

**Internal distribution code:**

- (A) [ ] Publication in OJ  
(B) [ ] To Chairmen and Members  
(C) [X] To Chairmen  
(D) [ ] No distribution

**D E C I S I O N**  
**of 4 June 2002**

**Case Number:** T 0763/99 - 3.5.2

**Application Number:** 91308384.6

**Publication Number:** 0475780

**IPC:** G07B 17/02

**Language of the proceedings:** EN

**Title of invention:**

Apparatus for obtaining recharge codes for postage meters

**Patentee:**

PITNEY BOWES, INC.

**Opponent:**

- (01) Société SECAP  
(02) Francotyp-Postalia Aktiengesellschaft & Co.

**Headword:**

-

**Relevant legal provisions:**

EPC Art. 56, 123(2)

**Keyword:**

- "Inventive step - main request (no)"  
"Added subject-matter - auxiliary request (yes)"

**Decisions cited:**

-

**Catchword:**

-



Case Number: T 0763/99 - 3.5.2

**D E C I S I O N**  
**of the Technical Board of Appeal 3.5.2**  
**of 4 June 2002**

**Appellant:** PITNEY BOWES INC.  
(Proprietor of the patent) World Headquarters  
Stamford  
Connecticut 06926-0700 (US)

**Representative:** Avery, Stephen John  
Hoffmann Eitle  
Patent- und Rechtsanwälte  
Arabellastrasse 4  
D-81925 München (DE)

**Respondent(s):** Société SECAP  
(Opponent 01) 21, rue Alphonse Le Gallo  
F-92100 Boulogne Billancourt (FR)

**Representative:** Santarelli, Luc  
Cabinet Rinuy Santarelli  
14, avenue de la Grande Armée  
F-75017 Paris (FR)

(Opponent 02) Francotyp-Postalia Aktiengesellschaft & Co.  
Triftweg 21-26  
D-16547 Birkenwerder (DE)

**Representative:** Schaumburg, Thoenes, Thurn  
Patentanwälte  
Postfach 86 07 48  
D-81634 München (DE)

**Decision under appeal:** Decision of the Opposition Division of the  
European Patent Office posted 18 May 1999  
revoking European patent No. 0 475 780 pursuant  
to Article 102(1) EPC.

**Composition of the Board:**

**Chairman:** W. J. L. Wheeler  
**Members:** J.-M. Cannard  
J. H. P. Willems

## Summary of Facts and Submissions

I. The proprietor appealed against the decision of the opposition division to revoke the European patent No. 0 475 780. The reasons given for the revocation were that granted independent claims 1 and 12 contravened Article 123(2) EPC and claim 1 of the auxiliary request filed on 21 October 1997 did not involve an inventive step.

II. Prior art document:

D4: GB-A-2 188 870,

cited in support of the opposition, remains relevant to the present appeal.

III. Independent claims 1 and 12 of the main request filed with the grounds of appeal read as follows:

Claim 1:

"Apparatus for obtaining a recharge code for any selected one of a plurality of postage meters (40) from a data processing center (30) arranged to transmit said recharge code in response to a message from said apparatus and to debit an amount by which said meter is to be recharged to an account, said apparatus comprising:

(a) input means (14) for input of data;

(b) first communication means (22) for communication between said apparatus and said data processing center (30);

(c) a memory (20) for storing a data base of recharge information relating to said plurality of

postage meters; and  
(d) control means (12) arranged to:  
(d1) respond to data input through said input means (14) to identify one of said plurality of postage meters (40) as said selected postage meter;  
(d2) access said memory (20) to obtain recharge information for said selected postage meter;  
(d3) receive meter information relating to said selected postage meter;  
(d4) form said message, said message including said meter information and said recharge information for said selected postage meter;  
(d5) control said first communication means (22) to transmit said message to said data processing center (30);  
(d6) receive said recharge code from said data processing center (30) through said first communication means (22); and  
(d7) output said recharge code for said selected postage meter."

Claim 12:

"A method for obtaining a recharge code for any selected one of a plurality of postage meters (40) from a data processing center (30) arranged to transmit said recharge code in response to a message and to debit an amount by which said meter is to be recharged to an account, said method comprising the steps of:

- (a) storing in apparatus a data base of recharge information for said plurality of postage meters (40);
- (b) inputting data to said apparatus to identify

one of said plurality of postage meters (40) as said selected postage meter;

(c) accessing said data base to obtain recharge information for said selected postage meter;

(d) inputting to said apparatus meter information relating to said selected postage meter;

(e) combining said recharge information for said selected postage meter with said meter information to form said message;

(f) transmitting said message from said apparatus to said data processing center (30);

(g) receiving at said apparatus said recharge code; and

(h) outputting said recharge code for said selected postage meter from said apparatus."

Claims 2 to 11 are dependent on claim 1 and claims 13 to 17 are dependent on claim 12.

IV. With a letter dated 3 April 2002 the appellant proprietor filed claim 1 according to an auxiliary request.

Claim 1 according to the auxiliary request differs from claim 1 of the main request in that the opening of the claim has been amended to read: "Apparatus for obtaining a recharge code for any selected one of a plurality of postage meters (40) operated at a common user location, said recharge code being obtained from a remote data processing center (30)...", the expression "a data processing center" in features b), d5) and d6) has been amended to "a remote data processing center" and feature d1) has been amended to read: "respond to data input by the user through said input means (14) to select one of said plurality of postage meters (40) as

said postage meter to be recharged".

V. Oral proceedings were held on 8 May 2002.

VI. The arguments of the appellant proprietor can be summarised as follows:

An object of the invention was to provide an apparatus for obtaining a recharge code for a selected one of a plurality of postage meters without the necessity of obtaining approval for a new type of postage meter from the postal service, in other words an apparatus which was compatible with existing postage meters. It was implicit in the description of the invention and in the subject-matter of the independent claims according to the main request that the apparatus should be local to the plurality of postage meters and remote from the data processing center. Claim 1 according to the auxiliary request explicitly indicated that the plurality of postage meters were "operated at a common user location".

The disclosure of D4 which related to value resetting systems for mailing stations was not very clear. In the two embodiments described in D4, the mailing stations were specified as servers and not as postage meters. The expression "postage meters" as used in the present claims simply meant "franking machines", which differed from servers. The central station (14) according to the first embodiment (Figure 1), which was equipped with a telephone or other unspecified communicating device, was not capable of communicating with a plurality of servers. In the second embodiment (Figure 7), a central station (100) which worked as a data collection apparatus was made distinct from the remote resetting

center (110) to allow this center to provide recharge codes for a plurality of servers without requiring extensive modifications to said resetting center.

From a functional point of view, the data processing center (30) recited in claim 1 according to both requests had to be regarded as equivalent to the combination of the central station (100) and the remote resetting center (110) of D4. If the central station was moved to a user location, the central station would no longer function as a central station and it would not be possible for the resetting center to communicate with a plurality of servers. In these circumstances, it would have been neither logical nor obvious to transfer the central station to the user location.

In any case the transfer of the central station of D4 to the user side would not have implied that all the servers were operated at a common user location as recited in claim 1 of the auxiliary request. Moreover, a recharging apparatus comprising control means responding to input data entered by the apparatus user to select a postage meter to be recharged, as specified in this claim, was not disclosed in D4.

For these reasons D4 could neither anticipate nor suggest the recharging apparatus according to claim 1 of either the main or the auxiliary request.

VII. The arguments of the respondent opponent 02 can be summarised as follows:

It was not implicit from the wording of independent claims 1 and 12 according to the main request that the apparatus for obtaining recharge codes was local to the

postage meters and remote from the data processing center.

The description and figures of the application as filed gave no indication of the location of said apparatus relative to the postage meters. According to Figure 2, the apparatus might communicate with the postage meters through a local area network. A communication by modem, as was the case between the apparatus and the data processing center, could have taken place within the area covered by a local area network. The feature in claim 1 of the auxiliary request according to which the apparatus and the postage meters were "operated at a common user location" was not supported by the description as filed and the incorporation of this feature in claim 1 of the auxiliary request was not allowable.

According to D4 (Figure 7; page 5, lines 7 to 10) the central station (100) might be, but need not be, close to the remote resetting center (110). In D4, the central station according to Figure 7 had the same features as the central station according to Figure 1, for instance a memory (22) for storing a list of the users and the great amount of data received from the postage meters. Moreover, since the expression "recharging data" in claim 1 had a very broad meaning, the memory disclosed in D4 certainly anticipated a memory for storing recharging data, as recited in claim 1 of the present requests.

The appellant's arguments did not prove that the disclosure of D4 differed from claim 1 in respect of the location of the apparatus. The appellant did not dispute the finding in the decision under appeal that



the recharging apparatus according to claim 1 differed from the central station in D4 only by having a data base for storing recharge information in a memory and control means to access this memory to obtain the recharge information. Nor did the appellant dispute that these differences were obvious. For these reasons, the subject-matter of claim 1 lacked an inventive step.

VIII. In a letter dated 30 November 2001, the opponent 01 withdrew its opposition.

IX. The appellant requested that the decision under appeal be set aside and that the patent be maintained in amended form in the following version:

- claims 1 to 17 according to the main request filed with the grounds of appeal on 13 September 1999;
- description: columns 3 and 4 and insert to column 3, as filed in the oral proceedings; columns 1, 2 and 5 to 13 of the published patent specification;
- drawings of the published patent specification;

or with claim 1 according to the auxiliary request, as filed by fax on 3 April 2002, claim 12 amended to correspond with claim 1 according to the auxiliary request; and claims 2 to 11 and 13 to 17, description and drawings as for the main request.

X. The respondent opponent 02 requested that the appeal be dismissed.

## Reasons for the Decision

1. The appeal is admissible.

### *Main request*

2. According to the appealed decision, see point 17 of the reasons, the apparatus of claim 1 of the auxiliary request (corresponding to claim 1 of the present main request) differs from the central station (100) disclosed in D4 (Figure 7), considered as the closest prior art document, by the features:

- the memory of the apparatus stores a data base of the recharge information relating to said plurality of postage meters, and
- the control means of the apparatus is arranged to access said memory to obtain the recharge information for said selected postage meter.

- 2.1 The opposition division held it was obvious to the person skilled in the art to provide these features in the apparatus of D4.

3. The appellant did not contest the finding that it was obvious to provide the features mentioned in paragraph 2 above, but submitted that the subject-matter of claim 1 differs also in some other respects from the disclosure of D4.

- 3.1 According to the appellant, it is implicit in the subject-matter of claim 1 that the apparatus for obtaining the recharging code was local to the plurality of postage meters and remote from the data

processing center.

- 3.2 However, the Board cannot find in claim 1 any features specifying or implying a location of the apparatus remote from the data processing center (30) and local to the postage meters (40).
- 3.3 It appears from the wording of claim 1 that information relating to a selected postage meter (40) is received in the recharging apparatus which in turn outputs a recharge code for said postage meter. No specific means for transferring said data (information and code) between the recharging apparatus and the postage meters are specified in the claim, so that claim 1 covers also a non-automatic transfer of these data. However even a manual transfer cannot imply a location of the apparatus local to the postage meters because such a transfer could involve the use of communication means for exchanging data between distant locations.
- 3.4 The expressions "communication means", "transmit" and "receive" in claim 1 specify that a bidirectional exchange of information takes place between the apparatus and the data processing center. However these expressions, especially "communication means", have a very broad meaning and cover for instance means for transferring data between devices which, even if distinct, are close together, so that these expressions cannot imply an apparatus remote from the data processing center.
- 3.5 A location of the apparatus remote from the data processing center and local to postage meters, as alleged by the appellant, is also not supported by the description and the figures of the patent in suit. The

disclosure of the first embodiment of the apparatus (patent specification: column 5, lines 5 to 26; Figure 1) is merely concerned with the structure of the apparatus itself and does not even mention a postage meter. The apparatus according to the second embodiment (patent specification: column 5, lines 27 to 47; Figure 2) communicates with the postage meters through a local area network. Since communication by modem, as is shown between the apparatus and the data processing center, could also take place within the area covered by a local area network, the disclosure of the patent, especially the solution of the technical problem addressed, does not imply that in this second embodiment the distance of the apparatus to the processing center is greater than its distance to the postage meters.

- 3.6 Accordingly, the Board considers that the subject-matter of claim 1 according to the main request is not restricted to a location of the apparatus local to the plurality of postage meters and remote from the data processing center, and does not differ in this respect from the central station (100) disclosed by document D4.
  
4. According to the appellant the data processing center (30) of claim 1 of the main request may be regarded as equivalent to the combination of the central station (100) and the remote resetting center (110) of D4. However the Board cannot find any support in the patent in suit for interpreting the data processing center (30) as performing other functions than those of a resetting center. More specifically, the data processing center (30) does not perform the functions of the central station (100) in D4, which "may be a

data collection apparatus separated from and communicating with a known resetting center" to allow an existing resetting center to communicate with postage meters without requiring extensive modifications (D4, page 6, lines 119 to 123).

5. The appellant submitted also that in the value resetting systems disclosed by D4 the central stations (14, 100) provide recharge codes for servers, which do not comprise all the characteristics of franking machines or postage meters. In the view of the Board, however, the teaching of D4 should not be considered as restricted to systems for recharging servers, but also applies to systems for resetting postage meters or, more generally, mailing stations, as appears from the whole content of the document (see D4, for instance page 1, lines 103 to 106; page 2, lines 31 to 38 and lines 120 to 126; page 5, lines 1 to 6). Moreover, it appears from the description of the patent in suit (column 1, lines 22 to 27) that the term "postage meter" is used in the patent with a broad meaning, covering "devices which include a secure rechargeable mechanism for controlled dispensing of value". The servers according to D4 thus fall within the terms of the expression "postage meter" in claim 1.
  
6. The central station (100) according to Figure 7 of D4 comprises a modem (130) which receives a request for funds from a server (25) and transmits the information present in this request to the remote resetting center (110) (see Figure 11b, blocks 470 to 482 and 515 to 530; Figure 13, blocks 720, 730). This request for funds which includes an identification number of the server is a reply to a general prompt request from the central station (100) following a process initiated by

the central station to select a server (Figure 10). Accordingly, the input of the modem (130) which receives as input data the identification number of a postage meter selected to be recharged corresponds to the input means in claim 1. The computer means, which implement the flow diagrams of Figures 11b and 13 (page 1, lines 78 and 79) and respond to the request for funds from a server to establish a communication with the resetting center to obtain a recharge code, correspond to the control means of claim 1 arranged to respond to data input through the input means to identify a selected postage meter to be recharged (see D4, page 6, lines 50 to 63).

6.1 The computer means in the central station (100) is arranged for storing data (D4, page 1, lines 78 and 79). These data necessarily comprise a list of the telephone numbers and the identification numbers of the various servers and are accessed to initiate a communication with a selected one of the servers and to verify the information received from said server (D4, page 5, lines 61 to 65 and lines 79 to 91). Since the expression "recharge information" in claim 1 is so broad as to cover any information needed for a recharge, e.g. telephone numbers or identification numbers of servers, the central station of D4 thus comprises a memory for storing recharge information relating to the plurality of servers and control means arranged to access this information, as recited in claim 1.

6.2 Consequently, in the judgement of the Board the recharging apparatus according to claim 1 only differs from the central station (100) of D4 by control means arranged to form the message including the recharge

information stored in the memory and the meter information (feature d4).

7. Starting from D4 according to which the message for the resetting center is merely retransmitted by the central station, the objective technical problem underlying the present invention can be seen as optimising the way in which the resetting system of D4 works. Given this problem, which itself is an obvious one for the person skilled in the art to occupy himself with, it would be obvious to the skilled person to arrange the control means to access the data base to retrieve the stored recharge information to be included in the message for the data processing center and to form the message by combining the recharge information retrieved from the memory and the meter information received from the postage meter. Doing so the skilled man would avoid an obviously unnecessary transmission by the selected postage meter of the invariable recharge data which are already present at the central station (identification number) and restrict the transmitted information to the variable data which depends on the current status of the postage meter (amount).
8. Consequently the Board judges that claim 1 of the main request does not involve an inventive step within the meaning of Article 56 EPC.

*Auxiliary request*

9. In claim 1 according to the auxiliary request, feature (d1) has been amended, inter alia, to specify that data are "input by the user through said input means" of the apparatus, which is according to the opening of the claim, "operated at a common user

location".

9.1 The application as filed discloses only two embodiments of the apparatus for obtaining a recharge code. In the first embodiment no automatic communication between the postage meters and the apparatus is provided, the meter information received from the selected postage meter being input manually in the apparatus and the recharge code for said postage meter being output on a display of the apparatus (see the corresponding passage of the patent specification: Figure 1; column 5, lines 5 to 26). According to the second embodiment, the apparatus and the postage meters are linked through a network, for instance a local area network or a wireless communications network (see the corresponding passage of the patent specification: Figure 2; column 5, lines 27 to 47).

9.2 The Board has found in the application as filed no disclosure of an apparatus and postage meters which are operated at a common user location. None of the originally filed claims mentioned this feature. Figure 1 and the part of the description relating to the first embodiment neither mention postage meters nor a location for the apparatus, or the fact that these devices are operated by the same user. Regarding the second embodiment in which the apparatus and the postage meters are linked through a network (or a local area network or a wireless network), it is part of the common knowledge of the skilled reader that, on the one hand devices which are operated at a common user location, i.e. at a location of the same user, may be, but need not be, linked through a network (or a local area network, or a wireless network) and on the other hand, devices which are linked through a network (or a



local area network, or a wireless network) are not necessarily operated by the same user. Accordingly, it is not derivable directly and unambiguously from the application as filed that the postage meters and the apparatus are operated at a common user location, as recited in claim 1 of the auxiliary request.

- 9.3 Consequently the Board judges that claim 1 of the auxiliary request contravenes Article 123(2) EPC.
10. The Board concludes therefore that the grounds for opposition mentioned in Article 100 EPC prejudice the maintenance of the patent.

## **Order**

### **For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chairman:

M. Hörnell

W. J. L. Wheeler