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**Datasheet for the decision
of 10 March 2022**

Case Number: T 2434/19 - 3.5.07

Application Number: 10702898.7

Publication Number: 2391958

IPC: G06F17/30

Language of the proceedings: EN

Title of invention:

Data processing in a distributed computing environment

Applicant:

Ontology-Partners Ltd.

Headword:

Distributed data processing/ONTOLOGY-PARTNERS

Relevant legal provisions:

EPC Art. 113(1)
EPC R. 103(1) (a)
RPBA 2020 Art. 11

Keyword:

Right to be heard - substantial procedural violation (yes)
Remittal - fundamental deficiency in first-instance proceedings (yes)

Decisions cited:

R 0019/12, T 0763/04, T 1557/07



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Case Number: T 2434/19 - 3.5.07

D E C I S I O N
of Technical Board of Appeal 3.5.07
of 10 March 2022

Appellant: Ontology-Partners Ltd.
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Representative: AWA Sweden AB
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 22 March 2019
refusing European patent application
No. 10702898.7 pursuant to Article 97(2) EPC**

Composition of the Board:

Chair J. Geschwind
Members: R. de Man
M. Jaedicke

Summary of Facts and Submissions

I. The appellant (applicant) filed an appeal against the decision of the examining division refusing European patent application No. 10702898.7.

II. The contested decision cited the following document:

D1: A. Schlicht and H. Stuckenschmidt: "Towards Distributed Ontology Reasoning for the Web", Proceedings of the 2008 IEEE/WIC/ACM Conference on Web Intelligence and Intelligent Agent Technology, December 2008, pp. 536-539.

The examining division decided that the subject-matter of the independent claims of the main request and of the first, second and third auxiliary requests lacked inventive step over document D1.

III. In its statement of grounds of appeal, the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims of the main request or, in the alternative, of one of the first to third auxiliary requests.

The appellant requested oral proceedings in case the board considered that a patent could not be granted in accordance with one of the main request and first to third auxiliary requests.

IV. In a communication issued under Rule 100(2) EPC, the board informed the appellant of its intention to set aside the decision under appeal, to remit the case to the examining division for further prosecution and to

order reimbursement of the appeal fee under Rule 103(1) (a) EPC. It invited the appellant to indicate whether it agreed to a remittal without oral proceedings before the board being held first.

- V. In response to the board's communication, the appellant generally agreed to a remittal of the case to the examining division for further prosecution without oral proceedings being held first.

More specifically, it primarily agreed to a remittal for further prosecution on the basis of the main request, and the first, second and third auxiliary requests. Auxiliary, it agreed to a remittal of the case for further prosecution on the basis of the main request.

- VI. Independent claim 1 of the main request reads as follows:

"A computerized system configured to enhance data originating in a distributed data set whose data elements have a plurality of formats, the computerized system comprising:
a plurality of computerized processing cells, each computerized processing cell configured to add inferences to data from the distributed data set by translating a portion of the data from the distributed data set into a common semantic information representation shared among the plurality of computerized processing cells,
wherein at least a portion of the plurality of computerized processing cells are arranged in a first computerized data cell graph configured to progressively build a first semantic knowledge model

from the distributed data set in the common semantic information representation."

Claims 2 to 14 of the main request are, directly or indirectly, dependent on claim 1.

Independent claim 15 reads as follows:

"A method according to any of claims 1 to 14."

VII. The text of the the first, second and third auxiliary requests is not relevant to the outcome of this decision.

Reasons for the Decision

1. The application relates to the use of semantic knowledge models to enable a unified/enhanced view of data obtained from multiple, disparate sources pertaining to the same domain of discourse.

Main request

2. *Decision under appeal*

2.1 According to points 1.2 and 1.3 of the reasons for the contested decision, document D1 discloses all the features of claim 1 of the main request, except for the use of computerised processing "cells". According to the examining division, the term "cell" was merely a name used to refer to distributed entities that performed inference to build semantic knowledge, whereas document D1 used the terms "modules", "graph" and "reasoner" in the same context and for solving the same problem. Since no technical effect appeared to

arise from having computerised processing "cells", the subject-matter of claim 1 was not inventive.

2.2 The only reference to passages of document D1 in the contested decision reads "(D1: Title; Abstract; Sections 1, 2 and 4; Figure 3)" and is placed immediately after the full text of claim 1 in which the word "cells" has been struck through (see point 1.2 of the reasons for the decision).

2.3 The decision contains no explicit discussion of arguments brought forward by the appellant.

3. *Right to be heard - Article 113(1) EPC*

3.1 Claim 1 of the main request is identical to claim 1 as originally filed. The decision's reasoning for the main request is a word-for-word copy of the inventive-step reasoning presented in the examining division's communication dated 9 November 2012.

3.2 Reverting several rounds of amendments made in reply to the communication of 9 November 2012 and later communications, the appellant filed the main request together with the first and second auxiliary requests with its letter of 12 December 2018 in preparation of the oral proceedings before the examining division.

In this letter, the appellant noted that the examining division had consistently argued that document D1 disclosed all the features of claim 1 except for the computerised processing "cell". It submitted that the examining division had given too little weight to the actual features of the claim and that, while document D1 did disclose a computerised system configured to enhance data originating in a distributed data set, it

disclosed none of the other claim features. Although general references to an entire document might in certain situations be enough, this was not such a case. In particular, document D1 disclosed none of adding inferences to data, progressively building a semantic model from a distributed data set, data having different formats, and computerised processing cells.

3.3 In a communication dated 19 December 2018, presented in the file as the result of a telephone consultation, the examining division indicated that it admitted the main request and the first and second auxiliary requests into the proceedings. In respect of the main request, it repeated the inventive-step reasoning presented in its communication of 9 November 2012. The communication makes no mention of the appellant's arguments.

3.4 There is no indication in the minutes of the oral proceedings before the examining division that the appellant no longer maintained its arguments. On the contrary, the appellant "challenged D1 as to its disclosure with respect to the features of claim 1" of the main request. Asked by the chairman to identify all the relevant passages in document D1, the first examiner mentioned the title and abstract of document D1 and pointed to sections 3 and 4 as disclosing more detailed information (see page 1 of the minutes; the decision instead refers to sections 1, 2 and 4).

3.5 The right to be heard under Article 113(1) EPC encompasses the right of a party to have its submissions considered in the written decision (see decisions T 763/04, Reasons 4.3 and 4.4; R 19/12 of 12 April 2016, Reasons 6). Although a decision does not have to address each and every argument of a party in detail, it must comment on the crucial points of

dispute in order to give the losing party a fair idea of why its arguments were not considered convincing (see decision T 1557/07, Reasons 2.6; R 19/12 of 12 April 2016, Reasons 6.1 to 6.3).

3.6 In the present case, the appellant specifically contested that the sole distinguishing feature identified by the examining division accurately reflected the difference between the subject-matter of claim 1 and the disclosure of document D1. It pointed out that the examining division's reasoning merely contained a general reference to document D1, and it listed a number of features which it considered not to be disclosed in document D1. However, none of these arguments have been dealt with, or even been acknowledged, in the written reasons for the decision under appeal. On the contrary, the written decision's analysis of document D1 is still limited to that same general reference and provides no explanation allowing the reader to understand why the examining division considered that document D1 disclosed the features listed by the appellant.

3.7 The board therefore considers that the appellant's right to be heard was violated (Article 113(1) EPC).

4. *Remittal to the examining division*

4.1 A violation of the right to be heard is a fundamental deficiency which, as a rule, constitutes a special reason for remitting the case to the examining division for further prosecution (Article 11 RPBA 2020).

4.2 In the present case, the lack of detailed reasoning in the contested decision also does not allow the board to review it. For example, it is not *prima facie* apparent

to the board where in document D1 the examining division may have found a disclosure of "data elements" having "a plurality of formats" and of "translating" such data elements "into a common semantic information representation".

4.3 In these circumstances, the board considers that a remittal to the examining division for further prosecution on the basis of the main request (and the first, second and third auxiliary requests) is appropriate.

4.4 Since the violation of the appellant's right to be heard constitutes a substantial procedural violation and was causal for the filing of the appeal and, moreover, is the reason for the immediate remittal of the case to the examining division, reimbursement of the appeal fee under Rule 103(1)(a) EPC is equitable.

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.
3. The appeal fee is to be reimbursed.

The Registrar:

The Chair:



S. Lichtenvort

J. Geschwind

Decision electronically authenticated