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**Datasheet for the decision
of 14 January 2014**

Case Number: T 2216/09 - 3.4.03
Application Number: 02726045.4
Publication Number: 1504588
IPC: G07F19/00, H04Q7/32, G07F19/00
Language of the proceedings: EN

Title of invention:

SYSTEM TO ENABLE A TELECOM OPERATOR PROVIDE FINANCIAL
TRANSACTIONS SERVICES AND METHODS FOR IMPLEMENTING SUCH
TRANSACTIONS

Applicant:

Paycool International Limited

Headword:

Relevant legal provisions:

EPC Art. 52(2), 52(3)
EPC 1973 Art. 56

Keyword:

Inventive step (no)

Decisions cited:

T 0641/00

Catchword:



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Case Number: T 2216/09 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 14 January 2014

Appellant: Paycool International Limited
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Representative: Scheer, Luc
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Decision under appeal: **Decision of the Examining Division of the European Patent Office posted on 26 June 2009 refusing European patent application No. 02726045.4 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman: G. Eliasson
Members: R. Bekkering
T. Karamanli

Summary of Facts and Submissions

- I. This is an appeal against the refusal of European patent application No. 02 726 045 for lack of an inventive step, Article 56 EPC.
- II. Oral proceedings were arranged. The summons to these oral proceedings was provided with an annex in which a provisional opinion of the board on the matter was given. It was noted that the subject-matter of independent claims 1 and 23 appeared to lack an inventive step, Article 56 EPC 1973.
- III. Oral proceedings were held on 14 January 2014 in the forewarned absence of the duly summoned appellant.
- IV. The appellant requested with the statement setting out the grounds of appeal dated 5 November 2009 that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 47 filed therewith.
- V. Claim 1 reads as follows:

"A system enabling subscribers of a wireless Telecom Operator to execute financial transactions with a mobile phone, in which a subscriber has one or several open Financial Transaction Accounts being managed by the Telecom Operator, which can receive monetary deposits and on which debit and credit operations can be executed, the system comprising:

a) a Transaction Processing Platform which is a software system running on computers of the Telecom Operator and which is interfaced at least with a subscribers' database, a wireless telephone network, an accounting

system and other elements of a Telecom Operator infrastructure, the Transaction Processing Platform comprising means for:

- receiving and interpreting financial transaction orders transmitted over the wireless telephone network via the mobile phone, and*

- executing the ordered financial transactions and managing the related movements and operations including debiting and/or crediting related Financial Transaction Accounts, confirming transactions, establishing statements of accounts, reporting transactions to Financial Transaction Account owners, sending and receiving transaction related data through the wireless communication network to/from the mobile phones, and*

b) a client software program which can run on a mobile phone or on the Subscriber Identity Module inserted in the mobile, said client software program being arranged to perform the following functions:

- allowing authentication of the subscriber through password input via the mobile phone;*

- enabling capture or validation by the subscriber of the financial transaction related data and display thereof on the mobile phone;*

- enabling via the mobile phone, sending or receiving transaction related data or financial transaction account information to/from the Transaction Processing Platform through the wireless telephone network, wherein the financial transactions are executed between the mobile phones of at least two users connected to*

the system via the wireless telephone network and the Transaction Processing Platform."

Claim 23 is directed at a method used in a system according to one of [the] above claims.

VI. The appellant submitted in substance the following arguments:

The claimed features clearly involved technical means, such as the Transaction Platform executed on a Mobile Telecom infrastructure and the Client Software executed on a mobile phone, and therefore they could not be assimilated to a mere business scheme and/or method as such and simply discounted for the purpose of assessing the existence of an inventive step. The invention as claimed went beyond a System for doing business as such and, therefore, was not excluded from patentability under Article 52(2)(c) in combination with Article 52(3) EPC, and claims 1 and 24 did define an invention within the meaning of Article 52(1) EPC.

Standard wireless telecommunication networks were geared at providing telecommunication services, and designed with telecommunication transactions, mainly voice transactions, in mind. As a result, the existing wireless telecommunication networks were very widely used for telecommunication transactions (e.g. phone calls), but they were not adapted for rendering payment services between subscribers of the telecommunication services. The objective technical problem was, therefore, how to provide a wireless telephone network capable of carrying out peer to peer payment transactions between users of the network, in a simple and efficient way.

The man skilled in the art was a person skilled in developing telecommunication networks with the purpose of enabling users to conduct voice calls between mobile phones, not familiar with networks for making payments, as such networks typically involved online data networks such as the Internet. Therefore, solving the objective technical problem lay outside of the normal tasks of the man skilled in the art of conventional wireless phones networks. The development of a specific payment architecture or layer within an existing wireless network infrastructure, was a task which could not be obvious for the skilled man in the art of telecommunication networks. It might be possible that once the invention was known, it would be possible for a man skilled in the art to modify the architecture of the wireless telephone network in order to open it up for other transactions than the usual telephone transactions. However, the actual implementation of payment transactions within this new architecture would still be beyond his reach, and he would need to cooperate with a man skilled in another technical field, namely the field of e-commerce online networks and payment transactions. A specific transaction platform and a specific client software had to be devised, with a whole array of functional and technical capabilities as listed in claim 1. Such specific transaction platform and client software did not exist in the conventional wireless phone system, and were out of reach of the normal activity of the man skilled in the art of telephone networks.

Accordingly, the subject matter of claims 1 and 23 was inventive.

Reasons for the Decision

1. The appeal is admissible.
2. *Exclusion under Article 52(2) and (3) EPC*

Claim 1 concerns a system comprising:

"a) a *Transaction Processing Platform which is a software system running on computers of the Telecom Operator*", and

"b) a *client software program which can run on a mobile phone or on the Subscriber Identity Module inserted in the mobile*".

The latter feature does not define the involvement of technical means such as the mobile phone or SIM, but merely that the software program can run on them. The former feature, on the other hand, is considered to define the involvement of technical means, ie the computers of the telecom operator as part of the claimed system.

In view of this involvement of specified technical means, the subject-matter of claim 1 is not considered to be programs for computers as such and, thus, not to be excluded from patentability, Article 52(2)(c) and (3) EPC.

3. *Inventive step*
- 3.1 The claimed invention concerns the technical implementation of a scheme for doing business.

Schemes for doing business shall not be regarded as inventions within the meaning of Article 52(1) EPC, in accordance with Article 52(2) EPC, and are therefore deemed to be non-technical.

According to established jurisprudence, an invention consisting of a mixture of technical and non-technical features and having technical character as a whole is to be assessed with respect to the requirement of inventive step by taking account of all those features which contribute to said technical character whereas features making no such contribution cannot support the presence of inventive step. Where the claim refers to an aim to be achieved in a non-technical field, eg in the field of business schemes like in the present case, this aim may legitimately appear in the formulation of the problem as part of the framework of the technical problem that is to be solved, in particular as a constraint that has to be met (cf "*Case Law of the Boards of Appeal of the EPO*", 7th Edition 2013, I.D.9; T 641/00, OJ EPO 2003, 352, Reasons, points 3 to 7).

Accordingly, in the present case the technical problem to be solved may, thus, be formulated as to technically implement, using technical means, the business scheme enabling subscribers of a wireless telecom operator to execute financial transactions with a mobile phone.

All steps of the underlying business scheme are, thus, part of the information provided to the technician in charge of the technical implementation and do as such not contribute to inventive step.

3.2 The system of claim 1 comprises:

(i) one or several open Financial Transaction Accounts being managed by the Telecom Operator, which can receive monetary deposits and on which debit and credit operations can be executed,

(ii) a Transaction Processing Platform which is a software system running on computers of the Telecom Operator and which is interfaced at least with a subscribers' database, a wireless telephone network, an accounting system and other elements of a Telecom Operator infrastructure, comprising means for:

- receiving and interpreting financial transaction orders transmitted over the wireless telephone network via the mobile phone, and
- executing the ordered financial transactions and managing the related movements and operations including debiting and/or crediting related Financial Transaction Accounts, confirming transactions, establishing statements of accounts, reporting transactions to Financial Transaction Account owners, sending and receiving transaction related data through the wireless communication network to/from the mobile phones,

(iii) a client software program which can run on a mobile phone or on the Subscriber Identity Module inserted in the mobile, said client software program being arranged to perform the following functions:

- allowing authentication of the subscriber through password input via the mobile phone;
- enabling capture or validation by the subscriber of the financial transaction related data and display thereof on the mobile phone;
- enabling via the mobile phone, sending or receiving transaction related data or financial transaction account information to/from the Transaction Processing Platform through the wireless telephone network,

(iv) the financial transactions are executed between the mobile phones of at least two users connected to the system via the wireless telephone network and the Transaction Processing Platform.

Regarding feature (i) listed above, insofar as a Financial Transaction Account can be considered technical means, it would readily occur to a person skilled in the art entrusted with the technical implementation of the underlying business scheme enabling executing financial transactions with a mobile phone to provide each mobile phone user with a corresponding account. This is all the more so as this account, according to the description, may in fact be merged with the phone account, eg a prepaid telephone account, already provided to every mobile phone user and, thus, no extra account is required (cf description, page 3, lines 28 to 31).

Any extension of the type of financial transactions which can be performed with the account (receive monetary deposits, debit and credit operations) is dictated by the underlying business scheme and, thus, cannot contribute to inventive step.

Regarding feature (ii) above, the listed functionality to be provided by the means of the transaction processing platform is of a financial nature and determined by the underlying business scheme and, thus, cannot contribute to inventive step. Insofar as a transaction processing platform, which is a software system running on computers of a Telecom Operator, with its respective means represent technical means, the provision of such means is straightforward for a person skilled in the art.

Similarly, regarding feature (iii) above, the listed functions to be provided by the client software program are of a financial nature and determined by the underlying business scheme and, thus, cannot contribute to inventive step. Arguably, the first listed function relating to the authentication of the subscriber through password input via the mobile phone, beside the evident function within the business scheme of identifying the party to the financial transaction, also addresses a technical aspect of transaction security. Password (or PIN) input is, however, a common security measure in payment systems, so that its use is obvious to the skilled person.

Insofar as a client software program could be considered technical means, the provision of such means is straightforward for a person skilled in the art.

Finally, regarding feature (iv) above, the fact that the financial transactions are executed between the mobile phones of at least two users is again imposed by the underlying business scheme and, thus, cannot contribute to inventive step. Connecting the mobile phones to the system via the wireless telephone network and the Transaction Processing Platform is obvious to a person skilled in the art entrusted with the technical implementation of the underlying business scheme.

- 3.3 The appellant argued that it might be possible that once the invention was known, it would be possible for a man skilled in the art to modify the architecture of the wireless telephone network in order to open it up for other transactions than the usual telephone transactions. However, the actual implementation of payment transactions within this new architecture would

still be beyond his reach, and he would need to cooperate with a man skilled in another technical field, namely the field of e-commerce online networks and payment transactions. In particular, a specific transaction platform and a specific client software had to be devised, with a whole array of functional and technical capabilities as listed in claim 1. Such specific transaction platform and client software did not exist in the conventional wireless phone system, and were out of reach of the normal activity of the man skilled in the art of telephone networks.

It is, however, noted that the functional and technical capabilities listed in claim 1 in fact merely define the steps of the underlying business scheme. As discussed above, all steps of the underlying business scheme are, however, part of the information provided to the technician in charge of the technical implementation and cannot contribute to inventive step. Moreover, in the present case the skilled person in charge of the technical implementation would be familiar with both wireless telephone and ecommerce online networks, or may be viewed as a team of experts on the respective technical fields (cf "*Case Law of the Boards of Appeal of the EPO*", 7th Edition 2013, I.D. 8.1.2). As argued above, the technical implementation as claimed is obvious to this skilled person.

3.4 The above applies mutatis mutandis to claim 23 directed at a method used in a system according to one of the above claims.

4. Accordingly, the subject-matter of claims 1 and 23, having regard to the state of the art, is obvious to a person skilled in the art and, therefore, lacks an inventive step, Article 56 EPC 1973.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



S. Sánchez Chiquero

G. Eliasson

Decision electronically authenticated