



Guidelines for Examination: EPO's Revised Procedures for Presentations of Information

The EPO has published its yearly update to the Guidelines for Examination, which came into force on 1 November 2017. The updated Guidelines for Examination can be found [here](#), with a list of the amendments made compared to the current version available [here](#). An overview of the changes is provided in our news item [here](#).

We discuss below changes to the section of the guidelines relating to presentations of information, which have been substantially re-written and, for the first time, comprise a detailed discussion on how to determine whether or not the presentation of information contributes to a technical effect. In addition, there are substantial changes to the section of the guidelines relating to user interfaces and these are discussed [here](#).

There is no change to the requirement that a presentation of information must contribute to producing a technical effect in order for it to have an inventive step. However, the new guidelines provide more detail on when the presentation of information does and does not contribute to a technical effect. In particular, different characteristics of presentation of information are identified and examples are provided of when the characteristics do and do not provide a technical effect.

Although the new guidelines do improve the clarity of the EPO's procedures with regard to assessing the presentation of information, it is important to note that in this area of the law there will always be a certain amount of subjectivity. An Examiner's opinion on whether or not a presentation of information contributes to a technical effect will never be possible to predict with full certainty. In addition, the specific nature of an Examiner's objection will always depend on the prior art. Therefore, our recommendation is that, so far as possible, a detailed description of all technical effects arising from a presentation of information are included in a patent application.

The new guidelines define the presentation of information as the conveying of information to a user. The presentation of information concerns both the cognitive content of the information presented and the manner of its presentation. It is not limited to visual information, but also covers other presentation modalities, e.g. audio or haptic information. However, it does not extend to the technical means used for generating such presentations of information.

Some key points from the new guidelines are discussed below.

It is explicitly stated that when assessing exclusion from patentability, the claimed subject-matter has to be considered as a whole. In particular, a claim directed to or specifying the use of any technical means for presenting information (e.g. a computer display) has, as a whole, technical character and is thus not excluded from patentability. This is the same approach as taken with inventions involving other types of non-technical subject matter, e.g. business methods.

During the assessment of inventive step, features related to the presentation of information are analysed to determine if, in the context of the invention, they contribute to producing a technical effect serving a technical purpose. If they do not, they make no technical contribution and cannot support an inventive step.

A feature defining a presentation of information produces a technical effect if it credibly assists the user in performing a technical task by means of a “continued and/or guided human-machine interaction process”. Such a technical effect is considered credibly achieved if the assistance to the user in performing the technical task is objectively, reliably and causally linked to the feature. This would not be the case if the alleged effect depends on subjective interests or preferences of the user (the latter situation has been referred to as a “broken technical chain”[1] in case law).

The new guidelines comprise a detailed discussion on how to determine whether or not the presentation of information contributes to a technical effect. In particular, it is explained that the presentation of information may commonly be considered to specify:

- i. the cognitive content of the information presented, i.e. defining "what" is presented; or
- ii. the manner in which the information is presented, i.e. defining "how" the information is presented.

With regard to (i) (“what”), if the cognitive content of the information presented to the user relates to an internal state prevailing in a technical system and enables the user to properly operate this technical system, it has a technical effect. An internal state prevailing in a technical system is an operating mode, a technical condition or an event which is related to the internal functioning of the system, may dynamically change and is automatically detected. Its presentation typically prompts the user to interact with the system, for example to avoid technical malfunctions.

Static or predetermined information about technical properties or potential states of a machine, specifications of a device or operating instructions do not qualify as an internal state prevailing in the device. If the presentation of static or predetermined information merely has the effect of helping the user with the non-technical tasks preceding the

technical task, it does not make a technical contribution. In addition, information representing a state of a non-technical application run on a computer system, such as the state of a game, a business process or an abstract simulation model, constitutes non-technical information. This type of information is exclusively aimed at the user for his subjective evaluation or non-

technical decision-making which is not directly linked to a technical task. Such information does not qualify as technical information even if ultimately states of processors or memories are modified.

With regard to (ii) (“how”), a feature in this category typically specifies the form, arrangement or timing by which information is conveyed to the user (e.g. on a screen). An example is a diagram designed solely for conveying information. Specific technical features related to, for example, the way audio signals or images are generated are not covered by category (ii).

Features defining a visualisation of information in a particular diagram or layout are normally not considered to make a technical contribution, even if the diagram or layout arguably conveys information in a way which a viewer may intuitively regard as particularly appealing, lucid or logical.

In some exceptional cases, technical effects may arise from a manner of presentation that facilitates a “continued human-machine interaction” or enables the user to perform a technical task. A technical effect may also arise if information is presented in a proactive and timely manner to enable the user to perform a technical task in a more efficient or precise manner as opposed to presenting information in an arbitrary sequence or based on aesthetic considerations or non-technical preferences or constraints.

The new guidelines also discuss technical effects that arise from human physiology or mental activities of the user.

It is stated that when a manner of presenting information produces in the mind of the user an effect which does not depend on psychological or other subjective factors but on physical parameters which are based on human physiology and can be precisely defined, that effect may qualify as a technical effect. The manner of presenting information then makes a technical contribution to the extent that it contributes to this technical effect. For example, displaying a notification on one of a plurality of computer screens near the user’s current visual focus of attention has the technical effect that it is more or less guaranteed to be seen immediately (compared e.g. to an arbitrary placement on one of the screens).

In addition, where the claimed subject-matter comprises a feature of presenting information to a user, be it of category (i) or (ii), an evaluation by the user is involved. Although such an evaluation per se is a mental act, the mere fact that mental activities are involved does not necessarily qualify subject-matter as non-technical. For example, if a user makes an evaluation based on an overview of low-resolution images in order to locate and objectively recognise a desired image, this mental evaluation may be considered to be an intermediate step steering the image search and retrieval process and thus forms an integral part of a solution to a technical problem. Such a solution relies neither on facilitating the human tasks of understanding, learning, reading or memorising nor on influencing the user’s decision as to which image is to be searched. It provides a mechanism for inputting a selection which would not be possible if the images were not displayed in that specific arrangement.

A link to the new guidelines on presentations of information is provided [here](#).

[1] [T 1670/07](#) Shopping with mobile device/NOKIA, of 11 July 2013 discussing [T 1741/08](#)

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