*Novelty - all requests*

2. The Board agrees with the appellant that it is at least implicit in the wording of claim 1 of all requests that the payer's and receiver's bank are different banks and are hosted on different devices.

Firstly, they are identified by different reference numbers in the claim as well as throughout the description. Secondly, the payer's bank is configured to connect with the receiver's bank, which only makes technical sense if the two banks are hosted on different devices. Thirdly, as observed by the appellant the application as a whole never suggests that the invention may be applied to the transfer of funds within the same bank or host, and the drawings consistently show two different entities with different reference signs.

3. This feature is not disclosed in document D1. On the contrary, D1 explicitly requires both accounts to be stored on a single payment host (see for example Figure 1).
4. The Board concludes that, at least for this reason, claim 1 of all requests is novel over D1 (Article 54 EPC).

*Inventive step - fourth auxiliary request*

5. The Board finds it expedient to start with the assessment of the fourth auxiliary request.



6. The Board judges that the subject matter of claim 1 lacks an inventive step (Article 56 EPC) in view of D2, EP 2 056 261, for the reasons set out below.
  
7. Looking at Figure 1, D2 discloses a method of making a payment using mobile communications devices 1, 2 adapted to wirelessly exchange with each other transaction information, including identification information ("NFC", see also paragraph [0006]) and to communicate ("UMTS") with respective financial institutions B1, B2. The payment involves a transfer of funds between the payer's and receiver's financial institutions (see also paragraph [0005], fourth bullet point), and the funds are transferred by the first financial institution to the second financial institution using a "conventional data connection" upon receiving a payment order from the first mobile device (paragraph [0026]).
  
8. D2 does not disclose the following features or groups of features of claim 1:  
  
A - the two banks are configured to connect "*through a SEPA system implementing an interbank network with a Clearing and Settlement Mechanism and being configured to make real time transactions*";  
  
B - the receiving bank makes the funds immediately available on receiver's account;  
  
C - the second device connects to the receiver's bank to check the arrival of funds and then confirms the payment by showing a receipt on its display or by sending a confirmation message.

Feature group A

9. SEPA (Single Euro Payments Area) is a payment-integration initiative of the European Union for simplification of bank transfers denominated in euro. It defines a set of interbank rules, practices and standards to be observed by the adherent participants which are of essentially business-related, non-technical nature. In particular, the SEPA scheme is separated from any specific implementing infrastructure, platform or network (see "SEPA credit transfer scheme rulebook", paragraph 1.5). Similarly, a clearing and settlement mechanism (CSM) is essentially a set of business-related requirements for settling financial transactions.
  10. Consequently, the Board takes the view that transferring funds using a SEPA system and making use of a clearing and settlement mechanism are business-related, non-technical requirements.
  11. According to the established case law of the Boards of Appeal, non-technical features do not contribute to inventive step. Instead, they may appear in the formulation of the technical problem, in particular as constraints or requirements to be achieved (see decision T 641/00 - *Two identities/COMVIK*, Headnotes 1 and 2).
- Following this approach, the technical problem solved by feature group A can be formulated as how to transfer funds in real-time between the banks in a manner compliant with the SEPA system and including a CSM.
12. The Board judges that the claimed solution of "configuring" the system accordingly, not adding any

further technical features, is a self-evident solution to this problem.

Moreover, conventional network technology already enabled a real-time transfer of information at the publication date of D2 and, technically, the transfer of financial data is not different from the transfer of other types of data.

While SEPA does foresee a (maximum) transfer delay of one business day, this interval is not due to technical, but to administrative issues and can be shortened as desired, for example by means of specific inter-bank agreements (see SEPA credit transfer scheme rulebook, paragraph 1.8).

13. The Board's view is confirmed by the expert opinion provided by the appellant, according to which the skilled person would have been able to implement the features of claim 7 - which include a real-time transfer of funds - over a known SEPA system.
14. Accordingly, the Board concludes that the features of group A cannot support an inventive step.
15. The appellant argued that the conventional data connection of D2 was unsuitable to process real-time payments because it was necessarily limited to a "batch processing interaction mode", which was the only type available at the time and implied that the transfer of funds took place at predetermined intervals (e.g. at the end of a working day). During the oral proceedings, the appellant stressed that the invention enabled real-time fund transfer by either executing the batch operations in real time or avoiding them altogether, as discussed in the description, page 10, first four lines.

16. The Board finds these arguments unconvincing.

The disclosure of D2 is not limited to - and, indeed, does not even mention - performing batch processing.

Moreover, from a technical point of view there is no need to transfer funds over a conventional network in batches at predetermined intervals, rather than in real-time. Therefore, even accepting the argument that batch processing was the usual or even the only way of executing fund transfers at the filing date of the application and thus implicit in D2, this appears to be due to business, regulatory or administrative considerations. Non-technical aspects cannot however be invoked as reasons for not modifying the prior art, as they cannot contribute to inventive step (cf. "non-technical prejudice fallacy", at point 16 of decision T 1670/07, taken by this Board in a different composition).

The Board further notes that the features concerning the way in which known batch processing operations are to be modified according to the invention are only discussed in the description and have therefore no limiting effect on the claimed subject matter. Even if claim 1 were to include these features, they would, for the reasons discussed in the previous paragraph, be considered as administrative measures, rather than a technical solution to a technical problem, and therefore part of the non-technical requirements to be provided to the skilled person. In other words, in the Board's view the idea of speeding up the fund transfer by increasing the frequency of the batch processing or of avoiding it altogether would come from the "business person" (see Case Law of the Boards of Appeal, 10th

edition 2022, I.D. 9.2.7), the skilled person only being in charge of the implementation on the conventional network of D2. Said implementation is straightforward, for the reasons discussed above.

#### Feature B

17. Making the funds immediately available on the receiver's account is a further administrative, non-technical requirement. This is because the availability of the received funds is not related to any technical characteristics of the receiving bank's system, but only depends on the bank's internal administrative rules. Moreover, the claim provides no technical detail as to how this requirement is implemented.

The Board therefore concludes that this feature cannot support an inventive step.

#### Feature group C

18. The features of group C concern the way in which the first user is notified of the transfer of funds. The "second device" (e.g. the merchant device) connects to the receiver's bank and confirms the payment by showing a receipt on its display or by sending a confirmation message.

In D2, on the contrary, the second financial institution sends a confirmation message to the first device either directly or via the first financial institution (paragraph [0027]).

- 18.1 The appellant argued that the skilled person would not modify the data flow of D2, and that these features provided the technical effect of "simplifying the

process of transferring funds between a payer and a receiver while maintaining a high level of safety".

- 18.2 The Board, however, does not see how having the confirmation message sent by the receiver device, rather than by the receiver's bank, may credibly increase the security of the transaction or otherwise simplify the actual transfer of funds. In the Board's view, the features of group C merely represent one among the obvious, alternative manners of notifying the first user of the arrival of funds. The Board also observes that most known merchant devices provide some form of visual confirmation to the customer when a transaction has taken place.

*Other arguments from the appellant*

19. The appellant argued that the use of SMS to connect the devices to the respective banks was not suitable to achieve a real-time connection.

The Board finds this argument unconvincing. In D2 the use of SMS for exchanging messages with the banks is presented only as an example. Moreover, the expression "real-time" is very broad and, in the context of a financial transaction, is considered to cover the typical latency time of SMS messages.

20. Further arguments, put forward during the written as well as the oral proceedings, were that the system of D2 necessarily required the use of NFC-capable devices, while the claimed system worked with any type of IP connection, and that the SMS protocol did not meet the minimum security standards required for financial transactions. Moreover, D2 only required the users to enter a PIN while, according to the invention, further

security levels were possible. These included checking the user's biometric data as specified in the description, page 5, last paragraph.

21. The Board takes a different view, for the following reasons:
  - 21.1 Claim 1 does not specify any technical detail as to how the first and second device exchange information. Therefore, the use of NFC falls under the wording of the claim. Making use of an NFC is indeed one of the possibilities explicitly mentioned in the application, see description, page 2, lines 18 to 22.
  - 21.2 Similarly, the claim neither specifies how the devices communicate with the respective banking systems, nor includes any technical feature providing a higher security level than the exchange of SMS messages. Thus, also the exchange of SMS messages falls under the wording of the claim.
  - 21.3 Finally, the features concerning the biometric data are only mentioned in the description and, therefore, have no limiting effect on the claimed subject-matter.
22. In view of the above, the Board concludes that all the features differentiating the subject matter of claim 1 of the fourth auxiliary request from the disclosure of D2 are either non-technical or obvious, and therefore cannot support an inventive step.

*Inventive step - Main, first, second and third  
auxiliary request*

23. The subject-matter of claim 1 of the higher-ranking requests is more general than that of the same claim of the fourth auxiliary request.

Hence, the same objections as to lack of inventive step apply.

*Conclusion*

24. As none of the requests meets the requirements of Article 56 EPC, the appeal must be dismissed.

## **Order**

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

The appeal is dismissed.

The Registrar:

The Chairman:



T. Buschek

W. Chandler

Decision electronically authenticated