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**Datasheet for the decision
of 30 November 2023**

Case Number: T 0072/20 - 3.5.01

Application Number: 11850570.0

Publication Number: 2656297

IPC: G06Q30/00

Language of the proceedings: EN

Title of invention:

METHODS AND APPARATUS TO DETERMINE MEDIA IMPRESSIONS USING
DISTRIBUTED DEMOGRAPHIC INFORMATION

Applicant:

The Nielsen Company (US), LLC

Headword:

Accessing cookies from different Internet domains/NIELSEN

Relevant legal provisions:

RPBA 2020 Art. 11, 13(2)
EPC Art. 111(1)

Keyword:

Technical character - accessing cookies from different
Internet domains (yes)
Remittal - special reasons for remittal (search)

Decisions cited:

T 0931/95, T 0258/03



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Case Number: T 0072/20 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 30 November 2023

Appellant: The Nielsen Company (US), LLC
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Schaumburg, IL 60173 (US)

Representative: Samson & Partner Patentanwälte mbB
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 24 July 2019
refusing European patent application No.
11850570.0 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman W. Chandler
Members: A. Wahrenberg
D. Rogers

Summary of Facts and Submissions

- I. This case concerns the applicant's appeal against the examining division's decision to refuse the European patent application No. 11850570.0 for lack of inventive step (Article 56 EPC).
- II. The decision under appeal referred to the following documents:
- D1: US 2008/235243 A1
D2: US 2004/088212 A1.
- III. The examining division considered that the features distinguishing the claimed invention from D1 were administrative steps which did not contribute to inventive step.
- IV. In 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 annexed main or first or second auxiliary request. The grounds of appeal also referred to a third auxiliary request, but no claims corresponding to a third auxiliary request were filed.
- V. In the communication accompanying the summons to oral proceedings, the Board tended to the view that the aspects of the claims relating to accessing cookies from different Internet domains were technical and not obvious from D1. The Board had doubts, however, whether those aspects had been searched.

The Board also considered that claim 1 lacked clarity and support by the description (Article 84 EPC) as

essential features appeared to be missing. Furthermore, since the claim included amendments taken from the description, which had been isolated from other parts of the described embodiments, with no apparent basis, there was an additional problem of added subject-matter (Article 123(2) EPC).

The Board also referred to the following document as a general background:

A1: "Cookie Synching", <https://www.admonsters.com/cookie-synching/>, 20 April 2010.

VI. In a reply dated 2 November 2023, the appellant submitted further arguments and requested to set aside the decision under appeal and either to grant a patent or remit the case to the examining division for further search/examination, respectively, on each of a new main, second and fourth auxiliary request.

VII. Oral proceedings took place by videoconference. The final requests of the appellant were to set aside the decision under appeal and remit the case to the examining division for further search/examination of claims 1 to 15 of "Claims set of amended main request(markup copy)" signed and dated 30 November 2023, with feature b.1 of claims 1 and 10 initialled at 10:52, filed at the oral proceedings.

VIII. Claim 1 reads:

A method to determine media impressions using distributed demographic information in a system comprising an impression monitor system (102) in a first Internet domain, a database proprietor (104a; 104b) in a second Internet domain and a client device

(108), wherein

a) the first Internet domain is different from the second Internet domain, the method comprising:

b) detecting, by a cookie reporter (202) at the client device (108), a login event of the client device (108) to login to an Internet-based service of the database proprietor (104a; 104b) in the second Internet domain, wherein

b.1) the cookie reporter (202) is provided to the client device (108) directly or indirectly by an audience measurement entity (103) associated with the impression monitor system (102);

c) in response to detecting the login event, initiating, by the cookie reporter (202) at the client device (108), an initialization audience measurement entity cookie message exchange by sending a request (116) to the impression monitor system (102)

c.1) the request being a dummy request to cause the impression monitor system (102) to generate a first cookie (AME cookie, 208) that

c.1.1) uniquely identifies the client device (108) and is used by the impression monitor system (102) to log impressions associated with the client device (108), wherein

c.1.2) the first cookie (AME cookie, 208) is associated with the first Internet domain;

d) receiving, by the cookie reporter (202) at the client device (108), as part of the initialization audience measurement entity cookie message exchange, a response (216) to the request (116), the response (216) generated by the impression monitor system (102) and including the first cookie (AME cookie, 208), wherein

d.1) the initialization audience measurement entity cookie message exchange sets the first cookie (AME cookie, 208) in the client device (108) based on

the first Internet domain of the impression monitor system (102);

e) in response to receiving the response (216) to the request (116), generating, by the cookie reporter (202) at the client device (108), a login reporting message (118), the login reporting message (118) comprising

e.1) the first cookie (AME cookie, 208), and

e.2) a second cookie (partner A cookie, 228)

associated with the second Internet domain and outside the first Internet domain, wherein

e.2.1) the second cookie (partner A cookie, 228) is set by the database proprietor (104a; 104b) in the client device (108) when the client device (108) visits a webpage of the database proprietor (104a; 104b) or when a user logs into the Internet-based service of the database proprietor (104a; 104b) via a login page of the database proprietor (104a; 104b);

f) sending, by the cookie reporter (202) at the client device (108), the login reporting message (118) from the client device (108) to the database proprietor (104a; 104b),

f.1) the login reporting message (118) to be received at the database proprietor (104a; 104b) to enable the database proprietor (104a; 104b) to:

f.1.1) extract the first cookie (AME cookie, 208) and the second cookie (partner A cookie, 228) and

f.1.2) map the second cookie (partner A cookie, 228) to the first cookie (AME cookie, 208),

g) in response to displaying media (110) provided by an Internet-based advertisement/content publisher (303), sending a tag request (112) from the client device (108) to the impression monitor system (102),

g.1) the displayed media including tag instructions that cause sending the tag request (112),

g.2) the tag request (112) generated by the

client device (108),

g.3) the tag request (112) including the first cookie (AME cookie, 208) and at least one of a content identifier indicating the displayed media (110) and/or the Internet-based advertisement/content publisher (303);

- wherein

g.4) the tag request (112) enables the impression monitor system (102) to:

g.4.1) log a media impression associated with the client device (108) by storing the first cookie (AME cookie, 208) in association with the content identifier, and

g.4.2) send the logged media impression from the impression monitor system (102) to the database proprietor (104a; 104b);

- wherein

h) the logged media impression received from the impression monitor system (102) enables the database proprietor (104a; 104b) to:

h.1) match the first cookie (AME cookie, 208) of the received media impression to the second cookie (partner A cookie, 228) by using the mapping of the second cookie (partner A cookie, 228) to the first cookie (AME cookie, 208),

h.2) associate demographic information corresponding to the second cookie (partner A cookie, 228) to the received media impression,

h.3) generate an impression report (106a, 106b) including the media impression in association with the demographic information corresponding to the second cookie (partner A cookie, 228), and

h.4) send the impression report (106a, 106b) from the database proprietor (104a; 104b) to the impression monitor system (102).

IX. Claim 10 is the corresponding device claim.

Reasons for the Decision

1. *The invention*

1.1 The invention concerns monitoring users' access to online media content, and linking this information to demographics in proprietary databases, such as Facebook.

1.2 In claim 1, there is a client device (108), an impression monitor system (IMS - 102) that monitors the user's access to media via a "tag instruction" in the content, and a database proprietor (104a; 104b) that stores demographics information and provides a login-based Internet service. Both the IMS and the database proprietor set cookies on the client device (AME cookie - 208 and Partner A cookie - 228, respectively) to identify the user. However, since Internet browsers restrict access to cookies from outside the domain that set them, the IMS and the database proprietor cannot readily access the cookie of the other in order to link the monitoring information with the demographics information (paragraph [0028]).

1.3 The invention in claim 1 solves this "same origin" problem of access to cookies in the following way:

First, a "cookie reporter" (202) at the client device detects a login event to the service of the database provider. The cookie reporter has been provided to the client device by an audience measurement entity (AME - 103) which is associated with the IMS. In response to detecting the login event, the cookie reporter sends a dummy request (116) to the IMS, which causes the IMS to

set the AME cookie (208) on the client device. The cookie reporter also generates and sends a "login reporting message" (118) to the database proprietor. The login reporting message comprises the AME cookie and the Partner A cookie set by the database proprietor. Now the database proprietor has both cookies and can link them.

- 1.4 Further, in claim 1, when the user accesses the media content, the tag instruction in the HTML code causes the client device to send a tag request (112) to the IMS, the tag request including the AME cookie and a content ID or an ID of the content publisher. The IMS logs this and sends a "logged media impression" to the database proprietor that looks at its mapping and retrieves for the AME cookie demographic data stored for the Partner A cookie. The result is provided in an "impression report" to the IMS.

2. *Admittance of the main request*

- 2.1 The main request was filed as a reaction to the Board's objections in the communication accompanying the summons to oral proceedings. New objections in appeal proceedings constitute exceptional circumstances in the sense of Article 13(2) RPBA 2020, and, therefore, the main request is admitted.

3. *Articles 84 and 123(2) EPC*

- 3.1 The Board is satisfied that the main request is clear and supported by the (original) disclosure. Claims 1 and 10 now reflect the embodiment in Figures 1 and 2. In particular, the role of the cookie reporter (202), which the Board considered to be essential, is now

clearly defined in claims 1 and 10.

4. *Technicality*

- 4.1 The examining division considered that the features relating to accessing cookies from different domains were administrative in nature.

The problem of "how to combine information extracted from cookies respectively associated to different domains, when one of the domains is not accessible to the entity setting a cookie in a different domain due to existing protocols" was said to be circumvented by means of administrative steps as in T 258/03 - *Auction method/HITACHI* and T 931/95 - *Controlling pension benefits system/PBS PARTNERSHIP*.

- 4.2 The Board, however, takes the view that accessing cookies from different domains is a technical issue and that the invention in claims 1 and 10 provides a technical solution to this issue. This technical solution is circumventing a browser restriction, which is itself a technical feature albeit possibly implementing a non-technical policy. This is not the same as circumventing a technical problem by modifying a non-technical scheme as in T 258/03.

5. *Remittal to the examining division*

- 5.1 The examining division did not cite any documents relating to accessing cookies from different domains, and the Board has doubts whether the European supplementary search covered this aspect. Firstly, the division considered this issue to be non-technical and probably did not consider it to be significant for the search. Secondly, the field of search indicated in the

search report is G06Q (business methods). In the Board's view, the search should probably cover also computer security and web systems.

- 5.2 Since a patent cannot be granted without a search, the Board exceptionally remits the case to the examining division under Article 111(1) EPC and Article 11 RPBA 2020.

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:



T. Buschek

W. Chandler

Decision electronically authenticated