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Datasheet for the decision
of 6 May 2010

Case Number: T 0736/07 - 3.5.02

Application Number: 03791017.1

Publication Number: 1532602

IPC: G08G 1/123

Language of the proceedings: EN

Title of invention:
Traffic scheduling system

Applicant:
Itis Holdings Plc

Headword:
-

Relevant legal provisions:
EPC Art. 54, 56

Relevant legal provisions (EPC 1973):
-

Keyword:
"Novelty (yes)"
"Inventive step (no)"

Decisions cited:
-

Catchword:
-

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Boards of Appeal

Chambres de recours

Case Number: T 0736/07 **-** 3.5.02

D E C I S I O N
of the Technical Board of Appeal 3.5.02
of 6 May 2010

Appellant:	Itis Holdings Plc The Warrent House 1 High Street Altrincham Cheshire WA14 1PZ (GB)
Representative:	Hill, Justin John McDermott Will & Emery UK LLP 7 Bishopsgate London EC2N 3AR (GB)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted 9 February 2007 refusing European application No. 03791017.1 pursuant to Article 97(1) EPC 1973.**

Composition of the Board:

Chairman: M. Ruggiu
Members: J.-M. Cannard
            E. Lachacinski

C3513.D

Summary of Facts and Submissions

I.   The appellant contests the decision of the examining
        division of 9 February 2007 to refuse European patent
        application No. 03 791 017.1. The reason for the refusal
        was that the subject-matter of claim 1 then on file was
        not inventive (Article 56 EPC).

II.   The prior art documents:

        D1: US2002/0055818 A1, and

        D2: US-A-5 724 243,

        considered in the first instance, remain relevant to the
        present appeal.

III.   With a communication dated 1 February 2010 annexed to
        summons to oral proceedings, the Board observed,
        inter alia, that the subject-matter of independent
        claim 1 of the amended set of claims filed with the
        statement of grounds of appeal in a letter dated
        10 April 2007 did not appear to involve an inventive
        step having regard to documents D1 and D2 taken in
        combination.

IV.   With a letter received on 9 April 2010, the applicant
        announced that they would not attend the scheduled oral
        proceedings and requested that the case be decided based
        on the written arguments submitted to date.

V.   The applicant did not attend the oral proceedings before
        the Board which were held on 6 May 2010. It can be
        understood from the file as it stands that the appellant

requests that the decision under appeal be set aside and that a patent be granted on the basis of the amended set of claims 1 to 17 filed with the statement of grounds of appeal in a letter dated 10 April 2007.

VI.   Claim 1 filed with the statement of grounds of appeal reads as follows:

"A method of operating a traffic scheduling computer system for planning journeys for delivery resources comprising multiple elements considered as separate but inter-related resources, each journey having a plurality of transit points, the method comprising:

receiving scheduling criteria including transit point data and availability data of the separate but inter-related resources;

receiving map data, said map data comprising one or more routes, each route defined by a plurality of route-sections;

receiving forecast speed information for a traffic unit on each said route-section, the forecast speed for a given route-section depending on historical speed data for that route-section at a predetermined time on a particular day; and

planning a journey including a plurality of transit points in dependence on the scheduling criteria and forecast speed information."

The other claims of the appellant's request do not need to be considered in this decision and, therefore, are not reproduced here.

VII.   The appellant's arguments can be summarized as follows:

The closest prior art document D1 did not disclose planning journeys "for delivery resources comprising multiple elements considered as separate but inter-related resources" or when planning journeys using "availability data of the separate but inter-related resources". The technical effect of these features was that it was possible to more accurately plan journeys and the objective problem addressed by the application was to more accurately plan journeys.

However, neither D1 nor document D2 discussed the possibility of considering the driver and the vehicle as separate entities having different availability data in order to increase the accuracy. The distinguishing features were advantageous because they enhanced re-planning and offered many alternatives in the event of unpredicted traffic delays and when the total driving time in a day was restricted by law, as in many countries. Therefore, the invention recited in independent claim 1 provided an inventive step over the systems disclosed in D1 and D2, and over a combination thereof.

Reasons for the Decision

1.   The appeal is admissible.

2.   Document D1 (figures 1 to 5; paragraphs [0016], [0017],
        [0030]) discloses a method of operating a traffic
        scheduling computer system (host 140) for planning
        journeys for delivery resources comprising multiple
        elements (i.e. "vehicles"), each journey having a
        plurality of transit points (i.e. "destinations"),
        which comprises the following features of claim 1:

        - receiving scheduling criteria including transit point
        data and availability of vehicles (page 4, left column,
        lines 5 to 20 and 54 to 57; figure 2);

        - receiving map data, said map data comprising one or
        more routes, each route defined by a plurality of
        route-sections (page 4, left column, line 61 to right
        column, line 6);

        - receiving forecast speed information for a traffic
        unit on each said route-section and historical travel
        times for that route-section (page 4, right column,
        lines 25 to 35: "estimated speed" and "past travel
        times"); and

        - planning a journey including a plurality of transit
        points in dependence on the scheduling criteria and
        forecast speed information (paragraphs [0042] and
        [0043].

3.   The multiple elements of the delivery resources which
        in claim 1 are specified as "separate but inter-related
        resources" can be the "trailer, prime mover and driver"
        of a traffic unit (vehicle) as this appears from the
        original application (page 8, lines 16 to 18, page 13,

lines 28 to 29 and page 14, line 14 of the published
application WO2004/021306 A2).

4.   Accordingly, the method according to present claim 1
        differs from the method disclosed in D1 only in that (a)
        it is suitable for planning journeys for delivery
        resources whose elements are considered as separate but
        inter-related resources and it comprises scheduling
        criteria that include availability data of the separate
        but inter-related resources, and (b) the forecast speed
        for a given route-section depends on historical speed
        data for that route-section at a predetermined time on
        a particular day. Therefore, the subject-matter of
        claim 1 can be regarded as new.

5.   Having regard to features a), the objective technical
        problem addressed by the invention, starting from D1
        can be seen as improving the planning of journeys, as
        specified in the application. The method of D1 takes
        into account data about the availability of vehicles,
        which are contained in a database (see page 4, lines 54
        to 57). It is also well known that the availability of
        vehicles depends on the availability of the drivers for
        the vehicles, especially because the availability of
        drivers is limited by law (see for instance document D2,
        columns 5 and 6, bridging paragraph) and by contractual
        arrangements (e.g. holidays). D2, more specifically,
        indicates that stationary intervals including mandatory
        driver rest periods may impact the calculation of
        expected time of arrival. Therefore, it would be
        obvious to the skilled person, starting from D1 and
        aware of D2, to also take into account the availability
        of drivers and vehicles as separate criteria. Hence,
        features (a) do not appear to involve an inventive step.

6.   According to paragraph [0043] of D1, the computer
      system (host 140) performs the planning (arrival and
      departure times) based on "mileage, past travel times,
      speed limits" and provides an "estimated speed" of the
      vehicle. Document D2 indicates at column 5, lines 53 to
      63 that calculating the expected time of arrival may in
      particular consider the time of the day during which
      the vehicle is travelling. Having regard to features b),
      it would thus be obvious for the skilled person to use
      mileage and past travel times to provide estimated
      speeds of the vehicle, in particular based on
      historical data at a predetermined time on a particular
      day for each route-section to provide precise forecast
      speed information for the traffic unit. Accordingly,
      distinguishing features (b) do not appear to involve an
      inventive step.

7.   As the skilled person aware of D1 would consider the
      features a) and b) independently from each another and,
      doing so, arrive in an obvious way at the subject-matter
      of present claim 1, said subject-matter does not involve
      an inventive step (Article 56 EPC).

8.   Since the application does not meet the requirements of
      the EPC, the appeal has to be dismissed.

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Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

U. Bultmann   M. Ruggiu

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