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**Datasheet for the decision
of 29 April 2022**

Case Number: T 0227/19 - 3.4.03

Application Number: 12809305.1

Publication Number: 2786333

IPC: G06Q30/06

Language of the proceedings: EN

Title of invention:

MOBILE PAYMENT TRANSACTION SYSTEM

Applicant:

Barclays Execution Services Limited

Headword:

Relevant legal provisions:

RPBA 2020 Art. 13(1), 13(2)

EPC Art. 54, 56

Keyword:

Amendment to appeal case - exercise of discretion - main
request admitted (no) - amendment gives rise to new objections
(yes)

Novelty - auxiliary requests 1 and 2 (no)

Inventive step - auxiliary request 3 (no)

Decisions cited:

T 1869/18

Catchword:



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Case Number: T 0227/19 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 29 April 2022

Appellant: Barclays Execution Services Limited
(Applicant) 1 Churchill Place
London E14 5HP (GB)

Representative: Carpmaels & Ransford LLP
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 22 August 2018
refusing European patent application No.
12809305.1 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman S. Ward
Members: M. Stenger
T. Bokor

Summary of Facts and Submissions

- I. The appeal concerns the decision of the Examining Division to refuse European application No. 12809305. In the contested decision, the requirements of Articles 123(2) and 56 EPC are discussed with respect to a main request and two auxiliary requests, all filed with letter dated 5 June 2018.
- II. Reference is made to the following document:
- D1: WO 2008/103880 A2
- III. At the end of the oral proceedings before the Board, the appellant requested that the contested decision be set aside and that a patent be granted upon the claims of a main request filed with letter dated 29 March 2022, or upon any of the claim sets according to a first, a second or a third auxiliary request, filed with the grounds of appeal as a main request and a first and a second auxiliary request, respectively. The claims of the first auxiliary request (filed as main request with the grounds of appeal) correspond to the claims of the main request filed with letter dated 5 June 2018 and discussed as such in the contested decision.
- IV. In its communication preparing the oral proceedings, the Board expressed its preliminary opinion relating to the requests then on file (i.e. present first to third auxiliary requests). *Inter alia*, the Board pointed out that there seemed to be no literal basis for the feature that *one or more linked payment accounts [are] associated with the pre-paid stored value account (23)* (see point 4.1 of the Board's communication). The Board

further indicated that the aspect identified as the distinguishing feature in the contested decision seemed to be disclosed in D1, as already discussed in the contested decision, and that therefore lack of novelty could be discussed during the oral proceedings before the Board (see the last two paragraphs of point 4.2.3 of the Board's communication).

V. Claim 1 of the main request has the following wording (labeling a0), b0),... added by the Board):

a0) *A payment transaction system (100) for handling a payment transaction initiated by a mobile device (11) that is configured as a mobile wallet, the*
b0) *system comprising a mobile payment account and an authentication platform (5), the authentication platform (5) configured to receive data identifying the transaction,*
c0) *and to process the received transaction using one or more of: a pre-paid stored value payment account (23) in the mobile payment account,*
d0) *and one or more linked payment accounts (19) linked with the mobile payment account (23), each linked payment account having a corresponding target payment vehicle (7);*
e0) *wherein customer preferences data (17) and data for the one more linked payment accounts (19) are stored by the authentication platform in a customer account database, the customer preferences data (17) comprising category-based transaction routing rules; wherein the authentication platform (5) is further configured to:*
f0) *receive, from the mobile device (11), data verifying that the user of the mobile device (11) is authenticated;*

g0) determine at least one linked payment account (19) to be used to settle the payment transaction, according to the category-based transaction routing rules and the data for the one or more linked payment accounts (19) stored in the customer account database; and

h0) route, using a routing engine (9) of the authentication platform (5), the received transaction to the target payment vehicle (7) of the at least one determined linked payment account (19),

i0) without requiring additional user authentication.

VI. Claim 1 of the first auxiliary request has the following wording (labeling a1), b1),... added by the Board; features a1), f1) and i1) being identical to features a0), f0) and i0), respectively):

a1) A payment transaction system (100) for handling a payment transaction initiated by a mobile device (11) that is configured as a mobile wallet, the

b1) system comprising an authentication platform (5) configured to receive data identifying the transaction,

c1) and to process the received transaction using one or more of: a pre-paid stored value payment account (23) stored on the platform (5),

d1) and one or more linked payment accounts (19) associated with the pre-paid stored value account (23), each linked payment account having a corresponding target payment vehicle (7);

e1) wherein the platform (5) is further configured to:

f1) receive, from the mobile device (11), data verifying that the user of the mobile device (11) is authenticated;

- g1) determine at least one linked payment account (19) to be used to settle the payment transaction, according to at least one predetermined selection criteria; and
- h1) route, using a routing engine (9) of the platform (5), the received transaction to the target payment vehicle (7) of the or each determined linked payment account(19),
- il) without requiring additional user authentication.

VII. Claim 1 of the second auxiliary request reads as follows (deletions and additions with respect to the first auxiliary request as well as labeling a2), c2), ..., added by the Board):

- a2) An authentication platform (5) of a payment transaction system (100) for handling a payment transaction initiated by a mobile device (11) that is configured as a mobile wallet, wherein the
- ~~b1) system comprising an authentication~~
- c2) ~~platform (5) configured to receive data identifying the transaction, and is operable to process the settle received transactions using one or more of: directly using a pre-paid stored value payment account (23) stored on the platform (5),~~
- d2) and/or using one or more linked payment accounts (19) associated with the pre-paid stored value account (23), each linked payment account having a corresponding target payment vehicle (7)
- j2) for performing authorisation to settle a transaction;
- e2) wherein the platform (5) is ~~further~~ configured to:

- k2) receive data identifying a transaction, from a payment scheme network (3,4) that routes the transaction from a merchant point of sale (2);
- f1) receive, from the mobile device (11), data verifying that the user of the mobile device (11) is authenticated;
- g2) determine at least one linked payment account (19) to be used to settle the payment transaction instead of or in addition to the pre-paid stored value account (23), according to at least one predetermined selection criteria; and
- h1) route, using a routing engine (9) of the platform (5), the received transaction to the target payment vehicle (7) of the or each determined linked payment account(19),
 - i1) without requiring additional user authentication.

VIII. Claim 1 of the third auxiliary request reads as follows (deletions and additions with respect to the second auxiliary request as well as labeling a2), c2), ..., added by the Board):

- a2) An authentication platform (5) of a payment transaction system (100) for handling a payment transaction initiated by a mobile device (11) that is configured as a mobile wallet, wherein the
 - c2) platform (5) is operable to settle received transactions directly using a pre-paid stored value payment account (23) stored on the platform (5),
 - d2) and/or using one or more linked payment accounts (19) associated with the pre-paid stored value account (23), each linked payment account having a corresponding target payment vehicle (7)
 - j2) for performing authorisation to settle a transaction;

- e2) wherein the platform (5) is configured to:
- k2) receive data identifying a transaction, from a payment scheme network (3,4) that routes the transaction from a merchant point of sale (2);
- f1) receive, from the mobile device (11), data verifying that the user of the mobile device (11) is authenticated;
- g3) determine at least one linked payment account (19) ~~to that can be used to settle the payment transaction instead of or in addition to the pre-paid stored value account (23), according to at least one predetermined selection criteria;—and~~
- l3) delay settlement of the transaction for a defined period, and enable the user of the mobile device (11) to select one or more of said accounts with which to settle the transaction during said period;
- m3) determine one or more transaction handling parameters of the target payment vehicle (7) of the or each selected linked payment account (19); and
- h3) route, using a routing engine (9) of the platform (5), the received transaction to the target payment vehicle (7) of the or each ~~determined~~ selected linked payment account (19) based on the determined handling parameters,
- i1) without requiring additional user authentication.

IX. The arguments of the appellant may be summarized as follows.

In its communication preparing the oral proceedings, the Board had, for the first time, made an objection with respect to Article 123(2) EPC concerning the feature that the one or more linked payment accounts were associated with the pre-paid stored value account. These were exceptional circumstances within the meaning

of Article 13(2) RPBA 2020 justifying the submission of the main request.

The new features of claim 1 of the main request in addition aimed at clarifying the expression "at least one predetermined selection criteria" to prevent other potential issues, in view of procedural efficiency.

A basis for the new features of claim 1 of the main request, in particular for the features related to the customer account database, could be found in paragraph [30] indicating in its first sentence that the customer account database 21 could store only customer preferences data 17 and linked accounts information 19, and did not necessarily store pre-paid stored value payment account data 23 as well. This was further emphasized by the second sentence of paragraph [30], according to which the pre-paid stored value payment account data was only optionally used ("can be used by the authentication platform 5") and thereby only optionally stored in the customer account database 21.

According to the application, a financial account for settling a transaction was selected by a logic/an algorithm on the authentication platform using predetermined criteria for selection, as defined in features e1) and g1) in combination. Thus, no financial account information had to be sent from the mobile device to the authentication platform. Instead, it was sufficient to send only a token identifying the user or the mobile device from the mobile device to the authentication platform.

In contrast to that, in D1, a financial account had to be selected by the user on the mobile device as disclosed in paragraph [72]. Financial account information together with instructions to use this account then had to be sent to the acquirer systems.

Thereby, sensitive information had to be transmitted. Compared to D1, the invention thereby increased the security of the financial data.

Reasons for the Decision

1. The appeal is admissible.
2. The application and the prior art

Both the application and prior art document D1 relate to a payment system where a mobile device initiates settlement of a transaction by sending information to a point of sale device (POS) using near field communication (NFC). The POS then sends information to a financial system having access to a pre-paid account and one or more other financial accounts. One of these accounts is used to settle the transaction.

3. Main request, admission
- 3.1 Article 13(2) RPBA 2020

The present main request was filed after a notification of a summons to oral proceedings. Any amendments made after such a notification shall, in principle, not be taken into account unless there are exceptional circumstances, which have been justified with cogent reasons by the party concerned (Article 13(2) RPBA 2020). In the present case, the appellant submitted that such exceptional circumstances existed since the Board, in its communication preparing the oral proceedings, had for the first time raised the objection that the feature that "one or more linked payment accounts [are] associated with the pre-paid

stored value account (23)" had no basis in the original application contrary to Article 123(2) EPC.

The Board notes that this (new) objection could have been overcome in a straightforward manner e.g. by deleting the expression "associated with the pre-paid stored value account".

However, the main request filed after the notification of the summons to oral proceedings has been additionally amended *inter alia* by the inclusion of features concerning the customer account database in which customer preferences data comprising category-based transaction routing rules and data for the one [or] more linked payment accounts are stored by the authentication platform (feature e0)).

As set out in T 1869/18 (Reasons 3.10), objections raised by the Board for the first time in a communication under Article 15(1) RPBA 2020 may be considered to give rise to exceptional circumstances within the meaning of Article 13(2) RPBA 2020, and may possibly justify the filing of amendments which specifically respond to the new objections. However, this does not open the door to additional amendments which are unrelated to the new objections, and for which no exceptional circumstances exist.

In the present case, the features concerning the customer account database as set out above are unrelated to the objection referred to by the appellant with respect of Article 13(2) RPBA 2020. Further, according to the appellant's submission, they serve to clarify the expression "at least one predetermined selection criteria" used in the claims of the request filed previously as main request, i.e. their purpose is to overcome the objections with respect to Article 56

EPC which were already present in the contested decision. Thus, no exceptional circumstances can be seen for introducing the amendments concerning the customer account database after the notification of the summons to oral proceedings.

Since the amendments relating to the customer database are unrelated to the objection referred to by the appellant and are not justified by any exceptional circumstances, the main request is not admitted into the proceedings pursuant to Article 13(2) RPBA 2020.

3.2 Article 13(1) RPBA 2020

As also noted in decision T 1869/18 (Reasons 3.12 and 3.13), the Board, in applying Article 13(2) RPBA 2020, may also rely on the criteria set out in Article 13(1) RPBA 2020, according to which any amendment to a party's appeal after it has filed its grounds of appeal or reply may be admitted only at the discretion of the Board. In exercising its discretion, the Board shall take into account *inter alia* whether "any such amendment, *prima facie*, overcomes the issues raised by ... the Board and does not give rise to new objections."

According to claim 1 of the main request underlying the contested decision, the pre-paid stored value payment account data 23 is "stored on the [authentication] platform (5)" (feature c1)). This feature is no longer present in claim 1 of the present main request. Instead, claim 1 of the present main request now includes the feature that "customer preferences data (17) and data for the one more linked payment accounts (19) are stored by the authentication platform in a customer database" (feature e0)). The appellant

indicated paragraph [30] of the original application as a basis for this feature.

The Board accepts the appellant's submission that the first sentence of that paragraph only mentions that the customer preferences data 17 and the linked accounts information 19 are stored in the customer account database and does not refer to the pre-paid stored value payment account data 23. However, the second sentence of that paragraph defines that the pre-paid stored value payment account data 23 are also stored by the authentication platform in the customer account database. This is in line with figure 1 according to which all three elements 17, 19 and 23 are stored in the customer account database.

The indication in paragraph [30] that the pre-paid stored value payment account data 23 is only optionally used ("can be used") to settle transactions directly only refers to the use of the data 23. Contrary to the appellant's submission, however, this indication does not render the *storage* of this data in the customer account database optional.

Hence, paragraph [30] does not provide a basis in the original application for an authentication platform storing, in a customer account database, customer preferences data 17 and (data for the one more) linked accounts information 19, but not the pre-paid stored value payment account data 23.

Further, although the expression "predetermined selection criteria" has been deleted from claim 1, claim 2 refers to the predetermined selection criteria. The claim set according to the main request is therefore not clear under Article 84 EPC.

Hence, the main request gives rise to new objections under Articles 123(2) and 84 EPC.

The Board further notes that databases for storing data were generally known decades before the priority date of the application. Therefore, the introduction of the features relating to the customer account database does not, at least *prima facie*, overcome the objection concerning lack of inventive step according to the Examining Division's argumentation and the preliminary opinion of the Board's communication preparing the oral proceedings.

The main request is therefore not admitted into the proceedings also pursuant to Article 13(1) RPBA 2020.

4. First auxiliary request

4.1 Features a1), b1), c1) and e1) in combination with f1) and h1)

D1 discloses:

a payment transaction system for handling a payment transaction initiated by a mobile device 324 that is configured as a mobile wallet (Figure 3, paragraphs [71] and [72]),
the system comprising an authentication platform 312 ("acquirer system", see Figure 4) configured to receive data identifying the transaction ("packet of information", paragraph [74]; "communication related to the transaction", paragraph [80]),
and to process the received transaction using one or more of: a pre-paid stored value payment account 430 stored on the platform 312 (see paragraph [80], page 22, lines 7 to 8 and figure 4),

wherein the platform 312 is further configured to:

receive, from the mobile device 324, data verifying that the user of the mobile device 324 is authenticated ("the communication may include an identity credential or other information for authenticating or otherwise verifying the user and/or device", see paragraph [118]; "the request may include any identity credential or other information for authenticating or otherwise verifying the user and/or device", see paragraph [119]);

route, using a routing engine 415 of the platform, the received transaction to the target payment vehicle of the or each determined linked payment account (the mobile commerce gateway 415 routes transactions to different systems based on a transaction type as mentioned above, see paragraph [80]),

D1 thereby discloses features a1), b1), c1) and e1) in combination with f1) and h1). This was not disputed by the appellant.

4.2 Feature d1)

In addition, according to D1, the received transaction may also be processed using one or more linked payment accounts, each linked payment account having a corresponding target payment vehicle ("financial institutions 316 - 318 maintaining the financial account", see paragraph [80] and Figure 4). Moreover, the access to the linked payment accounts disclosed in D1 is managed by the acquirer system 312, that is by the system corresponding to the authentication platform 5 of the application. Therefore, the linked payment accounts of D1 are *associated* to the pre-paid stored

value payment account to the same extent as the corresponding accounts in the application. D1 thereby also discloses feature d1).

4.3 Feature g1), in combination with feature e1)

The appellant submitted that the wording of features e1) and g1) in combination, namely that "the platform (5) is further configured to determine at least one linked payment account (19) to be used to settle the payment transaction, according to at least one predetermined selection criteria" implied that the platform used a logic or an algorithm for selecting a linked account. It was thereby sufficient to send an identification token from the mobile device to the authentication platform, no financial account information had to be sent, contrary to the system disclosed in D1.

The Board accepts that sending a token, possibly a token merely identifying the mobile device, from a mobile device via the POS terminal to the authentication platform and then using a logic or an algorithm on the platform to select, based on the token and some received transaction information (e.g. a merchant identifier, the transaction type or the transaction amount), an account to be used for settling the transaction, falls under the wording of claim 1 of the first auxiliary request.

However, the claim is not limited thereto. For example, receiving, at the authentication platform, transaction information including a detailed instruction which financial account is to be used to settle the transaction, in addition to receiving data verifying that the user is authenticated, the authentication

platform then simply using the received indication to determine the financial account to be used, also falls under wording of the claim.

That is, claim 1 of the first auxiliary request is broader than submitted by the appellant.

Further, the Board does not accept the argument of the appellant that D1 only discloses the selection of at least one linked payment account (maintained by the financial institutions 316 - 318) to be used to settle the payment transaction by the user of the mobile device (see paragraph [77], last two sentences), resulting in the transmission of information related to the selected account (see also paragraph [72]).

In fact, D1 also discloses that the account to be used can be determined by the acquirer system according to a transaction type ("to route communications to the plurality of acquirer systems 312 based at least in part on a transaction type.", see paragraph [80]). According to the application the transaction type has to be considered as constituting "predetermined selection criteria" as defined in feature g1) (see, e.g. claim 2 of the first auxiliary request referring back to claim 1 of that request).

To summarize, on the one hand, the wording of claim 1 is broader than submitted by the appellant and does not necessarily require any particular logic or algorithm on the authentication platform. Instead, the wording of claim 1 also covers the option of selecting the financial account to be used by the user of the mobile device using the mobile device.

On the other hand, the disclosure of D1 is also broader than submitted by the appellant. The system disclosed

in D1 does not necessarily require the selection of a financial account by the user and the transmission of corresponding data by the mobile device. Instead, D1 also discloses that the acquirer system (corresponding to the authentication platform of the application) uses some sort of logic or algorithm to determine the account to be used to settle the transaction according to at least one predetermined selection criteria (i.e. the transaction type). That is, D1 discloses both options covered by the wording of claim 1 as discussed above.

For these reasons, the Board comes to the conclusion that D1 discloses feature g1) in combination with feature e1), contrary to the submissions of the appellant.

4.4 Feature i1)

D1 does not *explicitly* disclose that further to the authentication of the user and/or the device described in paragraphs [118] and [119], no additional user authentication is required. However, since according to these paragraphs, the user is already authenticated in the communications from the mobile device 324 to the POS device 310 and to the acquirer system 312, there is no need in D1 for such a further authentication - in other words, a further user authentication is not required.

Hence, the Board is of the opinion that the skilled person would implicitly consider feature i1) "without requiring further user authentication" to be disclosed in D1, as set out by the Examining Division (contested decision, page 4, last paragraph).

4.5 Conclusion

It follows from the above that the subject-matter of claim 1 of the first auxiliary request is not new under Article 54 EPC.

5. Second auxiliary request

5.1 Features a2), d2) and e2) in substance do not differ from features a1), d1) and e1), respectively.

Claim 1 of the second auxiliary request thus differs in substance from claim 1 of the first auxiliary request by modified features c2) and g2) and additional features j2) and k2).

5.2 Feature c2)

Feature c2) differs from feature c1) only in that the pre-paid stored value payment account 23 is used *directly* to settle the received transactions. However, figure 4 of D1 indicates a *direct* link between the mCommerce Gateway 415 and the Prepaid account 430. Hence, when the Prepaid account 430 is to be used to settle a transaction as described in paragraph [125] of D1, there is no need to involve the Financial Institutions 316 to 318. This corresponds to a *direct* use of the stored value account as described in the original application in paragraph [27]. D1 thus also discloses feature c2), which corresponds to the feature labeled (i) in section 15.2.1 of the contested decision, as set out by the Examining Division and indicated in the Board's preliminary opinion (page 7, first paragraph, last sentence).

5.3 Feature g2)

Feature g2) comprises an option according to which the payment transaction is settled using a linked payment account instead of the pre-paid stored value account. This option, and thereby feature g2) (which includes the feature labeled (iii) in section 15.2.1 of the contested decision), is disclosed in D1 (figure 4 and paragraph [80]; see also what is set out above for feature g1) of the first auxiliary request), as indicated in the Board's preliminary opinion (page 7, first paragraph, last sentence).

5.4 Feature j2)

Furthermore, D1 also discloses feature j2), that is each linked payment account having a corresponding target payment vehicle "for performing authorisation to settle a transaction" (see [125]: "An indication of authorization, e.g., an approval message 1610, electronic receipt, or other message, can be received at the payment system 425 from the financial institution 316."). This was indicated in the Board's preliminary opinion (see point 5.1).

5.5 Feature k2)

Feature k2), which corresponds to the feature labeled (ii) in section 15.2.1 of the contested decision, is also disclosed in Figure 4 and paragraph [80] of D1, as set out by the Examining Division and indicated in the Board's preliminary opinion (page 7, first paragraph, last sentence).

5.6 Conclusion

It follows from the above that D1 also discloses all the features of claim 1 of the second auxiliary request

which were modified/added with respect to claim 1 of the first auxiliary request. The subject-matter of claim 1 of the second auxiliary request is therefore not novel under Article 54 EPC, either.

6. Third auxiliary request

6.1 Feature g3)

Modified feature g3) in substance does not differ from feature g2).

6.2 Features m3) and h3)

According to new feature m3) in combination with modified feature h3), transactions are routed according to one or more determined transaction handling parameters of the target payment vehicle. These transaction handling parameters, however, are understood by the Board as being effectively nothing else than "predetermined selection criteria". In substance, these features thereby do not go beyond feature h1) as present in the first and the second auxiliary requests. Features m3) and h3) are therefore also disclosed in D1, as set out by the Examining Division with respect to the feature labeled (i) in section 16.1.2 of the contested decision.

6.3 Feature l3)

It follows from the above that D1 discloses all the features of claim 1 of the third auxiliary request with the exception of additional feature l3).

However, providing a delay settlement of the transaction for a defined period as defined in

additional feature 13) relates to a mere business rule (that is, a user is given time to select an account), as set out by the Examining Division. It does not, *per se*, provide any technical effect. The implementation of this business rule according to feature 13) has to be considered to be straightforward for the skilled person, as set out by the Examining Division with respect to the feature labeled (ii) in section 16.2.1 of the contested decision.

6.4 Conclusion

It follows therefrom that the subject-matter of claim 1 of the third auxiliary request is not inventive under Article 56 EPC.

7. None of the admitted requests fulfills the requirements of the EPC. Thus, the appeal must fail.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



B. Atienza Vivancos

S. Ward

Decision electronically authenticated