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Datasheet for the decision
of 9 July 2019

Case Number: T 0737/14 - 3.5.01

Application Number: 08709562.6

Publication Number: 2115676

IPC: G06Q20/00

Language of the proceedings: EN

Title of invention:
AUTHORISATION SYSTEM

Applicant:
Secoren Limited

Headword:
Authorisation system / SECOREN

Relevant legal provisions:
EPC Art. 56

Keyword:
Inventive step - authorisation of the access terminal rather than the user - (no - part of the business scenario)

Decisions cited:
T 0641/00, T 1463/11

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Catchword:

The proper application of the COMVIK approach requires a thorough analysis of the business constraints when formulating the problem to be solved before investigating what the skilled person would have done to solve it. The failure to reflect all aspects of the business method in the problem to be solved led the examining division to argue unconvincingly that the inconvenient distinguishing feature of authorising the access terminal was an alternative whose choice was governed by unspecified business constraints (see reasons 4.2).

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Case Number: T 0737/14 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 9 July 2019

Appellant: (Applicant)	Secoren Limited 6/F Honeytex Building, 22 Ashley Road Tsim Sha Tsui, Kowloon, Hong Kong (CN)
Representative:	Thorniley, Peter Venner Shipley LLP 200 Aldersgate London EC1A 4HD (GB)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 2 October 2013 refusing European patent application No. 08709562.6 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	W. Chandler
Members:	A. Wahrenberg C. Schmidt

Summary of Facts and Submissions

I.   This appeal is against the decision of the examining
        division to refuse the application No. 08709562.6
        (published as WO 2008/104788 A2) on the ground that the
        subject-matter of claims 1, 7, 10, and 14 lacked an
        inventive step (Article 56 EPC).

II.   The decision of the examining division referred, *inter
        alia*, to document D1 (WO 03/098563 A).

III.   In the statement setting out the grounds of appeal the
        appellant requested that the decision to refuse the
        application be set aside and that a patent be granted
        on the basis of the claims considered by the examining
        division in the decision under appeal.

IV.   Claim 1 reads:

        An authorisation system comprising:
        an authorisation server (140);
        an account server (120) for storing account data
        relating to a plurality of accounts;
        an access terminal (100), including:
        a token reader (106) for inputting token data from a
        selected one of a plurality of tokens, the token data
        identifying one of the plurality of accounts; and input
        means (108) for inputting transaction data;
        wherein the access terminal (100) is operable: to
        receive token data from the token reader (106) and to
        receive transaction data from the input means (108); to
        transmit to the account server (120) a first
        transaction request containing the token data and the
        transaction data; and to transmit to the authorisation
        (140) server a second transaction request including

access terminal identification data identifying the
access terminal;
the account server (120) is operable to receive the
first transaction request; to process the token data to
generate account identification data, the account
identification data being associated with a portion of
the account data; and to transmit a third transaction
request to the authorisation server, the third
transaction request including the transaction data;
the authorisation server (140) is operable to receive
the second transaction request and to receive the third
transaction request; to process the transaction data
and the access terminal identification data to
determine whether the access terminal (100) is
authorised to enable the transaction; and, if
applicable, to transmit to the account server (120) an
authorisation request to indicate that the access
terminal is authorised; and
in response to receipt of the authorisation request
from the authorisation server, the account server (120)
is operable to process the transaction data and to
modify the account data associated with the account
identification data in dependence on the processing.

V.   Claim 7 defines the access terminal, and claim 10 the
        authorisation server. Claim 14 defines a method in a
        system corresponding to the one in claim 1.

VI.   The appellant's arguments can be summarised as follows:

        The invention recognised that existing commercial
        outlets, which were equipped with terminals able to
        read card details, could be used for loading money onto
        a pre-paid card with little effort or expense.

In this new scenario, there was no need for the card owner to register themselves with the system handling the authorisation of the pre-paid cards. Instead, trust was established based on the access terminal being authorised to carry out such transactions.

D1 was directed towards a system in which a user carried out an Internet transaction. D1 had nothing to do with pre-paid cards or any scenario in which the access terminals had any status in the transaction. As such, it was an inappropriate starting point for assessing inventive step under the problem solution approach.

Even taking D1 as a starting point, the skilled person would not have considered authorising the access terminal. In the context of D1, it simply did not make sense to identify the terminal as the terminal was irrelevant to the transaction.

VII.   In a letter dated 2 May 2018, the appellant requested accelerated processing of the appeal, on the ground that the appellant envisaged infringement proceedings in respect of any patent granted on the basis of the application. The Board acceded to the appellant's request for acceleration.

VIII.   The Board arranged for oral proceedings to be held. In a communication accompanying the summons to oral proceedings, the Board set out its preliminary view that the subject-matter of claims 1, 7, 10 and 14 lacked an inventive step, albeit for different reasons than those provided in the decision.

IX.   The appellant replied that it would not attend the oral proceedings. No additional arguments were made.

X.   The Board held oral proceedings in the appellant's
          absence. It was announced that the decision would be
          delivered in writing.

Reasons for the Decision

1.   *Background*

1.1   The invention concerns an authorisation system for
          authorising a transaction on an account. Looking at
          Figure 7, there are three entities in this system: an
          access terminal 100, an account server 120, and an
          authorisation server 140. The access terminal sends a
          first transaction request 204 to the account server
          that forwards this, as the third transaction request
          208, to the authorisation server. The access terminal
          also sends a second transaction request 206, including
          a terminal identifier, to the authorisation server.
          Based on the transaction data, the authorisation server
          determines whether the access terminal is authorised to
          enable the transaction, and sends the response 210 to
          the account server that carries out the transaction on
          the account.

1.2   The independent claims do not define what sort of
          transaction is processed by the system. As it turned
          out, this caused some difficulties in the assessment of
          the invention, both in examination and appeal
          proceedings.

2.   *The decision under appeal*

2.1   The examining division saw the invention basically as a
       conventional transaction processing system running a
       "generic three party transaction authorisation
       protocol" involving a trusted third party. In such a
       system, the third party typically receives two
       messages; one from the account owner and one from the
       the party that performs the transaction settlement. To
       prevent fraudulent transactions, the third party
       authorises the transaction only if it is confirmed by
       the account owner.

2.2   D1 discloses (Figure 1) such a transaction processing
       system, for online shopping. The customer sends a
       purchase request 1, including credit card details, to
       an e-retailer. The e-retailer forwards the credit card
       details 2 to a credit card issuer who checks them and
       returns an authorisation 3. The e-retailer then sends a
       message 4 to a web site administered by a third party.
       The message comprises sufficient information to
       identify the customer. In order to authorise the
       purchase, the customer must log on 5 to the
       authorisation web site using a password. Once the
       customer has logged on, a message 6 is sent from the
       authorisation web site to the e-retailer. Alternatively
       (Figure 2), it is the credit card issuer, that, in the
       same way, uses the authorisation website to make sure
       that the transaction is not a fraudulent one.

2.3   The examining division found that the customer's
       terminal in D1 corresponded to the access terminal in
       claim 1, and that the combination of the credit card
       issuer and the e-retailer mapped to the account server.
       The authorisation website in D1 was equated with the
       authorisation server in claim 1. As a result, the

examining division identified the following differences
between the invention in claim 1 and D1:

a) The access terminal in claim 1 had a token reader
for inputting the credit card data.

b) The authorisation server in claim 1 determined,
based on access terminal identification data, whether
the access terminal (rather than the user) was
authorised to enable the transaction.

2.4   The examining division considered that it would have
been obvious to use a reader to input the credit card
data. Thus, feature a) did not provide an inventive
step. The Board agrees with this finding. Also, since
feature a) has no synergy with feature b), it is
justified to assess the two features separately.

2.5   Concerning feature b), the examining division argued
that the identification of the access terminal rather
than the user was a well known alternative available to
the skilled person, and that the choice was "governed
by business constraints". Alternatively, it could be
seen as an obvious security measure, on top of the
identification of the user.

2.6   The examining division did not say what the business
constraints were. That is unfortunate, because the
business constraints are key in this case. The Board
does not see any technical reason, given the on-line
purchasing scenario in D1, why the skilled person would
have identified the access terminal, whether as an
alternative to the identification of the user, or as an
additional measure. As the appellant argued, the access
terminal simply does not play any role in this

scenario.

3.   *The transaction scenario in the invention*

3.1   It is clear that the transaction scenario in the
         invention is crucial to the question of inventive step
         because this sets the framework of the technical
         problem given to the skilled person to solve (see e.g.
         T 1463/11 - *Universal merchant platform/*
         CARDINALCOMMERCE, points 12 and 13). In the
         communication, the Board raised the question what that
         scenario was in view of the widely different
         embodiments disclosed in the application. The appellant
         neither replied, nor attended the oral proceedings.
         Thus, the Board has to find a reasonable interpretation
         based on the examples in the application.

3.2   The claims cover the example of the transaction
         scenario, in which the access terminal is used to load
         money onto a custom pre-paid credit card. Also, the
         appellant's arguments in the grounds of appeal focus on
         this scenario.

3.3   According to the description, a customer who wants to
         load money onto a pre-paid card goes to a conventional
         point-of-sale system (access terminal) and swipes the
         card (see page 10, lines 5 to 11). The customer also
         presents funds, corresponding to the amount that he
         wants to load onto the card, to the point-of-sale
         system that acts as an agent.

         The point-of-sale system requests that the credit card
         issuer or processor credit the pre-paid card with the
         specified amount. This corresponds to the claimed first
         transaction request to the account server. The account
         server redirects the details of the swipe to a third

party computer system for authorisation (lines 32 to
34). This corresponds to the claimed third transaction
request to the authorisation server. The point-of-sale
system also transmits details of the transaction and
identification of the access terminal to the third
party computer system (page 11, lines 6 to 11). This
corresponds to the second transaction request to the
authorisation server.

3.4   At first glance, it may appear that the third party is
        there just to authorise the agent on behalf of the
        credit card issuer/processor (account server). However,
        the description goes on to state (page 11, lines 11 to
        15):

        "In this embodiment, when a user presents funds to an
        agent, no transfer of funds occurs between the agent
        and the credit card issuer or processor, but *funds are
        instead provided by the third party* to the credit card
        issuer. The funds are then reimbursed by the agent to
        the third party in due course. The authorisation
        process can be used to ensure that only transactions
        from *trustworthy agents* are processed."(Board's
        emphasis)

        In the Board's assessment, this means that the role of
        the third party is actually to guarantee the money vis-
        à-vis the credit card issuer. In other words, the third
        party is not only acting as the authorisation server,
        but also as a *financial middleman* between the agent and
        the credit card issuer/processor. It follows that,
        since the third party needs to recover the funds from
        the agent, it has to trust the agent. The description
        suggests that this idea allows a third party to offer a
        new type of financial service using existing point-of-
        sale systems (page 11, lines 2 and 3) without requiring

a bank account (lines 16 and 17).

4.   *Inventive step*

4.1   The Board takes the view that the pre-paid scenario,
        including the relationship between the point-of-sale/
        agent, the credit card issuer/processor, and the third
        party, is a business idea. According to decision
        T 641/00 - *Two identities/COMVIK*, this type of subject-
        matter cannot contribute to inventive step. Instead, as
        mentioned above, it is considered to be part of the
        problem that the skilled person has to solve.

4.2   In the Board's view this case is a good example of why
        the proper application of the COMVIK approach requires
        a thorough analysis of the business constraints when
        formulating the problem to be solved *before*
        investigating what the skilled person would have done
        to solve it. The failure to reflect all aspects of the
        business method in the problem to be solved led the
        examining division to argue unconvincingly that the
        inconvenient distinguishing feature of authorising the
        access terminal was an alternative whose choice was
        governed by unspecified business constraints.

4.3   Instead, the skilled person should have been given the
        problem of implementing a business model on the
        conventional transaction processing system, as
        exemplified in D1, in which the third party carries the
        financial risk and needs to safeguard itself from fraud
        and recover the funds from the agent. The skilled
        person would have assigned the necessary technical
        means, namely an access terminal at the side of the
        agent, an account server at the side of the credit card
        issuer/processor, and an authorisation server that
        carries out the task of the third party. The functions

performed by those entities in claim 1 follow directly from the business scenario. Since the third party needs to safeguard itself, rather than the agent, from fraud, the skilled person would realise that the third party has to authorise the agent. Performing the authorisation based on the terminal identifier of the access terminal would have been an obvious implementation.

4.4   Furthermore, as already concluded in point 2.4 above, the skilled person would have provided the terminal with a card reader for reading the card data.

4.5   Thus, the Board judges that subject-matter of claim 1 lacks an inventive step (Article 56 EPC).

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

T. Buschek   W. Chandler

Decision electronically authenticated