Datasheet for the decision
of 28 October 2010

Case Number: T 1262/08 - 3.5.01
Application Number: 01304418.5
Publication Number: 1158438
IPC: G06F 17/60
Language of the proceedings: EN
Title of invention:
Single click data synchronization of public and private data
Applicant:
fusionOne, Inc.
Opponent:
-
Headword:
Single click synchronisation/FUSION ONE INC
Relevant legal provisions:
-
Relevant legal provisions (EPC 1973):
EPC Art. 56
Keyword:
"Inventive step - use of a server to identify data store (No - routine design)"
Decisions cited:
-
Catchword:
-
Case Number: T 1262/08 - 3.5.01

DECISION
of the Technical Board of Appeal 3.5.01
of 28 October 2010

Appellant: fusionOne, Inc.
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Representative: Harris, Ian Richard
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Decision under appeal: Decision of the Examining Division of the European Patent Office posted 5 February 2008 refusing European patent application No. 01304418.5 pursuant to Article 97(2) EPC.

Composition of the Board:
Chairman: S. Wibergh
Members: W. Chandler
P. Schmitz
Summary of Facts and Submissions

I. This appeal is part of a series of appeals (also including T 1203/08, T 1263/08 and T 1266/08) from related applications that tackle the problems of synchronising information for a user having a PC and various portable devices, such as a laptop computer and a personal digital assistant (PDA), or mobile phone.

II. The present appeal is against the decision of the examining division to refuse the European patent application No. 01304418.5 according to the state of the file. In the communication forming the basis of the decision, the division considered that claim 1 lacked an inventive step (Article 56 EPC 1973) over US-A-5 926 816 (D6), which the division introduced into the proceedings in the above-mentioned communication, and the idea of the "vCard" as described in "vCard Overview", Internet Mail Consortium, 13 October 1998, retrieved from the internet:
URL:www.imc.org/pdi/vcardoverview.html (D4), or "vCard: The Electronic Business Card", Internet Mail Consortium, 1 January 1997, retrieved from the Internet:
URL:www.imc.org/pdi/vcardwhite.html (D5) and the skilled person's common general knowledge.

III. In the statement setting out the grounds of appeal, the appellant rebutted the examining division's arguments. The appellant also made an auxiliary request for oral proceedings.

IV. In the summons, dated 28 June 2010, the Board scheduled oral proceedings for all four related appeals on the 27 and 28 October 2010 with a reserve day on the
subsequent day. In the communication, the Board summarised the issues to be discussed and, in addition to tending to agree with the examining division's arguments starting from D6, also tended to consider that there was no inventive step starting from the idea of a private data account disclosed in the application.

V. In a letter, dated 23 September 2010, the representative informed the Board of the appointment of a new representative.

VI. In a letter, dated the same day, the new representative informed the Board that he was in the process of obtaining instructions from the appellant's US counsel and requested time to prepare written submissions in preparation for the oral proceedings. In a further letter, dated 27 September 2010, the representative requested a postponement of the oral proceedings in order to allow sufficient time to prepare and have written submissions approved.

VII. The Board did not allow the postponement because the reason was not considered to be a serious substantive reason in the sense of the "Notice of the Vice-President of Directorate-General 3 of the European Patent Office dated 16 July 2007 concerning oral proceedings before the boards of appeal of the EPO" (SE No. 3 OJ EPO 2007, 115) that might justify a change of date. Moreover, the Board pointed out that the summons had already been issued on 28 June 2010 which seemed to have given the appellant enough time for preparation.
VIII. In a reply, dated 1 October 2010, the appellant provided further arguments and filed a first auxiliary request.

IX. At the oral proceedings, the appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the first auxiliary request filed with letter dated 1 October 2010, or the second auxiliary request submitted during the oral proceedings before the Board. The main request was withdrawn. At the end of the oral proceedings, the Chairman announced the decision.

X. Claim 1 of the present main request (filed as first auxiliary request) reads as follows:

"A method for transferring public information to a private information store maintained by a private information space manager, the method comprising,

in response

to a user connecting from a client device (100) to a public information source server (110) for selecting the public information from the public information source server,

to the public information source server providing content to the user including, for each piece of contact (sic) that can be synchronized, a sync button (40) for display in association with the content at the client device, and

to initiation of a sync request by the user selecting a said sync button,

a sync server (130) identifying the private information store where the public information is to be stored and
a server device engine (140) transferring the public information to the identified private information store for propagation to one or more personal information devices associated with the private information store."

Claim 1 of the present auxiliary request (filed as second auxiliary request) adds to the end of the sync server feature "wherein said private information store is retained on behalf of the user on an intermediate server which is coupled to a global communications network", and replaces the part of the last feature starting with "for propagation ..." with "at least one personal information device coupled via a communications network to the private information store exchanging information with the private information store".

XI. The appellant argued essentially as follows:

Private information spaces were known, the problem was to organise them. Conventional data synchronisation was a separate process from the data transfer aspect. The invention integrated these aspects and was essentially a form of "one-click" synchronisation.

The invention was the forerunner of "cloud computing" where shared servers provided resources, software, and data to computers and other devices on demand.

The invention differed from the vCard in that it was possible to download information in a public information space into a private information space. The sync server was a separate service distinct from the
user and the user was not the same as the administrator of the data. The technical effect of the difference was how to arrange data to be provided to user devices.

The prior art did not allow or suggest transferring data to a synchronisation system from which the information was propagated to the user's personal devices. There was no hint to link web service providers and a separate server. The prior art needed multiple 1:1 connections between services and user devices, whereas the invention allowed the connections to be managed via the user's personal information store.

**Reasons for the Decision**

**Admissibility of the appeal**

1. The appeal complies with the requirements referred to in Rule 99(2) EPC and is therefore admissible.

**The application**

2. The present application concerns the problem of getting information from a website so that it can be transferred to the user's personal information devices (PID).s.

3. Looking at Figure 2 of the application, the invention solves this problem by a method of selecting (10) desired data on the website ("public information source" in claim 1) and then clicking (40) on a "sync request" button that causes the data to be transferred (14) to storage that is under the user's control.
("private information store") so that it can be downloaded to the user's personal information devices. The public information source covers any source of data outside the user's control, i.e. mutually exclusive with respect to the "private information store" (paragraph 24 of the published application).

Requests in appeal

4. At the oral proceedings the new representative explained that claim 1 of the first auxiliary request (now main request) was designed to define better the essential differences over the prior art. In particular, to emphasise the fact that in the invention an additional service, comprising a sync server, server device engine and (intermediate) storage, managed by an administrator managed the information and controlled the transfers from the public information source to the private information store.

5. Although the claims of this request were filed late in the proceedings, the Board admits them because they are clearly a serious attempt to meet the outstanding objections without introducing any further objections and there was a good reason for the lateness, namely that the representative only took over the case at short notice and there was no postponement of oral proceedings (see above).

Inventive step

6. In essence the claimed invention is a combination of the three concepts of transfer/synchronisation of data to personal information devices, using a button to
facilitate selection of this data from a public information source and storing it in a private information store (on a separate server in the auxiliary request). In principle, a document showing any of these concepts could be used as a starting point for the discussion of inventive step and indeed in this case prior art for each has been discussed.

7. The examining division chose to start from D6, which relates to a database synchroniser that keeps databases on a server and a client up-to-date and consistent. However, D6 goes into much more detail about the synchronising process than the present application and it does not explicitly address the object of the claim, namely transferring public information to a private information store maintained by a private information space manager. This may have been an acceptable approach for the claim that the division had before them in which the technical implications of the public and private information stores were rather more vague. However, in the Board's view, this is no longer the case because the appellant's amendments have clarified the role of these stores and the invention's role in interconnecting them via the sync server and server device engine.

8. The opening part of the description of the application itself is relevant to the second and third starting points, namely transferring data from a private information store to a managed personal data store. In particular, the application acknowledges at paragraph 4 web portals that manage user data via a web browser and a user account. The user's data is "stored on a host server maintained by the web portal provider", i.e. on
a server separate from the user's computer. Paragraph 12 states that the Yahoo! calendar "allows a user to pick certain events and click an add button, therefore including it in the calendar, and subsequently allow a user to run a separate synchronization process between the calendar and a desktop application".

Main request

9. The Board has difficulties identifying how the subject-matter of claim 1 actually differs from this prior art. Not explicitly disclosed are: that the button is a "sync button" which initiates a sync request, that a "sync server" identifies the private information store where the public information is to be stored, and that a "server device engine" transfers the data "for propagation to one or more personal information devices associated with the private information store". In the Board's view, by using the formulation "for propagating..." the last feature is not limited to an actual synchronisation, but only covers the possibility of such a synchronisation, which is clearly also the case for any data transferred to a store under the user's control. Thus, this feature is not really a distinguishing feature. Regarding the "sync server", the Board considers that in any practical implementation of the private information store, there must be some way of identifying it. Whether this would be using an existing server in the portal such as the server used to store the information or a separate "sync server", or some other mechanism would depend on the design of the system and cannot be seen to involve an inventive step. Similarly, there must be some
mechanism for transferring the data that could be considered to be a "server device engine".

10. The Board also considers that the subject-matter of claim 1 is obvious over the disclosure in D4 or D5 of the electronic business card (vCard) that allows personal data to be transferred between devices. One application, described in D4, first page, penultimate full paragraph, is to embed a button on a website, which when clicked returns a vCard containing information about a business to the client machine. In the Board's view, using the wording of claim 1 this implies:

A method for transferring public information (address of some cool business site) to a private information store (address book on client machine) maintained by a private information space manager (could be the user), the method comprising,

in response

to a user connecting from a client device to a public information source server (cool business site) for selecting the public information (business address) from the public information source server,

to the public information source server providing content to the user including, for each piece of contact (i.e. "content", but in the case of the vCard, really a contact) that can be synchronized, a sync button (vCard button) for display in association with the content at the client device, and

to initiation of a sync request (transferring data from site to client is a form of "sync") by the user selecting a said sync button,
a server device engine transferring the public information to the identified private information store (some form of transfer mechanism is implicit) for propagation to one or more personal information devices associated with the private information store (as mentioned above, the term "for propagation to ... devices ...", is considered only to cover the possibility of such a synchronisation, which is clearly also the case for the any data transferred to the user's computer).

11. The subject-matter of claim 1 therefore only differs in that there is an additional server, namely a sync server identifying the private information store where the public information is to be stored. The appellant suggested that this solved the problem of arranging the data to be provided to user devices.

12. In the Board's view, as mentioned above, the use of a server to organise data is a matter of routine design in this field, depending on the architecture of the system. This in turn would depend on administrative considerations such as who is to control the data and routine design considerations such as the source and quantity of data.

Auxiliary request

13. Claim 1 of the auxiliary request adds the features that the private information store is maintained on behalf of the user on an intermediate server which is coupled to a global communications network. In the Board's view this does not add anything new to the above argument starting from the prior art in the application since
the web portal operator implicitly has such a separate server. Starting from the vCard, the Board considers that the use of this further intermediate server would be an obvious consideration in the light of the existence of such a web portal.

14. The claim also replaces the "for propagating ..." feature, which the Board finds not to be limiting, by a specific mention that at least one personal information device is coupled via a communications network to the private information store exchanging information with the private information store. The Board finds that this feature does not add anything inventive since it would be a self-evident requirement that any of the user's personal information devices should be connectable to the system to receive any useful information.

15. The appellant argued that the invention was a forerunner of the concept of "cloud computing". However, in the Board's view the prior art had already disclosed the basis of this idea. The invention is at best the idea of shifting the control of the data from the provider of the information to a third party. However, in the Board's view the determination of who controls the information is purely an administrative decision and has no technical character in itself. The technical means remain essentially the same but are configured differently. Thus, such a difference could not contribute to inventive step anyway.

16. Accordingly, the Board judges that the subject-matter of claim 1 of the main and auxiliary request does not involve an inventive step (Article 56 EPC 1973), so that the appeal must be dismissed.
Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: 

The Chairman:

T. Buschek  

S. Wibergh