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**Datasheet for the decision
of 20 October 2016**

Case Number: T 1940/10 - 3.5.05

Application Number: 02806210.7

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Language of the proceedings: EN

Title of invention:
SYSTEM FOR COMMUNICATING THROUGH MAPS

Applicant:
HERE Global B.V.

Headword:
SYSTEM FOR COMMUNICATING THROUGH MAPS/HERE

Relevant legal provisions:
EPC Art. 56
RPBA Art. 15(3)

Keyword:
Inventive step - mixture of technical and non-technical
features - main request (no) - auxiliary requests (no)

Decisions cited:

T 0641/00, T 0258/03

Catchword:



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Boards of Appeal
Chambres de recours

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Case Number: T 1940/10 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 20 October 2016

Appellant: HERE Global B.V.
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted on 17 May 2010
refusing European patent application No.
02806210.7 pursuant to Article 97(2) EPC.

Composition of the Board:

Chair A. Ritzka
Members: M. Höhn
D. Prietzel-Funk

Summary of Facts and Submissions

- I. This appeal is against the decision of the Examining Division of the European Patent Office, posted on 17 May 2010, refusing European patent application No. 02806210.7 pursuant to Article 97(2) EPC for lack of inventive step (Article 56 EPC) with regard to prior-art publications:
- D1: WO 00/16209 A1,
D2: US 5 990 886 A1 and
D3: WO 98/21664 A1.
- II. The notice of appeal was received on 13 July 2010. The appeal fee was paid on the same day. The statement setting out the grounds of appeal was received on 10 August 2010. The appellant requested that the appealed decision be set aside and that a patent be granted on the basis of the main request submitted with the letter dated 12 March 2010 or the first or second auxiliary request, both filed with the statement setting out the grounds of appeal. Oral proceedings were requested on an auxiliary basis.
- III. By communication dated 5 July 2016 the board summoned the appellant to oral proceedings on 20 October 2016. In a further communication dated 15 September 2016 the board expressed its preliminary opinion that all requests lacked an inventive step (Article 56 EPC 1973).
- IV. By letter dated 29 September 2016 the appellant announced that it would not be attending the oral proceedings and withdrew the request for oral proceedings.

V. Independent claim 1 according to the main request reads as follows:

"1. A method of communicating postings to a target user community, comprising:

(a) storing a plurality of postings, each posting including a source identification tag, an information body, and a broadcast descriptor, the broadcast descriptor identifying a geographical region of said each posting, wherein the geographical region is defined by a closed region on a map (1105);

(b) receiving a plurality of requests from mobile and stationary users, each request from a user including a user identification tag and an antenna descriptor, the antenna descriptor identifying a geographical location of the user;

(c) processing each request from step (b), including:

(i) identifying one or more postings having geographical regions that contain the geographical location; and

(ii) sending the identified one or more postings to the user;

(d) processing a subsequent request from the user, the subsequent request including a user identification tag and an antenna descriptor specifying a subsequent geographical location of the user, said processing a subsequent request from the user including sending to the user other postings having geographical regions that contain the subsequent geographical location, wherein the other postings do not include any posting previously sent to the user."

VI. Oral proceedings were held on 20 October 2016 in the absence of the appellant. After due consideration of the appellant's arguments the chair announced the decision.

Reasons for the Decision

Admissibility

1. The appeal complies with Articles 106 to 108 EPC (see Facts and Submissions, point II above). It is therefore admissible.

Non-attendance at oral proceedings

2. By letter dated 29 September 2016 the appellant announced that it would not be attending the oral proceedings and withdrew the corresponding request. The board nonetheless considered it expedient to maintain the date set for oral proceedings. Nobody attended on behalf of the appellant.
3. Article 15(3) RPBA stipulates that the board is not obliged to delay any step in the proceedings, including its decision, by reason only of the absence at the oral proceedings of any party duly summoned who may then be treated as relying only on its written case.

Hence, the board was in a position to announce a decision at the end of the oral proceedings.

Main request

4. Article 56 EPC - inventive step

The board agrees with the decision under appeal that the subject-matter of the independent claims lacks an inventive step.

4.1 The claimed invention is directed to a mix of technical and non-technical features. The board does not dispute that the method according to claim 1 appears in a technical context. The method can be considered to be performed by technical means, because it involves mobile and stationary users. This implies the use of a mobile communication network, and, therefore, has technical character. The invention is an invention within the meaning of Article 52(1) EPC (see T 258/03 "Auction method/HITACHI", OJ EPO 2004, 575).

4.2 However, the question of inventive step requires an assessment of whether the invention makes a technical contribution over the prior art. Features which do not make such a contribution cannot support the presence of an inventive step (see T 641/00 "Two identities/COMVIK", Headnote I, OJ EPO 2003, 352).

4.3 The board agrees with the decision under appeal that the features relating to communicating postings to a target user community "per se" are considered to pertain to an administrative method, i.e. to the non-technological part of claim 1:

-a method of communicating postings to a target user community, comprising:

keeping a plurality of postings, each posting including a source identification tag, an information body, and a broadcast descriptor, the broadcast descriptor identifying a geographical region of said each posting, wherein the geographical region is defined by a closed region on a map;

-receiving a plurality of requests from users, each request from a user including a user identification tag and an antenna descriptor identifying a geographical location of the user;

- processing each request, including:
- identifying one or more postings having geographical regions that contain the geographical location; and
- sending the identified one or more postings to the user;
- processing a subsequent request from the user, the subsequent request including a user identification tag and an antenna descriptor specifying a subsequent geographical location of the user, said processing a subsequent request from the user including sending to the user other postings having geographical regions that contain the subsequent geographical location, wherein the other postings do not include any posting previously sent to the user.

The board furthermore agrees that even manual postings on a billboard have "a source identification tag" (relating to the person performing the posting), an information body (the text), and a broadcast descriptor (corresponding to the intended target community, see e.g. classified ads). The fact that "the geographical region is defined by a closed region on a map" is also of an organisational/administrative character for specifying the target audience for the postings.

The contribution of the invention does not lie in communicating postings to targeted users in a computer network/communication system. That was already notorious knowledge before the priority date and known in the written prior art (see e.g. D2, which discloses communicating information by email based on geographical criteria - see figures 2 to 4 and 9 with corresponding text of the description of D2). The contribution lies rather in the manner of associating information with a geographical region. In the board's

view, this is not technical. It is an administrative measure, such as would be performed by a human when organising manual postings on a billboard based on the geographical location.

- 4.4 The board therefore agrees with the decision under appeal that the effect this administrative concept achieves is to associate "arbitrary information with a geographical region of relevance" and to avoid sending duplicate postings, and that, as such, this administrative concept is devoid of any technical considerations. In particular, the board agrees that avoiding re-sending of information that has already been received by a user (even assuming that such a feature is implicitly present in claim 1) rather circumvents the problem of bandwidth usage and storage requirements than solving it by technical means and, hence, does not contribute to the technical character of the claimed method (see T 258/03 "Auction method/HITACHI", OJ EPO 2004, 575).
- 4.5 The board therefore agrees with the decision under appeal (see points 10.8 to 10.11) that the closest prior art can be considered a mobile networked system comprising a plurality of communications devices, which was generally known before the priority date. The examining division appears to be right in finding that the implementation of this administrative concept on such a mobile networked system, which is considered to be the objective technical problem to be solved by the person skilled in the art within the meaning of Article 56 EPC - namely a computer expert provided with the complete description of the non-technical abstract administrative concept - was obvious in view of the normal skills and the general knowledge of computer programming.

- 4.6 The appellant's arguments to the contrary provided with the statement setting out the grounds of appeal do not convince.

The features alleged to be distinguishing features (see point 2.5.1 of the grounds of appeal) appear to have been known from the prior art. In a mobile communication system a geographical location is always identified by the antenna of a mobile user, which changes when physically moving. Such a feature was therefore known from mobile networked systems.

- 4.7 The appellant argued that according to the invention there was a continuous associating/tying of a message with a geographical region so that anyone with an antenna or user location within that region could receive that message, be it at the time of posting the message or when a user subsequently entered that geographical region. This was in contrast to D2, which disclosed sending emails according to a generated distribution list which is based on a geographical location (see grounds of appeal, point 2.5.5).

However, according to claim 1, a message is only sent following a specific request from the user. There is no automatic sending or forwarding claimed.

Furthermore, it is considered to be obvious to regularly update a distribution list as known from D2 this being a mere repetition of what is explicitly disclosed in D2. Following a subsequent request by a user will obviously involve such an updated distribution list. Also known mobile communication systems used specific tables and databases for associating mobile users in a specific cell, i.e. a

geographical region, with a base station. Since the users are continuously moving, such databases were continuously updated. Such a functionality is therefore considered to be implicit in known mobile communication networks as well as in the teaching of D2.

- 4.8 Maintaining a posting or its information content in association with the relevant geographical region and storing specific relationships, as argued by the appellant (see e.g. grounds of appeal, point 2.10.1), in the board's view, are not necessarily to be regarded as technical features, since operating a billboard manually also involves these steps. But even if considered to be technical, for the aforementioned reasons those steps would not involve an inventive step over well-known mobile communication systems or D2.

There is no disclosure or specification in the independent claims of whether and how a database has to be structured in order to achieve a particular technical improvement either.

- 4.9 In contrast to the appellant, the board does not regard an improvement in the dissemination of geographically-related information from a sender to recipients (see grounds of appeal, point 2.6) to be a technical effect achieved by technical means of the invention. As far as technical means are concerned it is the use of the mobile communication network (assuming that in the present case the reference to mobile users is intended to be understood as a reference to a mobile communication network as an implicit feature of claim 1) that causes such an improvement. That was well known. Further measures are merely of an administrative nature. They are part of the abstract concept of communicating postings to the user the implementation

of which is considered to be obvious (see point 4.5 above).

- 4.10 Similar arguments apply, *mutatis mutandis*, to corresponding independent claims 20 and 34.
- 4.11 The subject-matter of claims 1, 20 and 34 therefore does not involve an inventive step (Article 56 EPC).

First auxiliary request

- 5. Claim 1 according to this request has the additional features that postings are for viewing by prospective users and that a user who generated a posting is able to delete that posting so that the prospective users cannot view that posting.
 - 5.1 The board shares the view in the decision under appeal that the added features are also a part of the administrative concept discussed in detail for the main request and, hence, are considered to be non-technical, therefore not involving an inventive technical contribution.
 - 5.2 The board finds that D1 discloses that in group forums or newsgroups postings are also for view by prospective users and can also be deleted (see D1, e.g. page 19, lines 1 to 6). Even if considered to be an aggregated feature, technical means for implementing the additional method steps were known in the prior art. The subject-matter of claim 1 therefore also lacks an inventive step when starting from a known mobile communication network combined with D1 and the skilled person's common general knowledge of programming.

Second auxiliary request

6. Claim 1 according to this request further specifies in comparison to the main request that a user may draw on a displayed geographical map to define an antenna descriptor.
- 6.1 Again, the manner of specifying a location is part of the administrative concept and, hence, is considered to be non-technical, and therefore not to involve an inventive technical contribution.
- 6.2 The board considers that D2 discloses that users may select the geographical region (see D2, e.g. figure 9, step 212, Position graphical area selector). It is noted that as for the technical means employed, a user interface identifying the geographical area, using a geographical map view was known in the the art.

Even if considered to be an aggregated feature, technical means for implementing the additional method steps were known in the prior art. The subject-matter of claim 1 therefore also lacks an inventive step when starting from a known mobile communication network when combined with D2 and the skilled person's common general knowledge of programming.

7. For the sake of completeness, it is noted that the board alternatively considers the subject-matter of the independent claims of all requests to be obvious when starting from the teaching of either of D1 to D3 in view of the arguments presented above. In particular, D2 discloses that e-mail recipients can be selected based on geographical or physical positioning (see column 6, lines 50 to 53).

8. Thus, none of the requests fulfils the requirements of the EPC.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



K. Götz-Wein

A. Ritzka

Decision electronically authenticated