

Internal distribution code:

- (A) [-] Publication in OJ
- (B) [X] To Chairmen and Members
- (C) [-] To Chairmen
- (D) [-] No distribution

**Datasheet for the decision
of 14 September 2021**

Case Number: T 0550/14 - 3.5.01

Application Number: 09710436.8

Publication Number: 2243113

IPC: G06Q40/00

Language of the proceedings: EN

Title of invention:

COMPUTER SYSTEM AND COMPUTER-IMPLEMENTED METHOD FOR MANAGING
FUNDING OF CATASTROPHE RELIEF EFFORTS

Applicant:

Swiss Reinsurance Company Ltd.

Headword:

Catastrophe relief/SWISS RE

Relevant legal provisions:

EPC Art. 56

Keyword:

Inventive step - parametric triggering of payments (no - not
technical)

Decisions cited:

T 0141/87, T 0099/89, T 0986/96, T 0641/00, T 0368/05,
T 0756/06, T 1463/11, T 1749/14, T 2314/16

Catchword:

The appellant's wish for the Board to define criteria that the examining division should use to prove that a feature is not technical is tantamount to defining the term technical, which the Boards have consistently declined to do. However, as stated in e.g. T 2314/16 - *Distributing rewards/RAKUTEN* at points 2.6 to 2.8, over the years the case law has provided guidance on the issue of technicality. Recently, the Board has tended to use the framework for discussion given in the *CardinalCommerce* decision (T 1463/11 - *Universal merchant platform/CardinalCommerce*) to help classify whether borderline features of a claim are on the technical or the non-technical side.

It is thus clear that some discussion can and ought to take place. However, rather like objections against added subject-matter, one is essentially trying to prove a negative which tends to be a rather short exercise. On the other hand, the appellant is trying to prove a positive which involves more argument. Thus an objection from the division should probably start with a *prima facie* assertion that the feature in question is non-technical, perhaps because it is in one of the exclusions listed in Article 52(2) EPC, or a related or analogous field. If this is uncontested then this would be enough. However the Board considers that it is then up to the appellant to provide arguments why there is a technical effect or that some technical considerations are involved. The division should consider these arguments and give reasons why they are not convincing. As mentioned above, the Board is satisfied that this happened in the present case.

One final piece of advice for examining divisions would be where possible to search for and start from a document that already discloses some of the alleged non-technical features, thus avoiding the discussion for these features (see for example, T 756/06 - *Displaying a schedule/FUJITSU*, point 5 or T 368/05 - *Integrated account/CITIBANK*, point 8).

(See points 3.3 to 3.5 of the reasons)



Beschwerdekammern
Boards of Appeal
Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0
Fax +49 (0)89 2399-4465

Case Number: T 0550/14 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 14 September 2021

Appellant: Swiss Reinsurance Company Ltd.
(Applicant) Mythenquai 50/60
8022 Zürich (CH)

Representative: Leimgruber, Fabian Alfred Rupert
ThomannFischer
Elisabethenstrasse 30
4010 Basel (CH)

Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 23 October 2013
refusing European patent application No.
09710436.8 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman W. Chandler
Members: N. Glaser
C. Schmidt

Summary of Facts and Submissions

- I. This appeal is against the decision of the examining division to refuse the European patent application No. 09710436.8 pursuant to Article 97(2) EPC on the grounds of lack of inventive step (Article 56 EPC), because claims 1 and 7 were a straightforward implementation of a business method on a notorious (networked) computer system.
- II. In the statement setting out the grounds of appeal the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of "Anhang A" filed therewith. Oral proceedings were requested on an auxiliary basis.
- III. In a communication accompanying the summons to oral proceedings, the Board set out its preliminary opinion that claim 1 of the main request did not involve an inventive step (Article 56 EPC).
- IV. In a response, dated 14 April 2020, the appellant refiled "Anhang A" and presented arguments in favour of inventive step.
- V. During oral proceedings, the appellant requested that the decision under appeal be set aside and that the case be remitted to the examining division for further search and examination on the basis of the request according to "Anhang A" (main request) or that a patent be granted on the basis of the request according "Anhang A" (auxiliary request).

VI. Claim 1 reads as follows:

"1. A computer-implemented method for managing funding of catastrophe relief efforts associated with a special purpose vehicle (1'), wherein a donor makes a monetary donation to a charitable organization, the method comprising:

associating a computer system (1) with a special purpose vehicle (1'), which defines a corporate body to isolate financial risks, comprising at least a control module (10), a payment receiving module (12), a payment module (13), and a disaster information interface (14), wherein the control module (10), the payment receiving module (12), the payment module (13), and the disaster information interface (14) are realized as a functional module implemented partly or fully by means of hardware components;

receiving by means of the payment receiving module (12) of the computer system (1) of the special purpose vehicle (1') a purchase request for catastrophe protection from a computer system (3) of a charitable organization via a telecommunication network (6), wherein the control module (12) provides a data interface accessible to the computer system (3) of the charitable organization for transmitting the purchase request to the computer system (1), wherein the transmitted (p.9,1.3-4) purchase request comprises data defining a premium payment and a specification of protection for specific catastrophes in a defined area;

creating and storing a data structure (11) representing a financial product for the purchase request for catastrophe protection by means of the control module (10) of the computer system (1), wherein the financial

product is linked to the charitable organization and the specific catastrophes by means of the computer system (1), and wherein the data structure (11) comprises a product identifier, a product type, a contract duration, a monetary amount of protection for a defined premium an identification of a charitable organization, and a definition of the linked catastrophes;

defining the linked catastrophe by a type of catastrophe, a geographic area, a parametric index indicative of the severity of catastrophic events, and severity threshold values for triggering payout of the protection to the charitable organization by means of the data structure (11), wherein the severity threshold values comprise criteria for the intensity of the catastrophic event and/or population number affected by the catastrophic event;

receiving a payment of the premium assigned to the financial product by means of the payment receiving module (12) from the charitable organization, the premium corresponding to the monetary donation made to the charitable organization by the donor (2), wherein the charitable organization is assigned protection by means of defining the financial product;

receiving an investment request comprising a capital payment assigned to the financial product from one or more investors and the specification of the financial product and receiving the payment of capital for the financial product from the one or more investors, wherein the control module (12) provides a data interface accessible to the computer system (4) of the investor for transmitting the purchase request to the computer system (1), and wherein the capital payment is

transmitted from the investor's computer system (3) to the payment receiving module (12) via the telecommunication network (6);

retrieving and receiving catastrophic event information by means of the disaster information interface (14) of the computer system (1) from an information provider (5) in a periodic pull mode or in push mode provided by a the information provider (5) by means of a telecommunication module via telecommunication network (6);

triggering payment of capital to the charitable organization depending on the parametric index of the received catastrophic event information and the defined severity index threshold, wherein the payment module (13) of the computer system (1) is triggered to pay invested capital upon occurrence of a catastrophic event assigned to the financial product for refunding relief efforts for the catastrophic event, and wherein the amount paid depends on the parametric index comprising one or more geographic areas, selected type of catastrophe and/or severity of the catastrophic event,

paying, at the end of said contract duration, by means of a payment module (13) of the computer system (1) the premium paid by the charitable organization (3) from the special purpose entity as coupon to the investors (4), and repaying the invested capital to the investors (4), if no linked catastrophic event occurred within the contract duration of the financial product."

VII. At the end of the oral proceedings the chairman announced the decision.

VIII. The appellant essentially argued that in known business methods for managing funds of catastrophe relief efforts, a charity collected funds which were used to buy cover for disasters. However, in 2008 there was no incentive to derive an entirely new business model of the invention involving the expertise of an assurance expert and a capital risk expert without knowledge about parametric triggering criteria, which are measurable parameters and therefore technical. Technical knowledge was therefore required to develop the new business method.

Reasons for the Decision

1. Background of the invention

1.1 The invention is about managing the funding of catastrophe relief efforts caused by natural or man-made disasters, such as earthquakes, see page 1, first paragraph of the originally filed application. Conventionally, as shown at the top of Figures 2 and 3, charitable organisations 3 provide relief S9 in the event of a disaster from donations S1 from donors 2. Insurance companies might offer catastrophe insurance policies, but these may be too expensive or even unavailable for developing countries, so that the available relief may be insufficient.

1.2 The objective of the invention is to make sure that adequate funding is in place before the catastrophic event actually occurs and to pay out when it does.

1.3 The invention achieves this by providing a "special purpose entity" ("special purpose vehicle" in the claims) 1' which offers a financial product S3 (e.g. a security, or another financial instrument) in return

for a premium S2 from the charitable organisation (or donor directly), see page 2, last paragraph, to page 3, first paragraph.

- 1.4 Investors 4 back S4 the product and receive in return for their investment a payment of the premium S2 which is issued as a coupon S10 from the special purpose entity. If a catastrophic event occurs within a defined time period, the capital is paid S8 to the charitable organisation, otherwise the capital is paid back S11 to the investors who keep the premium for their efforts.
- 1.5 The "special purpose entity" collects information S6 about catastrophic events from an online provider 5, see page 7, lines 8 to 16. This information is provided in the form of a "parametric index" indicating the severity of catastrophic events, which serves as a triggering condition for whether and how much payout shall be made to the charitable organisation, see page 10, third paragraph. The "parametric index" is linked to geographical areas, the type of catastrophe and the severity of the catastrophic event (Table 1).
- 1.6 Claim 1 reflects the hardware arrangement of Figure 1 where the special purpose entity 1' is associated with a computer system 1 which interacts with computer systems of the donor 2, the charitable organisation 3, the investor 4 and the information provider 5 using various modules via a telecommunication network 6.

The special purpose entity 1' has a data structure 11 that stores data about the financial product including the product type, contract duration, monetary amount of protection for a defined premium, an identification of a charitable organisation, and a definition of the catastrophes linked to the product. The latter includes

threshold conditions for triggering the payout that are compared with the above-mentioned parametric index from the information provider 5.

2. Main request - Article 56 EPC

2.1 The examining division considered the basic idea of the invention to be non-technical. It was seen as a method for managing the funding of catastrophe relief efforts which enabled charitable organisations to put in place funding before a catastrophic event actually occurred. The division stated that no technical problem could be derived from such a non-technical method which, in the form of a business specification, was given by the business person to the skilled person for implementation, see decision paragraph 1.2.

2.2 The division considered the closest prior art to be a notorious (networked) computer system, involving a plurality of interconnected networked computers. No documentary evidence was provided.

2.3 The adaptation of this notorious (networked) computer system was seen to follow from the business specification in a straightforward and obvious manner. The skilled person would adapt the notorious hardware components to perform the functions of the modules in the "special purpose vehicle" and connect it via a telecommunication network to other networked computers which provided the functions of the investor, charitable organisation, information provider and donor.

The division concluded that claim 1 lacked an inventive step (Article 56 EPC).

2.4 The appellant argued that the invention was an entirely new business method which did not exist in the prior art. As mentioned in point 1.1 above, fund management traditionally involved a charity collecting funds from donors to cover disaster relief. The payout was based on the loss incurred. In the new business method the payout was based on the severity of the catastrophe without needing to consider the loss. This was determined automatically by comparing the parametric index from the information provider with the data about the financial product in the data structure in the special purpose entity. This business concept could only be derived with technical considerations, namely the concept of an electronic parametric triggered payout.

2.5 The invention therefore required a collaboration of a group of persons, involving a business person, that is, an insurance expert and a risk capital manager, and a technically skilled person. The insurance expert and risk capital manager alone would not have been able to derive the new business concept without the input from the technically skilled person about the possibility of electronic parametric monitoring, see T 141/87, T 99/89 and T 986/96. The appellant considered that without any further evidence from a search, the invention was not obvious.

2.6 Furthermore, the implementation of this method on notorious hardware was not obvious. The appellant agreed that applying the "COMVIK approach" (see T 641/00 - *Two identities/COMVIK*) in conjunction with the approach set out in T 1463/11 - *Universal merchant platform/CardinalCommerce*, it is the business person who establishes the business requirements, which include any non-technical aspects and features.

However, in T 1749/14 the Board stated that the obviousness of an implementation going beyond a direct 1:1 mapping of a business method on conventional hardware involves technical considerations and must be proved using evidence found in a search. This was the case in the present invention because the implementation involved understanding the data structures and computer process steps and, in particular, how the system of the "special purpose entity" had to interact with other systems, such as the system of the donor, the charitable organisation, the investors and the disaster information provider, in order to design a "trigger"-based management of the funding of catastrophe relief efforts.

The invention solved this problem with a decentralised networked system where different components and systems interact with each other. This went beyond the normal technical know-how of the skilled person and beyond a "stand-alone" network computer. It was therefore novel and inventive.

- 2.7 The Board agrees with the division that a valid starting point is a networked computer system, comprising a control module and several functional modules. Such a "networked" system can be interconnected with other networked computers via a telecommunications network and not just be a stand-alone system, as argued by the appellant.
- 2.8 The invention therefore differs, as is usually the case starting from such prior art, by all the features of the relief payout scheme.
- 2.9 The question arises now whether the division was right to consider all these features non-technical.

- 2.10 The Board agrees with the division that the features define a method for managing funding of catastrophe relief efforts. They represent the different parties involved, which are the donor, the charitable organisation, the investor and the information provider, as well as the monetary and information flow between them and the role each one plays. They are therefore part of the business requirements given to the skilled person to implement.
- 2.11 Concerning the feature of the parametric trigger, the Board agrees with the examining division's arguments in the decision, see points 2.3 and 2.3.1. In particular, the Board agrees that the business person in the form of an insurance expert would naturally have to consider the conditions under which the payout would be made. These conditions are part of the business method and would depend on the type of financial model being used. Whereas a conventional insurance might link the payout to loss, the method of the invention links the payout to the nature of the catastrophe, which makes sense if the cost is being covered by a financial product. In the Board's view the "parametric trigger" is simply a broad term introduced to cover such conditions as is evident from pages 6 and 7 of the application. For instance, a catastrophe of a hurricane in the Caribbean, as shown in Table 1 on page 7, has the parametric trigger of wind speed, size of storm and location. In the Board's view, determining this parametric information, the triggering criteria and the trigger level does not require any technical considerations. Furthermore, the business person would be aware that the relevant information would be available from providers for weather data and catastrophe information.

- 2.12 The Board therefore sees no need for the business person to have technical knowledge about networked computer systems in order to propose the business method of the invention. The knowledge about how a "special purpose entity" has to interact with other systems, namely the donor, charitable organisation and investors, and what kind of disaster information is needed, in order to achieve a "trigger"-based management of the funding of catastrophe relief efforts, can be derived from the method for managing funding of catastrophe relief efforts alone.
- 2.13 Finally, the Board cannot see any difficulties for the person skilled in the art of data processing to implement the business concept of the present invention on the networked computer system. The allocation of the respective functions to separate computer systems for each party involved in the non-technical business method and interconnecting these systems via a telecommunication network is a self-evident consequence of these business requirements. The information which needs to be collected for triggering the payout implies this information being up-to-date and the frequency of its collection. It leads the skilled person to seek the appropriate information provider and the appropriate technique for collecting this information, such as a periodic push and pull mode which is a routine design consideration at this broad level.
- 2.14 Therefore the present application has to be refused under Article 56 EPC.
3. The Board was able to take this decision without remitting the case to the examining division as requested by the appellant. Thus also the appellant's

request for remittal for further search and examination cannot be granted.

- 3.1 The appellant was heavily critical that the division merely alleged that all aspects of the invention were part of a business method with no supporting evidence. It was therefore deprived of a chance to argue for inventive step in a proper way. The business model had to be properly defined. Moreover, if there were no arguments why certain features were deemed to be part of the business model, the right to be heard was not respected. In the present case, a more detailed discussion should have taken place about the feature "parametric trigger", which in the appellant's view was electronic, measurable and therefore technical and which therefore should have been searched. The appellant asked the Board to define criteria that the examining division should use to prove that a feature was not technical.
- 3.2 The Board agrees that in this field there is a danger of simply asserting that certain features are non-technical with no basis. Indeed, the Board has seen decisions where the reasoning has not been fully convincing. But this is not one of them. As mentioned above, the examining division addressed the argument about the parametric trigger in the decision at points 2.3 and 2.3.1. Furthermore, the division admirably minuted the discussion of this point at page 2, third last paragraph. This shows why it is always advisable to minute clearly the arguments exchanged about contentious points.
- 3.3 The appellant's wish for the Board to define criteria that the examining division should use to prove that a feature is not technical is tantamount to defining the

term technical, which the Boards have consistently declined to do. However, as stated in e.g. T 2314/16 - *Distributing rewards/RAKUTEN* at points 2.6 to 2.8, over the years the case law has provided guidance on the issue of technicality. Recently, the Board has tended to use the framework for discussion given in the *CardinalCommerce* decision (*supra*) to help classify whether borderline features of a claim are on the technical or the non-technical side.

3.4 It is thus clear that some discussion can and ought to take place. However, rather like objections against added subject-matter, one is essentially trying to prove a negative which tends to be a rather short exercise. On the other hand, the appellant is trying to prove a positive which involves more argument. Thus an objection from the division should probably start with a *prima facie* assertion that the feature in question is non-technical, perhaps because it is in one of the exclusions listed in Article 52(2) EPC, or a related or analogous field. If this is uncontested then this would be enough. However the Board considers that it is then up to the appellant to provide arguments why there is a technical effect or that some technical considerations are involved. The division should consider these arguments and give reasons why they are not convincing. As mentioned above, the Board is satisfied that this happened in the present case.

3.5 One final piece of advice for examining divisions would be where possible to search for and start from a document that already discloses some of the alleged non-technical features, thus avoiding the discussion for these features (see for example, T 756/06 - *Displaying a schedule/FUJITSU*, point 5 or T 368/05 - *Integrated account/CITIBANK*, point 8).

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



T. Buschek

W. Chandler

Decision electronically authenticated