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D E C I S I O N
of 18 August 2004

Case Number: T 0204/01 - 3.4.3

Application Number: 93924638.5

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Language of the proceedings: EN

Title of invention:

Method for carrying out financial transactions by means of a mobile telephone system

Patentee:

Sonera Oyj

Opponent:

SWISSCOM AG

Headword:

-

Relevant legal provisions:

EPC Art. 100(c)

Keyword:

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Catchword:

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Case Number: T 0204/01 - 3.4.3

D E C I S I O N
of the Technical Board of Appeal 3.4.3
of 18 August 2004

Appellant: Sonera Oyj
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Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 30 November 2000
revoking European patent No. 0669031 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairman: R. K. Shukla
Members: G. L. Eliasson
P. H. Mühlens

Summary of Facts and Submissions

I. This appeal lies from the decision of the opposition division dated 30 November 2000 revoking European patent No. 0 669 031 on the ground that the subject matter of claim 1 according to the patent proprietor's main request and the auxiliary request extended beyond the content of the application as filed (Article 100(c) EPC).

II. Claim 1 as granted which formed the basis of the main request in the decision under appeal has the following wording:

"1. A method for using telecommunication services and carrying out financial transactions by a mobile telephone system including at least one mobile telephone exchange for coupling connections in, from and to the mobile telephone system, in which method an audio and/or data connection is taken from a data terminal equipment (1) of the mobile telephone system to a desired service provider (13), and in which method preceding the connection to the service provider a user of the system is authenticated in an authentication center(5) of the mobile telephone system by means of a personal identity code and data from an intelligence part of a service card (2) contained in the system's terminal equipment,
characterised in,
that after the user is locally authenticated to verify his rights to use the service of the desired service provider (13) the connection is

established from the mobile telephone exchange via a dedicated network (6) to the service provider."

III. In the decision under appeal, the opposition division reasoned essentially as follows:

Claim 1 as granted can be interpreted as specifying that the step of verifying the user's rights to use a service of the service provider is carried out in the authentication center, whereas the application as filed only discloses that the verification of the user's rights to use a service of the service provider is carried out by the service provider. Therefore, the subject matter of claim 1 as granted extends beyond the content of the application as filed.

IV. The appellant (patent proprietor) lodged an appeal on 30 January 2001, paying the appeal fee the same day. A statement of the grounds of appeal was filed on 9 April 2001.

V. In response to a communication of the Board accompanying summons to oral proceedings, the patent proprietor filed with the letters dated 23 June 2004 and 21 June 2004 new claims forming a main request and first to forth auxiliary requests, respectively. The request for the grant of a patent on the basis of any of these requests was confirmed at the oral proceedings held on 18 August 2004.

The respondent (opponent) requested that the appeal be dismissed.

VI. Claim 1 according to the main request reads as follows (emphasis added by the Board indicating features which have been added with respect to claim 1 as granted (cf. item II above)):

"1. A method for using telecommunication services and carrying out financial transactions by a mobile telephone system including at least one mobile telephone exchange for coupling connections in, from and to the mobile telephone system, in which method an audio and/or data connection is taken from a data terminal equipment (1) of the mobile telephone system to a desired service provider (13), and in which method preceding the connection to the service provider a user of the system is authenticated in an authentication center (5) of the mobile telephone system by means of a personal identity code and data from an intelligence part of a service card (2) contained in the system's terminal equipment, characterised in, that after the user is locally authenticated to verify his rights to use the service of the desired service provider (13) **and the user is given the right to the call** the connection is established from the mobile telephone exchange via a dedicated network (6) to the service provider."

VII. Claim 1 according to Auxiliary Request 1 differs from the main request in that the characterizing part reads as follows (emphasis added by the Board):

"that after the user is locally authenticated to verify his rights to use the service of the

desired service provider (13) and the user is given the right to the call the connection is established from the mobile telephone exchange via a dedicated network (6) to the service provider, **and the calling subscriber's identity which is used to verify the user's access right is transmitted to the application and used to connect the user to the services."**

VIII. Claim 1 according to Auxiliary Request 2 reads as follows:

"1. A method for using telecommunication services and carrying out financial transactions by a mobile telephone system including

at least one mobile telephone exchange (4) for coupling connections in, from and to the mobile telephone system,

a data terminal equipment (1) comprising a service card (2) which contains an intelligence part,

a desired service provider (13), and

an authentication center (5)

said method comprising the steps of

authenticating a user of the data terminal equipment (1) by means of a personal identity code and data from an intelligence part of a service card (2) contained in the system's terminal equipment (1),

authenticating said user as a subscriber in an authentication center (5) of the mobile telephone system, and

establishing an audio and/or data connection from a data terminal equipment (1) of the mobile telephone system to a desired service provider (13),

characterised in, that the method further comprises the steps of

after authenticating the subscriber, verifying subscriber's rights to use the service of the desired service provider (13) in the authentication center (5)

establishing the connection from the mobile telephone exchange (4) via a dedicated network (6) to the service provider (13)."

- IX. Claim 1 according to Auxiliary Request 3 differs from Auxiliary Request 2 in that the characterizing part reads as follows (emphasis added by the Board):

"after authenticating the subscriber, **using the subscriber information to** verify subscriber's rights to use the service of the desired service provider (13) in the authentication center (5)

establishing the connection from the mobile telephone exchange (4) via a dedicated network (6) to the service provider (13)."

- X. Claim 1 according to Auxiliary Request 4 differs from Auxiliary Request 2 in that the characterizing part reads as follows (emphasis added by the Board):

"after authenticating the subscriber, verifying subscriber's rights to use the service of the desired service provider (13) in the authentication center (5)

using the subscriber information to authorize the connection to the dedicated network

establishing the connection from the mobile telephone exchange (4) via a dedicated network (6) to the service provider (13)

using the subscriber information to control the access to the service at the service provider (13)."

- XI. The appellant (patent proprietor) presented essentially the following arguments in support of his requests:

- (a) The method according to the present invention for using telecommunication services and carrying out financial transactions by a mobile telephone can be described in three steps, referred to as "AAA" (Authentication, Authorisation, and Accounting):

The first step, Authentication, takes place in the terminal equipment 2 (e.g. a mobile telephone) where the user enters his PIN-code. The PIN-code is checked through the service card 2 (e.g. SIM

card) of the terminal equipment (cf. application as filed, page 3, lines 13 to 15; page 4, lines 29 to 30; page 6, lines 1 to 3, and 20 to 26; page 8, lines 7 to 10, page 10, lines 7 to 16). If the PIN-code is correct, connection is established with the mobile telephone system. With the intelligence part of the service card installed in the terminal equipment, the user is authenticated as a subscriber in the authentication center 5 of the mobile telephone system (cf. application, page 6, lines 8 to 11).

The second step, Authorisation, takes place in the authentication center 5 of the mobile telephone system, where the subscriber, i.e. the equipment or user from the network point of view, is identified and the subscriber is given the right to the call. In other words, authorization is given for connecting the user to the desired service provider via the dedicated network 6 (cf. application, page 6, line 32 to page 7, line 7).

The third step, Accounting, takes place after connection is established to the desired service provider 13 via the dedicated network 6, where the desired service provider verifies the access rights of the user to use the desired services (cf. application, page 3, lines 26 to 28; page 6, lines 6 to 8; page 7, lines 7 to 25).

- (b) The term "to verify the user's rights to use the service of the desired service provider" in claim 1 according to the main request and auxiliary request 1 is to be understood that in

the authentication center 5, the right to call via the dedicated network is verified. The term "service" is here to be interpreted in the sense that access to the service provider via the dedicated network is in itself to be considered a "service".

(c) The term "locally authenticated" in claim 1 according to the main request and auxiliary request 1 refers to the step of authenticating the user by requesting him to enter the PIN-code at the terminal equipment.

(d) In claim 1 according to the main request and auxiliary request 1, a user of the system is authenticated in an authentication center **by means of** a personal identity code and data from an intelligence part of a service card. The term "by means of" refers to the fact that the personal identity code (PIN-code) is required in order to release data from the intelligence part of the service card. Thus the term "by means of" should not be construed as meaning that the personal identity code is necessarily transmitted to the authentication center.

XII. The respondent (opponent) presented essentially the following arguments relevant to the present decision:

In addition to the reasons given in the decision under appeal for revoking the patent in suit (cf. item III above), claim 1 according to the main request and the auxiliary request 1 contains the step of authenticating the user in the authentication center using the

personal identity code and data from an intelligence part of the service card. According to the application as filed, only data from the intelligence part of the service card is transmitted to the authorization center to this end (cf. page 6, lines 8 to 10).

Reasons for the Decision

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC and is therefore admissible.
2. *Added subject matter - Main Request*

The only issue dealt with in the decision under appeal was the ground for opposition under Article 100(c) EPC.

- 2.1 The following amendments to claim 1 according to the main request, among others, are in dispute in the consideration of added subject matter:
 - (a) Claim 1 specifies that after the user is locally authenticated **to verify his rights to use the service of the desired service provider (13)**, the connection is established from the mobile telephone exchange via a dedicated network (6) to the service provider.
 - (b) The user of the system is authenticated in an authentication center(5) of the mobile telephone system **by means of a personal identity code and data from an intelligence part of a service card (2) contained in the system's terminal equipment.**

2.2 In the decision under appeal, the opposition division held that the amendment (a) referred to above could be interpreted as meaning that the *authorization center* of the mobile telephone system verifies the user's rights to use the service of the desired service provider (cf. item III above). This amendment went beyond the disclosure of the application as filed, where it was consistently disclosed that the step of verifying the user's rights was only carried out by the desired service provider.

2.3 If an amended feature in a claim results in several different alternatives, then there has to be a support in the application as filed for all the alternatives. In the present case, the Board agrees with the opposition division that according to amendment (a), the verification of the user's rights to use the service of the desired service provider is carried out locally, i.e. at the authorization center.

The patent proprietor argued with respect to amendment (a) that in the step of "Authorization", the authorization center of the mobile telephone system verifies that the user has the right to access the desired service provider via the dedicated network (cf. item XI(a) above). The act of providing a connection to the service provider is itself a "service" within the meaning of the term "service of the service provider" in claim 1.

The Board is however not able to follow this argument, since the term "service of the service provider" is used consistently in the application as filed for indicating the particular transaction the user wishes

the service provider to carry out (cf. application as filed, page 4, lines 19 to 27; page 6, lines 8 to 15). The check whether the user may use the selected service is carried out by the service provider, i.e. at the step of "Accounting" referred to in item XI(a) above (cf. application as filed, page 6, lines 6 to 15; claims 4 and 8), whereas the authorization center 5 is only concerned with the "Authorization" step, that is the authorization center only controls access to the dedicated network 6. Therefore, the construction of the term "service of the service provider" suggested by the patent proprietor is not supported by the application in suit as filed.

2.4 The amendment (b) includes the alternative that both the personal identification code (e.g. PIN-code) and data from the intelligence part of the service card are used by the authorization center in authenticating the user as a subscriber of the mobile telephone system. According to the application as filed, however, only data from the intelligence part of the service card are transmitted to the authorization center (cf. page 6, lines 8 to 11). Therefore, amendment (b) extends beyond the content of the application as filed.

2.4.1 The patent proprietor argued in this connection that in a GSM mobile telephone system as described in the application as filed, the PIN-code is required in order gain access to the data from the intelligence part of the SIM-card (service card), and therefore, the PIN-code is implicitly required for authenticating the user as a subscriber (termed "user of the system" in claim 1 according to the main request) of the mobile telephone system (cf. item XI(d) above). This implicit

requirement of the personal identification code is reflected by the term "by means of" in claim 1.

2.4.2 The above argument, however, does not alter the fact the term "by means of personal identification code and data from an intelligence part of a service card" in claim 1 can equally well be construed as specifying that the personal identification code is sent to the authentication center and is checked there. This was also acknowledged by the patent proprietor as a possible alternative interpretation of claim 1. There is, however, no basis in the application as originally filed for such an authentication.

2.5 For the above reasons, claim 1 according to the main request contains subject matter which extends beyond the content of the application as filed. Therefore, the ground of opposition under Article 100(c) EPC prejudices maintenance of a patent on the basis of the main request.

3. *Amendments - Auxiliary Request 1*

Since claim 1 according to auxiliary request 1 contains both amendments (a) and (b) referred to above regarding the main request, the subject matter of claim 1 according to auxiliary request 1 contains subject matter extending beyond the content of the application as filed for the same reasons as stated above under item 2. Therefore, the ground of opposition under Article 100(c) EPC prejudices maintenance of a patent on the basis of auxiliary request 1.

4. *Amendments - Auxiliary Requests 2 to 4*

Claim 1 according to auxiliary requests 2 to 4 specifies the step of

"after authenticating the subscriber, verifying subscriber's rights to use the service of the desired service provider (13) in the authentication center (5)".

It follows from the discussion under item 2.3 above in respect of "amendment (a)" in claim 1 according to the main request, that there is no support in the application as filed for the step of verifying the subscriber's rights to use the service of the desired service provider in the authentication center.

Therefore, the ground of opposition under Article 100(c) EPC prejudices maintenance of a patent on the basis of any of the auxiliary requests 2 to 4.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

D. Meyfarth

R. K. Shukla