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Datasheet for the decision of 9 January 2020

Case Number: T 1918/17 - 3.2.01

Application Number: 12716774.0

Publication Number: 2678206

IPC: B60W40/09, B60W50/14, G07C5/08, G07C5/00, B60R16/023

Language of the proceedings: EN

Title of invention:
SYSTEM AND METHOD FOR IN-VEHICLE OPERATOR TRAINING

Applicant:
Vnomics Corp.

Headword:

Relevant legal provisions:
EPC Art. 123(2), 84

Keyword:
Amendments - extension beyond the content of the application as filed (no)
Claims - clarity (yes)

Decisions cited:

Catchword:

Europäisches Patentamt
European Patent Office
Office européen des brevets

Beschwerdekammern

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Case Number: T 1918/17 - 3.2.01

D E C I S I O N
of Technical Board of Appeal 3.2.01
of 9 January 2020

Appellant: (Applicant)	Vnomics Corp. 175 Sully's Trail Suite 203 Pittsford, New York 14534 (US)
Representative:	Abel & Imray Westpoint Building James Street West Bath BA1 2DA (GB)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 27 March 2017 refusing European patent application No. 12716774.0 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	G. Pricolo
Members:	J. J. de Acha González
	O. Loizou

Summary of Facts and Submissions

I. The appeal of the applicant lies against the decision of the Examining Division to refuse the above mentioned European patent application.

II. In its decision the Examining Division held that claim 1 of the sole request did not meet the requirements of Article 84 EPC and 123(2) EPC because claims 1 and 15 were not clear and its subject-matter went beyond the content of the application as originally filed.

Regarding the unallowable extension the Examining Division objected to the features of "predetermined set of behaviour categories" (claim 1), "optimize an operator's efficiency of a vehicle" (claim 1 and 15) and "the desired behavior(s) of the operator varies(y) from one time frame to another" (claim 1 and (15)).

With respect to the clarity of claims 1 and 15, the Examining Division took the view that the expressions "operator's efficiency of a vehicle" and "the desired behavior(s) of the operator varies(y) from one time frame to another" were not clear.

III. The appellant requested that the decision under appeal be set aside and the case be remitted to the Examining Division for examination of the other requirements of the EPC, because the claims of the sole request as filed with the letter dated 12 November 2019 satisfy the requirements of Articles 123(2) and 84 EPC.

IV. Independent claims 1 and 14 of the sole request read as follows (amendments with respect to claims 1 and 36 as originally filed highlighted by the Board):

"1. An on- vehicle system for assessing ~~an operator's~~ efficiency of an operator of a vehicle at least substantially real time, the system comprising:

a plurality of sensors configured to measure or detect conditions of components of the vehicle, and convert the detected conditions into analog or digital information;

an audiovisual display device (130);

a processor (112); and

a data storage (120) storing program instructions, the analog or digital information from the sensors, and other data;

wherein the program instructions, when executed by the processor (112),

(i) control the on-vehicle system to determine a state of the vehicle within a vehicle's environment based on the analog or digital information from the sensors, and to determine, within a current time frame, a desired behavior of the operator based on the determined state of the vehicle,

(ii) determine that, within the current time frame, an actual behavior of the operator from ~~whether one or more of~~ a predetermined set of behaviors has occurred based on the determined state of a vehicle,

(iii) assess performance of the operator within the current time frame, based on a difference between the determined desired behavior of the operator and the determined actual behavior of the operator ~~of the determined one or more of the predetermined set of behaviors~~; and

(iv) present the operator, via the audiovisual display device (130), cueing ~~a feedback~~

based on the assessment in at least substantially real time;

wherein the predetermined set of behaviors includes at least one of running auxiliary equipment, excessive idle, progressive shifting, speeding, hard-braking, hard-acceleration, and unsafe maneuver; and

wherein the desired behavior of the operator is determined by the system based on the current situation, including the driver's behavior, the state of the vehicle, the vehicle's load and the environmental conditions."

"14. A method for providing adaptive operator assessment and coaching for an operator of a vehicle in at least substantially real time, the method comprising:

determining a state of the vehicle based on information from sensors in a time frame;

determining a desired operator behavior for the current time frame based on vehicle information~~,~~ ~~sortie information and~~ based on the information from sensors;

determining within the current time frame whether an actual behavior of the operator from at least one ~~or more of~~ predetermined behavior category has occurred or is occurring;

assessing an operator's performance within the current time frame, based on a difference between the determined desired behavior of the operator and the determined actual behavior of the operator ~~based on the state of the vehicle in the time frame~~, and

providing a ~~feedback~~ cueing to the operator of the vehicle based on the determined at least one ~~or~~

~~more~~ of predetermined behavior categories and the assessment in at least substantially real time, wherein the predetermined behavior categories include at least one of running auxiliary equipment, excessive idle, progressive shifting, speeding, hard-braking, hard-acceleration, and unsafe maneuver; and
wherein the desired behavior of the operator are determined by the system based on the current situation, including the driver's behaviour, the state of the vehicle, the vehicle's load and the environmental conditions."

V. Oral proceedings set for 26 November 2019 were cancelled.

Reasons for the Decision

1. Independent claim 1 is based on originally filed claims 1 and 3 together with paragraphs [0041] and [0051] of the description as originally filed. Independent method claim 14 is based on originally filed claim 36 together with paragraphs [0041] and [0053] of the description as originally filed.

Claims 1 and 14, the latter corresponding to claim 15 of the sole request underlying the contested decision, have been amended such as to overcome both the objections under Articles 123(2) and 84 EPC raised by the Examining Division since the contested features (see point II above) have been deleted.

Consequently, the decision is to be set aside.

The Board is further satisfied that claims 1 and 14 meet the requirements of Article 123(2) and 84 EPC, since no further technical information has been introduced that goes beyond the content of the originally filed application and both claims are clear to the skilled person.

2. As the impugned decision was only based on Articles 84 and 123(2) EPC, the Board, in agreement with the appellant's request, considers it appropriate to remit the case to the Examining Division under Article 111(1) EPC for continuation of the examination proceedings in regard to the other requirements of the EPC.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside

2. The case is remitted to the Examining Division for further prosecution.

The Registrar: The Chairman:

D. Magliano G. Pricolo

Decision electronically authenticated