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**Datasheet for the decision
of 11 June 2024**

Case Number: T 0799/22 - 3.5.01

Application Number: 16197687.3

Publication Number: 3179416

IPC: G06Q10/00, G06Q50/26,
G06Q50/30, G08G1/09

Language of the proceedings: EN

Title of invention:

VEHICULAR DETECTION KIT

Applicant:

VEM SOLUTIONS S.p.A.

Headword:

Vehicular detection kit/VEM SOLUTIONS

Relevant legal provisions:

RPBA 2020 Art. 12

EPC Art. 84

EPC R. 137(3)

Keyword:

Admittance of main request (no) - first instance exercised its
discretionary power in a reasonable manner

Admittance of amendments (no - all auxiliary requests)

Claims - clarity after amendment (no)



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Case Number: T 0799/22 - 3.5.01

D E C I S I O N
of Technical Board of Appeal 3.5.01
of 11 June 2024

Appellant: VEM SOLUTIONS S.p.A.
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 5 January 2022
refusing European patent application No.
16197687.3 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman M. Höhn
Members: L. Falò
L. Basterreix

Summary of Facts and Submissions

- I. This is an appeal against the examining division's decision to refuse European patent application No. 16197687.3.
- II. The examining division refused the application for lack of inventive step of the first auxiliary request in view of a combination of documents D1, WO 2013/179320 and D2, EP 1717777. The main, second auxiliary and third auxiliary requests were not admitted in the proceedings under Rule 137(3) EPC because they were considered late filed and *prima facie* not allowable.
- III. In the statement setting out the grounds of appeal, the appellant requested that the decision under appeal be set aside and a patent be granted on the basis of the main request or of the first to third auxiliary requests, filed therewith. The main request corresponded to the one filed, but not admitted, during the first instance proceedings.
- IV. In the communication accompanying the summons to oral proceedings, the Board informed the appellant that it was minded not to admit any request under Article 12 RPBA.
- V. In a letter of reply, the appellant informed the Board that it would not attend the oral proceedings, which were subsequently cancelled.
- VI. Claim 1 of the main request reads:

A vehicular detection kit (1) comprising a control and processing member (100) connected to a memory unit

(101), to an interface module (102) and to acquisition means (103) for data that can be processed by the control member (100),

wherein said acquisition means (103) comprises at least one image acquisition apparatus (103a) and at least one satellite geolocator (103b) integrated on board said at least one image acquisition apparatus (103a) for geolocating the acquired images,

said control member (100) comprising a recognition module (100a) for recognizing a string of alphanumeric characters for recognizing the license plates of a parked vehicle from the acquired images,

characterized in that the control member (100) further comprises a symbol recognition module (100b) for recognizing road signs from the acquired images thereof, and a geofencing module (100c) for detecting predefined geographic areas from the acquired and geolocated images,

wherein in order to assess whether a driver of the parked vehicle has committed an offense, the control member (100) combines the information on the detected predefined geographic area from the geofencing module (100c) in which the vehicle is found, on the road signs detected around the vehicle from the symbol recognition module (100b), and on the starting time and duration of authorized parking time.

VII. Claim 1 of the first auxiliary request adds, at the end of the claim, the following feature:

wherein said interface module (102) is configured to display the results, processed by said control member

(100), defining matches between predetermined reference data stored in said memory unit (101) and the acquired data, the data stored in said memory unit (101) concerning the entire predefined geographic area detected by the geofencing module (100c).

VIII. Claim 1 of the second auxiliary request further adds, at the end of the claim, the following features:

the image acquisition apparatus (103a) comprises a dual lens video camera comprising an integrated system of two video cameras, one being a colour camera and the other an infrared (IR) camera.

IX. Claim 1 of the third auxiliary request further adds, before the features defining the interface model, the following features:

wherein said kit is configured to process the input data from the acquisition means, in real time and in a static and dynamic manner, so as to detect a predefined geographic area subject to regulated parking rules or subject to particular parking constraints.

Reasons for the Decision

1. The invention concerns the detection of violations of traffic regulations and, in particular, of parking regulations.
2. Looking at Figure 2, the invention defines a system including image acquisition means 103a, such as a camera, mounted on a vehicle.

An acquired image is geolocated using a satellite system (e.g. GPS) and processed to extract the license plate numbers of parked vehicles, as well as to recognise nearby road signs (page 2, lines 10 to 18). The system also includes a geofencing module to associate the geolocated image with a predefined geographic area (page 2, lines 19 and 20, page 7, lines 3 to 5), and means for wirelessly receiving parking information from parking meters (page 7, second paragraph).

The system determines whether any of the vehicles is unlawfully parked based on the road signs detected, on the data received from the parking meters and on information about the predefined area associated with the captured image.

Main request

3. Under Article 12(6) RPBA, the Board shall not admit requests, facts, objections or evidence 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.
4. The examining division did not admit the main request in the proceedings making use of its discretionary power under Rule 137(3) EPC. The reasons were that it was late filed, having been presented just prior to the oral proceedings, and that it did not, *prima facie*, overcome the division's objections as to lack of inventive step. This was because it omitted some features included in the requests already on file and

reintroduced features which had already been discussed and found not inventive.

5. *Prima facie* allowability is, in general, an accepted principle to be taken into account in the assessment of whether consent under Rule 137(3) EPC should be given, particularly for late-filed amendments. Moreover, the division provided plausible reasons as to why it considered the request *prima facie* not inventive.

The Board therefore judges that the division exercised its discretionary power in a reasonable manner.

6. The Board cannot identify any circumstances which would justify the admittance of the request on appeal. The Board notes that the appellant did not provide any arguments in this respect.
7. Accordingly, the Board decides not to admit the main request in the proceedings under Article 12(6) RPBA.

Auxiliary requests

8. The auxiliary requests differ from those on which the decision is based. Therefore, they constitute amendments and may only be admitted at the discretion of the Board (Articles 12(2) and (4) RPBA).
9. Contrary to the requirements of Article 12(4) RPBA, second paragraph, the appellant did not provide any reason justifying the submission of these amendments.

A justification would have been necessary particularly in view of the fact that the newly filed requests are based on a request which was not admitted by the division (i.e. the main request), that they introduce

features which were not discussed during examination (such as the feature of the stored data concerning the entire predefined geographic area detected by the geofencing module), and that several dependent claims have been added or amended.

10. Moreover, the amended claim 1 introduces further issues under Article 84 EPC, at least for the following reasons:

10.1 For all requests, the control member assesses whether a traffic offence has occurred based, *inter alia*, on the starting time and duration of authorised parking time for a parked vehicle, but the claim does not specify how this information is retrieved or detected. Hence, an essential feature is missing.

10.2 In the second and third auxiliary requests, it is not clear whether the displayed "results" depend on the determination that a traffic offence has occurred, and whether the latter information is displayed at all.

10.3 In the third auxiliary request, the meaning of the expression "*to process the data ... in real time and in a static and dynamic manner*" is unclear, as it is not apparent what a "static" real-time processing of data is, and how it differs from a dynamic one. The description does not provide any indication in this respect.

11. In view of the above, the Board decides not to admit the auxiliary requests (Article 12(4) RPBA), because their filing on appeal has not been justified and they raise clarity issues.

Appellant's arguments

12. The appellant was informed of the Board's intention not to admit any of the requests on file and of the relevant reasons with the communication accompanying the summons to the oral proceedings, but provided no counter-arguments or comments in response.

Conclusion

13. There being no admitted claim requests on file, the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



T. Buschek

M. Höhn

Decision electronically authenticated