

Internal distribution code:

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

**Datasheet for the decision
of 27 October 2021**

Case Number: T 0227/18 - 3.4.03

Application Number: 07150164.7

Publication Number: 1939822

IPC: G07F7/10

Language of the proceedings: EN

Title of invention:

Systems, methods, and computer program products for supporting multiple applications and multiple instances of the same application on a wireless smart device

Applicant:

MasterCard International Incorporated

Headword:

Relevant legal provisions:

EPC Art. 123(2), 84, 56
RPBA 2020 Art. 13(2)

Keyword:

Amendments - extension beyond the content of the application
as filed (no)

Claims - clarity (yes)

Inventive step - (yes)

Amendment after summons - exceptional circumstances (yes)

Decisions cited:

T 1790/17

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0
Fax +49 (0)89 2399-4465

Case Number: T 0227/18 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 27 October 2021

Appellant: MasterCard International Incorporated
(Applicant) 2000 Purchase Street
Purchase, NY 10577 (US)

Representative: Isarpatent
Patent- und Rechtsanwälte Barth
Charles Hassa Peckmann & Partner mbB
Postfach 44 01 51
80750 München (DE)

Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 11 August 2017
refusing European patent application No.
07150164.7 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman S. Ward
Members: J. Thomas
T. Bokor

Summary of Facts and Submissions

- I. The appeal is against the decision of the examining division refusing European patent application No. 07 150 164 on the grounds that the main request and the then auxiliary requests 1 to 4 did not involve an inventive step in the sense of Article 52(1) EPC in combination with Article 56 EPC.
- II. At the end of the oral proceedings the sole request of the appellant was that:
- the decision under appeal be set aside, and
 - a patent be granted on the basis of claims 1 to 4 filed as auxiliary request 3 during the oral proceedings before the Board at 12:28 hours.
- III. The following documents are referred to in this decision:
D5: US 6 220 510 B1
- IV. Claim 1 reads as follows (with the numbering of the features introduced by the Board):
- 1.1 A method for supporting a plurality of instances of the same type of payment application (MasterCard PayPass, Maestro PayPass) on a wireless smart device (102) using a system comprising the wireless smart device (102) and a wireless reader (100) communicating with the wireless smart device (102),
 - 1.2 the wireless smart device (102) having an application manager (104, 106) having an application identifier, AID, uniquely identifying a type of payment application available to the

wireless reader (100), a plurality of instances (108, 110, 112; 114, 116) of a same type of payment application for performing wireless financial transactions with an external device, each instance representing a separate account having a unique account number, and an application selection function (118),

- 1.3 the instances each having an unique internal AID used by the application manager (104; 106) for identifying and internally communicating with the individual instances,

comprising the steps of:

- 2.1 the wireless reader (100) requesting (200) the wireless smart device (102) to provide to the wireless reader (100) information about the types of payment applications residing on the wireless smart device (102), and the wireless smart device (102) returning to the wireless reader (100), in response to the request, the AID of the application manager (104);
- 2.2 the wireless reader (100) issuing (202) a select command to the application manager (104, 108) which to the wireless reader (100) appears as a payment application,
- 2.3 selecting, by a user of the wireless smart device (102), using the application selection function (118), one of the plurality of instances to be active, wherein when one instance is selected, all other instances of the same type of application are deactivated;

- 2.4 the application manager (104, 108) identifying (204) one of the instances as active,
- 2.5 the application manager (104, 108) communicating (204) the select command to the active instance identified by its internal unique AID and being hidden behind the application manager; and
- 2.6 in response to the select command, the active instance (108) responding (206) with the AID of the application manager to the wireless reader (100).

V. The examining division's arguments, insofar as they are relevant to the present decision, may be summarised as follows:

Document D5 was the closest prior art. Three features were not disclosed by this document: the wireless communication, the use of an application of the same type and the activation of a specific instance for the above-mentioned application. The features concerning the "use of an application of the same type" and the "activation of this application for an instance" were considered to relate to business schemes. Starting from the teaching of document D5, the solution as defined by the then subject-matter of the auxiliary requests 3 or 4 (which the Board considers being the closest to the now defined subject-matter) concerned the intended purpose or business application scenario. The implementation of this business application involved a straightforward standard solution which would have been obvious to the skilled person. In particular, internal and external communication, as realised in the present case, was a standard solution to enable a regulated communication flow.

VI. The appellant's arguments, insofar as they are relevant to the present decision, may be summarised as follows:

None of the available prior art documents taught the use of the same type of application linked to different instances hidden behind a common application manager. This was not a business process, but the technical implementation of how one and the same application can be used on a single smart device to carry out transactions from different bank accounts.

Reasons for the Decision

1. The appeal is admissible.
2. The invention

The present invention concerns a method for supporting a plurality of instances of the same type of payment application, e.g. MasterCard PayPass or Maestro PayPass, on a wireless smart device. The MasterCard Worldwide protocol does not allow the use of multiple instances for the same application. Apparently, it was previously not possible to assign multiple bank accounts to a single application on the same smart device. The present invention overcomes this limitation by allowing multiple instances, i.e. bank accounts, to be hidden behind a single application manager acting like a single application. The application manager appears to an external user like a single application on the smart device. It hides a plurality of instances, which it identifies by means of the unique application identifiers of the individual instances, which are only used internally. As soon as an instance is activated for a subsequent transaction, it does not respond to the external user with its own unique application

identifier, but with the application identifier of the application manager that was transferred to the instance when it was activated. This enables the use of a plurality of instances of the same type of application on a single smart device.

3. Admission of the sole request on file into the proceedings
- 3.1 The set of claims of the now sole request on file was filed during the oral proceedings as auxiliary request 3, hence, after notification of the summons to oral proceedings (Article 13(2) RPBA 2020). Therefore, its admittance is at the Board's discretion (Article 13 RPBA 2020). It should only be admitted into the proceedings if exceptional circumstances were present and justified by cogent reasons. For the following reasons, the Board considered that exceptional circumstances were present and admitted this request into the proceedings.
- 3.2 Objections under Articles 123(2) and 84 EPC were raised for the first time by the Board in their communication according to Article 15(1) RPBA 2020 which was sent after the summons to oral proceedings.
- 3.3 In response to these objections, the appellant filed new auxiliary requests 1 and 2 in preparation for the oral proceedings. The appellant considered that at least auxiliary request 2 overcame all objections, namely the objections raised by the examining division and the ones raised for the first time by the Board.

During the course of the detailed, enlightening discussion at the oral proceedings the appellant became aware why the then auxiliary request 2 had not removed

all objections. The appellant therefore did not consider it possible that an allowable request could have been filed at an earlier stage of the proceedings. The appellant considered this situation to be an exceptional circumstance justified by cogent reasons.

3.4 In accordance with T 1790/17, the Board is of the opinion that especially in *ex parte* cases, the purpose of oral proceedings for the appellant is to better explain its case and for the Board to understand and clarify points which, perhaps, up to that point were not sufficiently clear. This appears to be particularly true when the Board raised entirely new objections for the first time. A positive reaction thereto should therefore be possible.

3.5 The Board observes that the now sole request on file is a revised and convergent version of the previously filed auxiliary request 2. The latter was already a positive, convergent, but not in all points satisfying reaction to the new objections raised for the first time in the appeal proceedings. The objections remaining in the previous auxiliary request 2 only became clear through the discussion at the oral proceedings. The now sole request on file overcomes all remaining objections, including the substantive objections put forward in the impugned decision, as explained further below.

For all these reasons, which according to the Board's understanding present exceptional circumstances, the Board considers its admission into the proceedings to be justified.

4. Amendments (Article 123(2) EPC)

The amendments provided in the now sole request on file have direct and unambiguous basis in the original disclosure as will be detailed in the following.

The hardware components defined in features 1.1 to 1.3 are originally disclosed in figure 1 and have further basis in the original filed documents as follows:

- feature 1.1: original claim 13, page 6, lines 5 to 9;
- feature 1.2: page 6, lines 9 to 11 and 19 to 28
- feature 1.3: page 9, lines 13 to 15.

The method steps defined in features 2.1 to 2.6 are based on method steps 200 to 206 as shown in figure 2. In addition to figure 2, these features are disclosed as follows:

- feature 2.1: page 8, lines 13 to 15 and 25 to 29;
- feature 2.2: page 9, lines 3 to 7;
- feature 2.3: page 6, line 33 to page 7, line 2 and page 11, lines 15 to 18;
- feature 2.4: page 9, lines 8 to 13;
- feature 2.5: page 9, lines 13 to 15 and page 7, lines 15 to 22;
- feature 2.6: page 10, lines 4 to 12.

The dependent claims 2 to 4 correspond to original claims 14 to 16.

Hence, the Board is satisfied that the present set of claims complies with Article 123(2) EPC.

5. Clarity (Article 84 EPC)

The Board is also satisfied that claims 1 to 4 fulfil the requirements of Article 84 EPC.

6. Novelty and inventive step (Articles 52, 54(1) and (2) and 56 EPC)

6.1 Closest prior art

The examining division considered document D5 as closest prior art since it deals with multiple applications stored on the same IC card. The Board shares this view.

6.2 Differentiating features

Document D5 discloses a multi-application IC card, however without mentioning wireless communication between the reader and the IC card. Therefore, it can already be concluded at this point that the subject-matter of claim 1 is new within the meaning of Articles 52(1) and 54 (1) and (2) EPC.

In addition, the multi-application IC card shown in document D5 processes two or more different applications using an Application Abstract Machine Architecture. These multiple applications of different types (D5: column 1, lines 26 to 30; column 3, lines 31 to 49) can be stored on the same smart card and can be used by a user. However, the use of different instances (e.g. bank accounts) with the same application is not disclosed in document D5; in document D5 each application is linked to a single instance.

Therefore document D5 neither discloses wireless communication nor a plurality of instances of the same type of payment application hidden behind a common application manager. Therefore parts of features 1.1 to 1.3 and features 2.3, 2.5 and 2.6 as defined in present

claim 1 are not disclosed in document D5 and therefore present novel features.

6.3 Technical effect

These differences, the wireless connection and the fact that multiple instances, i.e. bank accounts, are linked to the same application manager on a single smartphone, have the following technical effects:

- They enable an easily handling of a plurality of bank accounts with a single smart device.
- They reduce the storage space on the smart device because every application is stored only once.

6.4 Obviousness

The solution proposed by the method as defined in claim 1 is not rendered obvious by document D5 either alone or in combination with any of the available documents for the following reasons:

The architecture in document D5 focuses on a secure access to different applications whereby only one application at a time is active. The delegator (D5: column 7, lines 36 to 50) allows the transfer of an incoming command from one application which is not able to treat the incoming command (because it is of a different type) to the next application until the command arrives at an application which is able to treat the incoming command. Therefore, the delegator of D5 does not anticipate the application manager defined in claim 1, since it does not link a plurality of instances to the same application but only allows the transfer from one application to the next application which, in document D5, are all of a different type.

Consequently, when starting from the teaching of document D5, it seems neither obvious nor technically possible to connect one application to a plurality of instances. Document D5 neither mentions, nor hints at the problem of connecting the same type of application to different instances. The skilled person who wanted to use different bank accounts for the same type of application might, if it were possible, duplicate one application on the IC card and link the duplicated application to a different instance/bank account. However, there is nothing in the available prior art which points to the idea of duplicating the same type of application linked to different bank accounts, as in the claimed method. It also might be questionable whether duplicating the same application would work correctly in the device shown in document D5. Even if duplication of the same application were possible, this would not lead to the actual solution of using one application manager, hiding different instances behind it and using different application identifiers for external and internal use respectively. Hence, starting from document D5, the skilled person would, at most, arrive at a solution involving two parallel applications connected to different instances, which does not correspond to the claimed invention.

6.5 Conclusion on inventive step

Since none of the other available prior art discloses or hints at

- the use of a plurality of instances of the same type hidden behind a common application manager, or
- the use of a single application connected to different instances,

the subject-matter defined in present claim 1 is considered inventive.

6.6 The subject matter defined in claims 2 to 4 is also considered inventive by virtue of its dependencies.

6.7 The arguments presented by the examining division in relation to inventive step when starting from document D5 do not convince the Board for the following reasons:

The examining division argued that the use of applications of the same type linked to different instances concerned only a particular business scheme, the implementation of which would be straightforward for the skilled person (see decision, page 4, last paragraph to page 5 first paragraph). However, the Board holds that the main difference between the present invention and the teaching of document D5 is that different instances/bank accounts are associated with the same type of application. This is a technical solution to the problem of how to enable the use of different bank accounts with the same type of application using a single IC card or smart device, a problem which is caused by the fact that some "applications may limit the number of instances of that application that a wireless smart device may contain" (page 3, lines 1-2 of the present application). The claimed solution goes beyond a simple implementation of a standard business solution by providing an application manager linking one application to different instances, and providing different application identifiers for external and internal use.

7. The Board therefore judges that, taking into account the available prior art, the method as claimed and the invention to which it relates involve an inventive step within the meaning of Article 52(1) EPC in combination with Article 56 EPC.

8. The Board found that an adaptation of the description did not appear feasible during the oral proceedings, in view of the complexity of the expected amendments to the description and the circumstance that the oral proceedings was held by videoconference, and decided to remit the case to the examining division for this purpose. The appellant did not object to the remittal.

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 with the order to grant a patent with the following claims and a description to be adapted thereto:
Claims 1 to 4 filed as auxiliary request 3 during the oral proceedings before the Board at 12:28 hours.

The Registrar:

The Chairman:



S. Sánchez Chiquero

S. Ward

Decision electronically authenticated