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Datasheet for the decision of 2 July 2024

Case Number: T 0133/21 - 3.5.01

Application Number: 11852955.1

Publication Number: 2659441

IPC: G06Q10/02, G06Q30/00, G06Q30/06

Language of the proceedings: EN

Title of invention:
DYNAMIC INTERACTIVE SEAT MAP

Applicant:
STUBHUB, Inc.

Headword:
Interactive seat map/STUBHUB

Relevant legal provisions:
EPC Art. 56, 111(1), 123(2)
EPC R. 137(3)
RPBA 2020 Art. 11

Keyword:
Inventive step - technical considerations - building overlay on top of a base map using HTML image map (yes)
Remittal to the deparment of first instance - special reasons (yes - further search required)

Decisions cited:
T 0641/00, T 1463/11

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Beschwerdekammern

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Case Number: T 0133/21 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 2 July 2024

Appellant: (Applicant)	STUBHUB, Inc. 175 Greenwich Street, Floor 59, New York NY 10007 (US)
Representative:	Betten & Resch Patent- und Rechtsanwälte PartGmbB Maximiliansplatz 14 80333 München (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 6 October 2020 refusing European patent application No. 11852955.1 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	W. Chandler
Members:	A. Wahrenberg
	L. Basterreix

Summary of Facts and Submissions

I. This case concerns the appeal against the examining division's decision to refuse the European patent application No. 11852955.1.

II. The examining division found that the main request and the first and second auxiliary requests lacked inventive step (Article 56 EPC) over D1 (US 2007/265892), and that the second auxiliary request contained added subject-matter (Article 123(2) EPC). The third auxiliary request was not admitted under Rule 137(3) EPC for the reason that it did not overcome the objections of added subject-matter and lack of inventive step.

III. 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 refused main or first to third auxiliary requests. Those requests were re-filed with the grounds of appeal.

IV. In the communication accompanying the summons to oral proceedings, the Board tended to consider that all requests lacked inventive step over D1 and the second auxiliary request contained added matter.

V. In a reply, the appellant provided further arguments in response to the Board's communication.

VI. Oral proceedings took place as a videoconference on 2 July 2024. The appellant maintained its main request, withdrew the first and second auxiliary requests, and maintained the third auxiliary request renumbered as the first auxiliary request. The appellant's final

requests were, thus, that the decision under appeal be set aside and that a patent be granted on the basis of the refused main request or the first auxiliary request filed as the third auxiliary request with the grounds of appeal.

VII. Claim 1 of the main request reads:

A method for providing an interactive seat map (525) showing locations of available tickets in an event venue, the method comprising:

receiving, at the client computer (104) from a network-based system, a base map (405) illustrating locations of sections within the event venue;

receiving, at the client computer (104) from the network-based system, a coded image map (210) for building a map overlay (420) comprising a polygon for each section depicted in the base map (405);

receiving, at the client computer (104) from the network-based system, an inventory (200) for an event at the event venue, the inventory (200) providing, for each section, section data that includes available tickets for each section within the event venue;

displaying, at the client computer (104), the interactive seat map (525) by loading the base map (405) and building the map overlay (420) on top of the base map (405) so that each polygon of the map overlay (420) aligns with the respective section of the base map (405);

determining, at the client computer (104), one or more characteristics for each polygon of the map

overlay (420) based on the received section data corresponding to each polygon;

applying the one or more characteristics to each polygon of the map overlay (420);

linking each polygon of the map overlay (420) that includes available tickets to the section in the inventory (200);

receiving, at the client computer (104), a selection of one of the polygons by a user; and

in response to the selection, redirecting the user to a data block linked to the section aligned with the selected polygon (434).

VIII. The first auxiliary request reads:

A method for providing an interactive seat map (525) showing locations of available tickets in an event venue, the method comprising:

receiving, at the client computer (104) from a network-based system, a base map (405) illustrating locations of sections within the event venue, wherein the base map is formed using raster graphics;

receiving, at the client computer (104) from the network-based system, a coded image map (210) for building a map overlay (420) comprising a polygon for each section depicted in the base map (405), wherein the coded image map is in HTML;

receiving, at the client computer (104) from the network-based system, an inventory (200) for an event

at the event venue, the inventory (200) providing, for each section, section data that includes available tickets for each section within the event venue;

displaying, at the client computer (104), the interactive seat map (525) by loading the base map (405) and building the map overlay (420) on top of the base map (405) so that each polygon of the map overlay (420) aligns with the respective section of the base map (405);

determining, at the client computer (104), one or more characteristics for a plurality of the polygons of the map overlay (420) based on the received section data corresponding to each of the polygons;

applying the one or more characteristics to each of the plurality of polygons of the map overlay (420), wherein other polygons of the map overlay (420) that lack any of the characteristics represent sections of the base map (405) that lack any available tickets;

linking each polygon of the map overlay (420) that includes available tickets to the section in the inventory (200);

receiving, at the client computer (104), a selection of one of the polygons by a user; and

in response to the selection, redirecting the user to a data block linked to the section aligned with the selected polygon (434).

Reasons for the Decision

Background

1. The invention in the main request and first auxiliary request concerns an online marketplace for tickets, which includes an interactive seat map displaying where tickets are available at an event venue (Figures 4 and 5 of the published application). The venue has different sections, and ticket availability in the respective sections is shown using different colouring, such as fill colour, stroke colour, and transparent colour. The user can click on a section of the map to get more information about tickets.

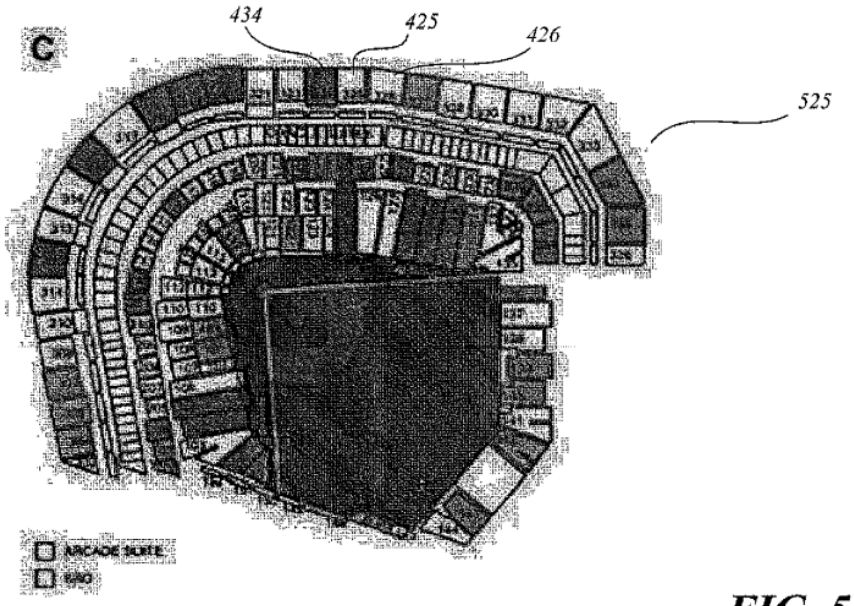

FIG. 5

2. The main issue in this case is how the interactive seat map is implemented and if this implementation is inventive. The appellant argued that, in the prior art,

interactive maps were implemented using vector graphics, e.g. Flash. This required a browser plug-in, which was not available for all browsers, in particular mobile browsers. The invention seeks to implement the interactive seat map without using vector graphics but rather using tools that are compatible with and common to all web browsers (paragraphs [0004], [0141], [0145], [0152]).

Main request, claim 1

3. In claim 1 of the main request, the interactive seat map is implemented by, at the client computer, building a "map overlay" on top of a "base map" of the event venue. The overlay has polygons aligned with the sections of the event venue depicted on the base map. There is also a "coded image map" that is somehow used for building the map overlay. However, the claim does not specify these features in further detail.

4. The description and drawings provide further details on the implementation, which facilitate a better understanding of the claim. However, the definitions in the description do not limit the claimed subject-matter.

In paragraph [0145] of the published application, the base map is described as a (compressed) raster graphics image, for example a JPEG image. The coded image map is described in paragraph [0147] in HTML code. The image map includes <area> tags defining clickable areas of the base image, i.e. their shapes (polygons), coordinates, and associated hyperlinks and id.

The examining division stated in section 1.4.4 of the

decision under appeal that the example in paragraph [0147] was not clearly HTML, because the <area> tags were not defined within a <map> tag or in an HTML document. The Board cannot follow this reasoning and considers that the skilled reader understands that this sample code refers to an HTML image map.

5. In the oral proceedings before the Board, the appellant explained that, while the polygon areas were defined using an HTML image map, the map overlay was not implemented in HTML (see paragraph [0154]). At the time of the invention, it was not possible to overlay an area of an image using HTML. Instead, the map overlay was created using a JavaScript library called "Canvas" in a client side web application (Figure 6, item 215 and paragraphs [0153] to [0157]). Paragraph [0156] includes sample code of using Canvas to build the map overlay.

The decision under appeal

6. The examining division considered that claim 1 of the main request consisted of a mix of technical and non-technical features. The effect of the claimed method was said to be presentation of information. In particular, the interactive seat map consisting of a base map with sections and a map overlay on top of the base map did not provide a technical effect. The only features that contributed to the technical character of the invention were the hardware features, namely a data processing system comprising a client device, a network, and another computer.

7. D1 was cited as an example of such a data processing system. The division argued that it disclosed a system

for providing an interactive map, in which a client computer received, from a network-based system, a base map with sections (paragraph [0041]), created an overlay for each of the sections on the map with a specific colour, shade or highlight (paragraphs [0027], [0034], [0036]), displayed the map with the overlays (paragraphs [0027], [0034]), received a selection of a section with an overlay by a user (paragraph [0044]), and in response to the selection, redirected the user to a block of data linked to the selected section (paragraph [0044]).

8. The examining division did not explicitly identify the differences between the claimed method and D1, but merely stated that they related to the implementation of an administrative method and the corresponding presentation of information. This did not involve an inventive step under the Comvik approach (T 641/00 - *Two identities/COMVIK*).

9. The examining division did not agree with the applicant that claim 1 of the main request excluded the use of vector graphics. The claim did not define the features which provided compatibility with all browsers. In any case, providing a combination of a base map and a coded image map defining polygons for sections of an overlay did not have a technical effect.

Inventive step, main request

10. The Board agrees with the examining division that the overall purpose of the interactive seat map is to provide the user with information, which is not technical *per se*. However, the implementation of the interactive map involves technical considerations,

which go beyond the domain of the notional non-technical person (see T 1463/11 - *Universal merchant platform/CardinalCommerce*). The choice of implementation (vector graphics or raster graphics with overlay in HTML/JavaScript) is a matter for the technically skilled person.

11. This does not help the appellant's case for the main request, because the Board agrees with the examining division that claim 1 is not clearly limited to a particular implementation. It does not exclude the use of vector graphics. The claim does not define the base map, the map overlay, or the coded image map, nor how they are used together to generate the interactive seat map. The Board does not consider that the terms have a clear and specific meaning in a general context, i.e outside of the standards in which they are defined.

12. D1 discloses an interactive seat map showing the locations of available tickets in an event venue (abstract). The map is generated by downloading a venue map and colouring different sections of the map in accordance with ticket availability information obtained from provider databases (paragraph [0041]). The user may select a section of the map in order to obtain information on specific seats and prices (paragraph [0042]).

D1 is silent as to how the venue map referred to in paragraph [0041] is (re)coloured. At a general and abstract level, such (re)colouring may be regarded as a form of "coding" and thus as involving a "coded image map", with the colour itself constituting an "overlay" in a broad sense.

13. The Board judges therefore that, at the very least, any interpretation of "coded image map" or "overlay" does not, at the level of generality of claim 1, give rise to a technical effect beyond providing an alternative implementation of an interactive map, in particular since the effect associated with not using vector graphics is not clearly achieved. Also as a result of the generality of the claim, this alternative is not specified in any detail and cannot involve an inventive step (Article 56 EPC).

First auxiliary request

14. Auxiliary request 1 defines that the base map is formed using raster graphics and that the coded image map is in HTML. This is clearly not disclosed in D1, and cannot simply be dismissed as non-technical. Furthermore, taking into account that the map overlay is built at the client side using the coded image map, the claimed solution is not clearly well known from e.g. HTML (see the decision at point 1.4.4).

15. The examining division did not admit the first auxiliary request (the third auxiliary request in the decision under appeal) because it contravened Article 123(2) EPC and did not overcome the objection of lack of inventive step.

Under Article 12(6) RPBA, the Board shall not admit requests, which were not admitted in the proceedings leading to the decision under appeal, unless the decision not to admit them suffered from an error in the use of discretion or unless the circumstances of the appeal case justify their admittance.

The Board considers it justified to admit the first auxiliary request into the appeal proceedings.

Firstly, it is already apparent from the discussion of the main request that no added subject-matter is present, since paragraph [0147] discloses the use of HTML (see point 4 above).

Secondly, as the Board disagrees with the examining division's assessment of the technical effect of such an implementation (see point 10 above) - an issue that is fundamental to the examination of inventive step - it is justified to examine this request *de novo*. In view of the discussion on the main request, the first auxiliary request clearly represents a step in the right direction and it would be unjustified not to admit it.

16. The Board does not consider claim 1 of the first auxiliary request to be obvious in view of D1 or any of the cited prior art documents, because none of them deal with implementations involving the combination of HTML coded image maps and overlays. However, the Board does not find itself in a position to grant a patent on the basis of this claim, because the Board has doubts whether the implementation based on HTML/JavaScript, as discussed in point 5 above, was searched. The examining division considered that the concept of building an overlay on top of a base map using a coded image map was non-technical, which indicates that this concept was not specifically searched. Indeed, none of the documents in the search report deal with HTML and JavaScript based solutions for creating an interactive image map.

While HTML image maps were undoubtedly known at the

priority date, they did not allow drawing on an image. "Canvas" seems to have been known *per se*, but there is no prior art on file showing how it is used in connection with HTML image maps to create an overlay.

17. Article 111(1) EPC gives the Board the discretion to either exercise any power within the competence of the department whose decision is appealed, or to remit the case to that department for further prosecution. According to Article 11 RPBA, the Board shall not remit a case to the department whose decision was appealed for further prosecution, unless special reasons present themselves for doing so. The need for a further search is a special reason for remitting the case.

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, including a search.

The Registrar: The Chairman:

T. Buschek W. Chandler

Decision electronically authenticated