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**Datasheet for the decision
of 18 April 2023**

Case Number: T 0798/20 - 3.5.01

Application Number: 10173343.4

Publication Number: 2287792

IPC: G06Q20/00

Language of the proceedings: EN

Title of invention:

Location controls on payment card transactions

Applicant:

MasterCard International Incorporated

Headword:

Location controls on payment card transactions/MASTERCARD

Relevant legal provisions:

EPC Art. 123(2)

RPBA 2020 Art. 12(6), 13(2)

Keyword:

Amendments - added subject-matter (yes)

Late-filed request - should have been submitted in first-
instance proceedings (yes)



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Case Number: T 0798/20 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 18 April 2023

Appellant: MasterCard International Incorporated
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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 20 September
2019 refusing European patent application No.
10173343.4 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman W. Chandler
Members: I. Kürten
D. Rogers

Summary of Facts and Submissions

- I. The appeal concerns the decision of the examining division to refuse the European patent application No. 10173343.4 for lack of inventive step (Article 56 EPC).
- II. In the statement setting out the grounds of appeal, the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of a main request or one of six auxiliary requests, all filed with the statement setting out the grounds of appeal. The main and the first to fourth auxiliary requests corresponded to the refused requests. The fifth and sixth auxiliary requests were new.
- III. In the annex accompanying the summons to oral proceedings, the Board set out its provisional opinion that claim 1 of the main and first to fourth auxiliary requests appeared to contain added subject-matter and to lack an inventive step. The Board was minded not to admit the fifth and sixth auxiliary requests.
- IV. In a reply, the appellant withdrew the sixth auxiliary request and argued that the remaining requests were supported by the original disclosure and involved an inventive step. It also filed a new seventh auxiliary request.
- V. Oral proceedings were held by videoconference on 18 April 2023 as scheduled. During the oral proceedings the appellant confirmed the requests submitted in writing.
- VI. Claim 1 of the main request reads:

A financial transaction system comprising:

a managing computer system comprising a memory device capable of storing data associating identification information of at least one mobile device with at least one individual payment card account, and a computer processor configured to:

(i) receive a request from a merchant for authorization of a payment card transaction against a payment card account of a customer, wherein said authorization request from the merchant identifies a country of origin of the request for payment authorization;

characterized in that the computer processor is further configured to:

(ii) receive information communicated by said at least one mobile device regarding a country in which said at least one mobile device is located and identity of the mobile device as determined by the mobile device, wherein the mobile device has electronics capable of enabling a determination of a country location of the mobile device and storing said country location in the managing computer system until said country location is updated by the mobile device upon entering a new country location;

(iii) set authorization locks associated with said payment card account of said customer for enabling and disabling card transactions based on said information communicated by said at least one mobile device, wherein said information indicates the country in which said at least one mobile device is located;

(iv) identify said at least one mobile device associated with the payment card account against which the request for authorization has been received by accessing data stored in the memory device;

(v) determine, upon receiving said authorization request from said merchant, if an authorization lock is enabled or disabled for transactions in said country identified in said authorization request and if the payment card transaction meets rules set up based on transaction details to flexibly match the geographic location of said at least one mobile device with the geographic origin of said authorization request at different levels of specificity depending on the transaction details; and

(vi) one of: (1) permit the payment card transaction to be processed for authorization when said authorization lock is disabled for transactions in said country identified in said authorization request and the payment card transaction meets said rules, and (2) take action to permit denying the authorization request for the transaction to be processed for authorization when said authorization lock is enabled for transactions in said country identified in said authorization request and the payment card transaction does not meet said rules,

wherein (a) after the managing system receives the authorization request, via the financial network, from the merchant, and (b) when the managing computer system takes action to permit denying the transaction, the managing system transmits an electronic alert to both (1) a computing device of the customer alerting the customer to indicate whether the transaction is to be authorized or denied and (2) the processing device of

said card issuer indicating that the transaction should be denied,

wherein the mobile device is provided with an application to open a communication channel or channels to the managing computer system.

- VII. Claim 1 of the first auxiliary request adds at the end of claim 1 of the main request *"wherein the transaction details comprise at least one of: an amount of the transaction, a frequency of use, the merchant, a type of merchant, and a type of transaction"*.
- VIII. Claim 1 of the second auxiliary request adds at the end of claim 1 of the first auxiliary request *"wherein the geographic location of said at least one mobile device flexibly matches the geographic origin of said authorization request if said location and said origin are within a given distance from one another and/or within a given geographic location"*.
- IX. Claim 1 of the third auxiliary request adds at the end of claim 1 of the main request *"and to permit the customer to set up said rules"*.
- X. Claim 1 of the fourth auxiliary request adds at the end of claim 1 of the main request *"and to enable or disable the transmission of said information communicated by said at least one mobile device"*.
- XI. Claim 1 of the fifth auxiliary replaces *"a country of origin"* in step (i) of the main request with *"the geographic origin"*. It also amends step (ii) as follows (with additions underlined and deletions stroke through):

(ii) receive information communicated by said at least one mobile device regarding a geographic location ~~country~~ in which said at least one mobile device is located and identity of the mobile device as determined by the mobile device, wherein the mobile device has electronics capable of enabling a determination of a geographic ~~country~~ location of the mobile device, and storing ~~said~~ a country location corresponding to said geographic location in the managing computer system until said country location is updated by the mobile device upon entering a new country location.

Additionally, the claim assigns the labels "(a)" and "(b)" to the two sub-steps in both (v) and (vi) (1) and substitutes the conjunction "and" in step (vi) (2) with "and/or".

- XII. Claim 1 of the seventh auxiliary request deletes the rules in steps (v) and (vi) of the main request and replaces the last two features starting with "wherein" with "*permit a customer to selectively activate or install an application on a mobile device to provide the information and communicate from the mobile device regarding a current geographic location and identity of the mobile device*".

Reasons for the Decision

1. The invention
- 1.1 The invention concerns location-based control of payment card transactions. The key idea is that if a transaction's location deviates from the location of the cardholder's mobile device, the transaction is

likely fraudulent and should be denied ([0001], [0002] of the published application).

1.2 Looking at Figure 1, a customer 150 initiates a payment card transaction at a merchant 140. The merchant sends a transaction authorisation request comprising the transaction's location to a managing computer system 110 (feature (i) in claim 1, [0019]). The customer's mobile device 160, which has previously been associated with the payment card, also transmits its geographic location to the managing system (features (ii) and (iv), [0020]). The system then applies some rules to determine whether the two locations match and whether the transaction should be allowed or denied (features (iii), (v) and (vi), [0022], [0023]). In the latter case, the system sends alerts to the customer and the card's issuer ([0027]).

2. Main request - added-subject matter

2.1 The Board judges that features (ii), (iii), (v), and (vi) in claim 1 are not directly and unambiguously derivable from the application as filed, contrary to the requirements of Article 123(2) EPC. The reasons are:

2.2 Re (ii): According to this feature, the mobile device determines the country in which it is located. This is in contrast to the originally filed application, where the mobile device only determines its current *geographic location* (e.g. using an integrated GPS) and provides this location to the managing computer system (see page 10, lines 14 to 19 and page 20, lines 14 to 17). The managing system can then use this information to determine the country location of the mobile device (e.g. the end of page 5).

Moreover, the application as filed does not suggest that the mobile device updates its country location when it enters a new country. The fact that such updates are typically performed (albeit by the mobile network operator), does not, in itself, justify including this feature in the claim.

- 2.3 Re (iii): The application as filed does not provide a clear and unambiguous disclosure of an authorisation lock that is based on the country location of a mobile device. The only passage that explicitly mentions authorisation locks is on page 8, lines 12 to 16, which states that such locks "*enable/disable card transactions based on location*". This sentence, however, does not specify whether the location referred to is that of the transaction or that of the mobile device, or perhaps both.

Further passages that may be construed as disclosing country-based authorisation locks can be found in the background section on page 1, lines 14 to 16, and at the end of page 2. Leaving aside the question of whether features disclosed as belonging to the prior art can be incorporated into the invention, these passages describe denying transactions based solely on the country where the payment transaction takes place. This is in contrast to the authorisation locks in step (iii), which depend on the country location of the mobile device.

- 2.4 Re (v): The application as filed fails to disclose the combination of 1) an authorisation lock based on the country where the transaction takes place and 2) rules based on transaction details, geographic location of

the mobile device, and geographic origin of the authorisation request.

2.4.1 The appellant argued that the authorisation lock in step (v) pertained to restrictions on the mobile device's location, while the rules reflected transaction-based restrictions. This splitting of location-based and transaction-based rules was supported by the second paragraph on page 12 of the application as filed, which disclosed matching the locations of the mobile device and the transaction request and, additionally, setting up rules based on transaction details.

2.4.2 The Board is not convinced that the cited paragraph provides a basis for step (v).

Firstly, according to this paragraph "*the geographic origin of the transaction authorization request may match the geographic location of the mobile device in the same country*". This indicates that the location matching requires both the transaction's and the mobile device's locations, whereas the authorisation lock in step (v) is solely based on the country of the transaction.

Moreover, the subsequent sentence ("*Further, rules can be set up, based on transaction details ... to flexibly match the geographic location with the geographic origin*") suggests that the transaction-based rules are a refinement of the location-based matching rather than being a separate set of rules. The accompanying example on page 13 supports this interpretation by stating that country-level matching might be adequate for micro payments of \$10, but more substantial payments require stricter location-matching criteria.

2.4.3 The appellant also argued that step (v) is supported by the first paragraph on page 14. According to that disclosure, the system notifies the card issuer if the geographic locations of the mobile device and the transaction do not match. The card issuer can nevertheless authorise the transaction based on the transaction details.

2.4.4 The Board is not convinced. Firstly, the location matching in that paragraph is based on the locations of both the mobile device and the transaction, whereas the authorisation lock in step (v) is only based on the country of the transaction. Secondly, the transaction-based rules in that paragraph are applied *by the card issuer after* receiving a notification from the managing system that the transaction should be denied. In contrast, the transaction-based rules in step (v) of claim 1 are applied *by the management computer system before* it notifies the card issuer that the transaction should be denied. Finally, in contrast to the transaction-based rules in step (v), the transaction-based rules in the paragraph on page 14 are independent of the locations of the mobile device and the transaction.

2.5 Re (vi): The appellant explained that a disabled authorisation lock in scenario (1) meant that fraud in the country where the transaction took place was unlikely. Therefore, meeting the transaction-based rules was sufficient to permit the transaction. On the other hand, an enabled authorisation lock in scenario (2) indicated that fraud in the country of the transaction was likely. However, this alone was not enough to deny a transaction. An additional requirement was that the transaction-based rules were not met. The

appellant argued that the example on page 13, lines 2 to 8, supported these criteria for permitting or denying a transaction in step (vi).

However, as explained in point 2.4.2 above, the Board considers that the example on page 13 only relates to the transaction-based rules. It does not rely on an authorisation lock based on the country of the transaction. Hence, it provides a basis, at most, for the first scenario in step (vi), where fraudulence in the country of the transaction does not play a role, and the fate of a transaction is determined solely by the transaction-based rules. It does not, however, provide a basis for the second scenario in step (vi).

2.6 For the reasons above, the Board judges that the subject-matter of claim 1 extends beyond the content of the application as filed, contrary to the requirements of Article 123(2) EPC.

3. First to fifth auxiliary requests - added subject-matter

Claim 1 of each of these requests includes steps (iii), (v), and (vi) of the main request. Therefore, the first to fifth auxiliary requests do not meet the requirements of Article 123(2) EPC at least for the reasons given in points 2.3 to 2.5 above.

4. Seventh auxiliary request - admittance

4.1 As the seventh auxiliary request was filed after notification of the summons to oral proceedings, its admittance is at the Board's discretion (Article 13(2) RPBA). When exercising its discretion under Article 13(2) RPBA, the Board may also rely on the criteria set

out in Article 12(6) RPBA (see document CA/3/19, explanatory remarks on Article 13(2) in point 60 referring to Article 13(1), which itself refers to Articles 12(4) to 12(6) RPBA).

According to the second sentence of Article 12(6) RPBA, the Board shall not admit requests that should have been submitted in the first instance proceedings, unless the circumstances of the appeal justify their admittance.

- 4.2 The only reason given by the appellant for filing the seventh auxiliary request, was that this request was based on a combination of claims that the examining division deemed allowable in their communication of 28 November 2016.

The applicant thus had been given an explicit indication of the request's allowability at an early stage and had ample opportunity to file this request during the examination proceedings. Therefore, the Board considers that it should have filed the seventh auxiliary request earlier. The appellant has not argued, and the Board cannot identify, any circumstances justifying the admittance of this request in appeal.

- 4.3 Therefore, the Board, in the exercise of its discretion, does not admit the seventh auxiliary request into the appeal proceedings (Articles 12(6) and 13(2) RPBA).

5. Since none of the admitted requests is allowable, the appeal has to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



S. Sanchez Chiquero

W. Chandler

Decision electronically authenticated