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Datasheet for the decision of 13 June 2024

Case Number: T 0021/21 - 3.5.01

Application Number: 11781424.4

Publication Number: 3134857

IPC: G06Q30/00

Language of the proceedings: EN

Title of invention:
POINT-OF-SALE SYSTEM USING PREPAID/GIFT CARD NETWORK

Applicant:
Imidus Technologies, Inc.

Headword:
Gift card network/IMIDUS

Relevant legal provisions:
EPC Art. 56
RPBA 2020 Art. 13(1)

Keyword:
Inventive step - routing reward messages based on a Bank Identification Number (no - the specific type of identifier is not technical)

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Case Number: T 0021/21 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 13 June 2024

Appellant: (Applicant)	Imidus Technologies, Inc. 10855 Fairfax Blvd. Third Floor Fairfax, Virginia 22030 (US)
Representative:	CMS Cameron McKenna Nabarro Olswang LLP Cannon Place 78 Cannon Street London EC4N 6AF (GB)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 5 August 2020 refusing European patent application No. 11781424.4 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	M. Höhn
Members:	R. Moser
	L. Basterreix

Summary of Facts and Submissions

I. This case concerns the applicant's appeal against the decision of the examining division to refuse European patent application No. 11781424.4.

II. The examining division found that claim 1 did not meet the requirements of Articles 56, 84 and 123(2) EPC.

Regarding inventive step, they held that claim 1 was not inventive over D2 (US 2008/0201224 A1). In the division's view, the distinguishing features related to non-technical matters and well-known implementation choices.

III. In the statement setting out the grounds of appeal, the appellant requested that the appealed decision be set aside and a patent be granted on the basis of claims 1 to 10 ("MAIN REQUEST") and an adapted description, all filed with the grounds of appeal.

The appellant pointed to other distinguishing features and argued, *inter alia*, that D2 did not disclose the use of a single gateway for both credit card and gift card transactions. In the appellant's view, this ensured that these different types of transactions were separated and did not conflict with each other. On the contrary, D2 led away from the claimed gateway by disclosing the use of a single path, namely from Merchant POS 504 to Acquirer 508, Banknet Network 510 and Rewards System 516 (see Figure 5).

IV. In a communication under Rule 100(2) EPC the Board tended to take the view that the examining division's reasoning on Articles 84 and 123(2) EPC was not

convincing. However, it raised new objections under these Articles. Furthermore, the Board tended to agree with the examining division that claim 1 was not inventive over D2.

V. In a response the appellant filed an auxiliary request addressing the clarity and added matter objections raised by the Board.

Furthermore, oral proceedings via videoconference were requested.

VI. With letter dated 7 December 2023, the Board summoned the appellant to oral proceedings. In the accompanying communication it tended to admit the auxiliary request into the appeal proceedings. The Board, however, maintained its preliminary view and tended to consider that both the main request and the auxiliary request were neither clear nor inventive.

VII. Oral proceedings took place as videoconference on 13 June 2024. The appellant's requests were as filed with the response received on 25 October 2023. After due consideration of the appellant's arguments presented orally and in the written procedure, the Chairman announced the decision.

VIII. Claim 1 of the main request reads as follows:

A Point-Of-Sale, POS, system, comprising:

a first POS device (207, 301) associated with a first merchant system to process a first sale transaction at a first point-of-sale, to process a first reward associated with the first sale transaction, and to monetize the first reward at the

point of sale as a first gift card issued through the first POS device (207, 301),

wherein the first merchant system is part of a specified network and the first gift card is usable through other POS devices within the specified network;

the POS system having a first formatter module (303), running on a computer associated with the first POS device, and configured to receive gift card purchase data from the first POS device (207, 301) via a driver (307) and to use the gift card purchase data to build and send a transaction message to a gift card management server (313) of the specified network over an authorization route, the transaction message being to activate a gift card and set an initial balance;

a gateway kernel (309) on a gateway server of a gift card network, the gateway kernel configured to receive the transaction message and establish the authorization route based on a card Bank Identification Number, BIN, of the gift card, comprising a gift card message formatter (311) and another driver (312), the gateway server being connected to a credit card formatter;

the gift card management server being configured to send a response message to the gateway kernel (309); and

the gateway kernel (309) configured to match the transaction message and route the response message back to the originating POS station, being the first POS device.

IX. Claim 1 of the auxiliary request removes from claim 1 of the main request the following features:

the gateway server being connected to a credit card formatter;

match the transaction message and.

X. The appellant's arguments are discussed in detail in the reasons for the decision.

Reasons for the Decision

The invention

1. The invention relates to a reward system that utilises prepaid gift cards. The primary advantage of the system is that customers can acquire a gift card from one of the participating merchants, such as at a point of sale (POS), and use it at any other participating merchant - see paragraph [0006] of the published application.

2. As shown in Figure 3, the user obtains and activates the gift card at POS station 301, located in store A. A gateway server (kernel) 309 transmits card-related data, such as activation data ("the transaction message being to activate a gift card and set an initial balance" in claim 1), from the POS to card management server 313, and sends a response message back.

3. The path between the gateway server and the card management server ("authorization route") is established based on the card's Bank Identification Number (BIN).

Main request, inventive step (Article 56 EPC)

4. Claim 1 essentially corresponds to claim 1 of the refused main request.

As outlined in its preliminary opinion (see points 6 and 7), the Board is of the view that the claim adds subject matter and lacks clarity.

During oral proceedings, it was decided that these issues would only be addressed if an inventive step could be acknowledged. Since this was not the case, they were not further discussed and are, therefore, not relevant to this decision.

5. The examining division held that claim 1 was not inventive over D2. They identified the following distinguishing features (see point 1.3.2.4 of the decision):

1. the system of D2 is adapted to perform the administrative method identified in section 1.3.2.2;

2. the routing function of the authorization system of D2 is implemented as part of a gateway kernel and based on a card bank identification number; the computer associated with the first POS device is configured to receive data from the first POS device via a driver; the authorization route comprises another driver.

The examining division concluded that the skilled person, a programmer, would implement the administrative method (distinguishing feature 1) without involving an inventive step, by making obvious

implementation choices (distinguishing feature 2).

6. In its preliminary opinion, the Board identified four distinguishing features (see point 11) and tended to agree with the conclusion of the examining division.

7. During oral proceedings, the appellant argued that there were structural differences between the invention and D2.

As shown in Figure 3, the gateway kernel acted as a firewall providing for additional security by removing sensitive transaction data at the gateway. As a result, the card management server only received and stored non sensitive data, such as loyalty points, functioning as a simple ledger. This was in contrast to the system of D2 where the pooled rewards system, which corresponds to the card management server, stored all transaction data including credentials such as payment card account numbers - see [0031], [0036], [0037] and [0041].

According to the invention, the stripping of sensitive data was based solely on a card BIN number, which was not a typical bank identification number but a number associated with the card management server.

The appellant further argued that the skilled reader would infer the "stripping of data", although not explicitly defined by the claim, from the expression "the gateway kernel (309) configured to match the transaction message", which implied that the response message from the card management server did not contain any transaction data (see also [0025] and [0026]). This interpretation was also supported by [0006], which stated that "[t]he system can be implemented by a third party without storing or managing account information

of customers of the member merchants."

8. The Board is not persuaded by these arguments.

First, the removal of transaction data at the gateway cannot be directly and unambiguously derived from the claim or description. On the contrary, the card management server must identify a customer to determine his loyalty point's account and therefore must possess such identification data - see [0007]. Additionally, [0026] states that the same message received by the gateway server is forwarded to the card management server, supporting the Board's view that the gateway server merely routes the message based on the BIN number without otherwise altering it.

Second, if it were obvious to the skilled reader to infer such security feature from the claim and implement it, it could hardly be considered inventive as it is obvious.

9. The appellant further argued that creating a non-bank BIN number, i.e. a BIN number associated with the card management server, and routing messages based on it was not obvious. D2, at most, hinted at using a conventional BIN number for routing a credit card transaction to a card issuer.

10. The Board notes that D2 discloses the concept of routing messages based on an identifier. For example, [0023] and [0042] make it clear that a primary account number (PAN) is used for routing credit card transactions to the appropriate card issuer. In [0062] and [0063], the use of a "reward identifier" is described, which indicates whether a message should be forwarded to the pooled rewards system or not.

The specific nature of the identifier — whether it be a BIN, a flag, or any other suitable identifier — is not relevant from a technical point of view and, therefore, cannot contribute to inventive step.

Moreover, [0023] of the description defines a BIN as the first six digits of a PAN. This seems to contradict the appellant's interpretation that the BIN represents a non-bank identification number specifically assigned to the card management server.

Finally, [0078] of D2 states that payment cards can also be gift cards, and thus, in such cases, routing would likely be based on (parts of) a gift card number, similar to the BIN in claim 1. The Board also agrees with the examining division that D2 at least suggests routing of messages based on bank identification numbers, "all the more so because D2 already discloses the routing of transaction messages containing a primary account number ([0022], [0041], [0042]), which therefore already implicitly contain a bank identification number" (see point 1.3.2.6 of the decision).

11. In the appellant's view, D2 offered an alternative solution to the problem posed, namely "how to deploy a gift card point of sale reward system for both credit card and gift card transactions whilst ensuring that these different types of transaction are separated and do not conflict with each other" (see statement of grounds of appeal, page 7, second paragraph). In D2, the BIN was only used for forwarding a credit card transaction to the correct credit card issuer once the reward flag was set. In contrast, forwarding a gift card transaction to the card management server based on

a non-bank BIN was not obvious.

12. In the Board's view, the above mentioned objective technical problem is not derivable from claim 1.

The claim merely defines sending a gift card transaction message from the POS to the gift card management server and receiving a reply message at the POS from the server. This does not involve sending a credit card transaction message and, consequently, does not address the relationship between credit card and gift card transaction messages.

The appellant's argument that this was derivable from the feature "the gateway server being connected to a credit card formatter" is not convincing. The mere fact that the gateway server is connected to other components, such as a credit card formatter, says nothing about how these components are used in the transaction process.

13. Finally, the appellant argued that D2 did not disclose routing messages to internal and external entities, but only to an external payment network.

14. The Board notes that claim 1 does not distinguish between "internal" and "external" entities. D2 discloses that transaction messages are routed to credit card issuers such as MasterCard (see [0022] and [0023]). The term "credit card formatter" in claim 1 can be equated with such an issuer, since it has no recognisable technical function.

Furthermore, as mentioned earlier at point 10, the Board judges that D2 discloses the use of an identifier for routing messages between entities, for instance

from the POS to the pooled rewards system or credit card issuer (see Figure 7 and accompanying description from [0059] to [0063]).

15. In view of the above, the Board judges that claim 1 of the main request does not involve an inventive step (Article 56 EPC).

Auxiliary request, inventive step (Article 56 EPC)

16. Claim 1 of the auxiliary request removes two features from claim 1 of the main request to address the objections under Articles 84 and 123(2) EPC, which the Board raised for the first time in its communication under Rule 100(2) EPC.

17. The Board admits the auxiliary request into the appeal proceedings because it appears to be a *bona fide* attempt to overcome these objections and can be easily handled by the Board (Article 13(1) RPBA).

18. In fact, the deleted features were used by the appellant to argue that claim 1 of the main request was inventive.

The feature "the gateway server being connected to a credit card formatter", in the appellant's view, indicated that the objective technical problem was derivable from claim 1 (see point 12, above).

The feature "to match the transaction message" suggested that sensitive data was removed by the gateway and not transmitted to the card management server (see point 7, above).

Since the appellant's arguments were unconvincing even

with these features, removing them does not make the arguments more convincing.

19. Therefore, the Board judges that claim 1 of the auxiliary request is not inventive for the same reasons given for the main request (Article 56 EPC).

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

T. Buschek M. Höhn

Decision electronically authenticated