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Datasheet for the decision of 15 January 2008

Case Number: T 0140/05 - 3.5.05

Application Number: 00308393.8

Publication Number: 1089520

IPC: H04L 29/06

Language of the proceedings: EN

Title of invention:
H.323 User, service and service provider mobility framework for the multimedia intelligent networking

Applicant:
AT & T Corp.

Opponent:
-

Headword:
H.232 user mobility/AT & T

Relevant legal provisions:
EPC Art. 54, 56, 83, 84, 123(2)

Relevant legal provisions (EPC 1973):
EPC R. 29(2)

Keyword:
"Inventive step - no"

Decisions cited:
-

Catchword:
-

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Case Number: T 0140/05 - 3.5.05

D E C I S I O N
of the Technical Board of Appeal 3.5.05
of 15 January 2008

Appellant: AT & T Corp.
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Decision under appeal: **Decision of the Examining Division of the European Patent Office posted 24 September 2004 refusing European application No. 00308393.8 pursuant to Article 97(1) EPC.**

Composition of the Board:

Chairman: D. H. Rees
Members: A. Ritzka
M-B. Tardo-Dino

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division dispatched 24 September 2004, refusing European patent application No. 00 308 393.8 for the reasons that the application did not meet the requirements of Rule 29(2) EPC 1973 with respect to claims 16 and 17 and that the subject-matter of independent claims 1, 16 and 17 lacked novelty having regard to the disclosure of:

D1: WO 98/59467 A.

II. Notice of appeal was filed on 22 November 2004 and the appeal fee paid on 19 November 2004. The statement of grounds of appeal was submitted by fax on 25 January 2005 with a letter dated 25 January 2005. The appellant requested that the appealed decision be set aside. A conditional request for oral proceedings was made in the event that the appeal was not allowed.

III. With its letter of 26 September 2005 the appellant filed a new set of claims 1 to 25 to replace the claims on which the decision under appeal was based and requested that examination of the appeal be based on the set of amended claims. The board interprets this request as that the decision under appeal be set aside and a patent granted on the basis of claims 1 to 25 filed with the letter of 26 September 2005. The appellant maintained its conditional request for oral proceedings.

IV. With its letter of 25 July 2006 the appellant filed an annotated copy of the set of claims 1 to 25 filed with

the letter of 26 September 2005. The wording of the claims of the annotated copy differed slightly from the wording of the claims as filed with the letter of 26 September 2005.

V. The board issued an invitation to oral proceedings accompanied by a communication. The analysis presented in the communication was based on the later filed (with letter of 25 July 2006) set of claims. In the communication the board expressed the preliminary view that the amendments of claims 1, 7, 8, 10, 11, 13, 14, 15, 17, 18 and 25 contained added subject-matter contravening Article 123(2) EPC, that claims 1, 2 and 25 were not supported by the description or not clear, contravening Article 84 EPC, that the claimed subject-matter was not disclosed in a manner sufficiently complete for it to be carried out by a person skilled in the art, contravening Article 83 EPC and that independent claims 1, 2 and 25 lacked novelty and inventive step having regard to the disclosure of D1.

With its letter submitted 14 December 2007, in response to the communication, the appellant filed new sets of claims according to a main request and three auxiliary requests and four versions of amended page 2a, according to each of the requests.

Moreover, the appellant presented comments on the objections presented in the communication.

VI. During oral proceedings which took place as scheduled on 15 January 2008, the appellant filed slightly revised claims of the main request, the first auxiliary request, the second auxiliary request and the third

auxiliary request and claims 1 to 13 and page 2a of a fourth auxiliary request. The appellant requested that the appeal further be based on

pages 3 to 24 as originally filed
pages 1, 2, 2b as filed on 4 May 2004
figures 1 to 4 as originally filed.

Inter alia independent claim 2 of the main, first and second auxiliary request and claim 1 of the third and fourth auxiliary request were discussed as to claim interpretation, novelty and inventive step. At the end of the hearing the chairman announced the board's decision.

VII. Claim 2 of the main request reads as follows:

"A method comprising:

at a gatekeeper of a first domain, the gatekeeper associated with a location database, the location database comprising home user location information and visiting user location information:

receiving, from a calling H.323 entity registered with the gatekeeper and located in the first domain, a message comprising an alias address of a called H.323 entity, the message originating a call to the called H.323 entity, the called H.323 entity registered as a home entity in a second domain, the called H.323 entity registered as a visitor in a third domain;

receiving an actual routable alias address for the called H.323 entity, the actual routable alias address associated with the alias address of the called H.323 entity, the actual routable alias address received from

a non-gatekeeper database external to the first domain, the second domain, and the third domain; and

sending the actual routable alias address to the calling H.323 entity."

Claim 2 of the main request and first and second auxiliary request are the same.

Claim 1 of the third auxiliary request corresponds to claim 2 of the main request.

Claim 1 of the fourth auxiliary request reads as follows:

"A method comprising a plurality of activities comprising:

receiving, at a wide area network-based intelligent service controller, a request to originate a call to an H.323 entity, the request comprising an alias address associated with the H.323 entity, the wide area network-based intelligent service controller comprising a non-gatekeeper database external to a domain of a calling entity and external to a donor domain of the H.323 entity;

translating, at the non-gatekeeper database, the alias address to an actual routable network address for the H.323 entity; and

providing the actual routable network address."

Reasons for the Decision

1. *Claim interpretation*

In the claims of all the requests the terms "wide area network-based intelligent service controller", "non-gatekeeper database" and "domain" are used. These terms are considered not to be clear in themselves and to need interpretation in the light of the description.

The term "wide area network-based intelligent service controller" is only used at column 1, line 18 of the application as published (page 1, lines 13 and 14 of the description as originally filed), being used in the context of "...to provide audio and/ or video conferencing services using a wide area network-based intelligent service controller". The board interprets the term as almost the whole system, at least as an entity including the gatekeepers and the non-gatekeeper database. The appellant's argument that the wide area network-based intelligent service controller included only the non-gatekeeper database and some means for receiving requests is not convincing, since the description does not provide any support for such a narrow interpretation, and claim 1 of all requests refers to "receiving, at a wide area network-based intelligent service controller, a request to originate a call ...". This request to originate a call is received by the gatekeeper (see Fig. 3, Step 1), which must therefore be considered part of the wide area network-based intelligent service controller. A different interpretation would not be consistent with the description.

The term "non-gatekeeper database" is interpreted with reference to figure 3 of the description as a central database not being part of a gatekeeper or linked to a particular gatekeeper, which agrees with the interpretation given by the appellant.

The term "domain" is interpreted relying on the description column 7, line 56 to column 8, line 1 as a part of the network comprising at least one zone controlled by a gatekeeper. The appellant argued that "domain" was a zone or zones having a single administrator. The application related to communication between moving users in different domains, whereas D1 related to communication between zones within a single domain. However, the board notes that even if such a difference were to be seen between a domain and a zone, this difference would not have a technical implication on the mobility management as claimed since any call request would still be received by the gatekeeper controlling the zone of the calling party and this gatekeeper would communicate with the non-gatekeeper database. Moreover, the preferred embodiment relates to a situation in which each domain has a single zone, see column 8, line 1 of the published application, so that in the board's view a "zone" may be considered to be a particular embodiment of a "domain".

2. *Most relevant document*

The board considers D1 to be the most relevant prior art document.

Turning to the appellant's argument that D1 was directed to the problem of communication in a virtual

private, i.e. closed, network whereas the problem underlying the claimed subject-matter was user mobility in a more general network using a H.323 protocol and portable alias addresses, the board notes that D1 relates to the H.323 protocol and alias addresses as well, see D1, page 3, lines 7 to 9 and 15 to 17, and that since according to the application each zone may be a domain (see point 1 above) the specific arrangement disclosed by D1 falls within the scope of the claimed subject-matter.

3. *Novelty and inventive step*

Only one claim per request is assessed for novelty and inventive step, since any request including at least one claim which is not allowable must be refused.

3.1 Claim 2 of the main request

D1 discloses an end user which is connected to the gatekeeper of the zone to which it belongs, i.e. a first domain, see page 3, lines 11 to 14. All the gatekeepers are connected to one zone management means which comprises a table of the logical addresses or alias addresses of all registered end points in all zones of the network, and the zone in which each end point is registered, see D1, page 3, lines 14 to 17. If a user moves from one zone to another, it registers with the gatekeeper of the new zone. The gatekeeper of the new zone informs the zone management means of the current zone of the user, see D1, page 9, lines 6 to 9. All of the zones are connected to one large network, see D1, page 1, lines 15 and 16. Thus, the zone management means corresponds to a non-gatekeeper

database which comprises home user location information and visiting user location information.

The embodiment disclosed in D1 refers to a network using a H.323 protocol, see page 3, lines 26 and 27. Thus, the calling end user and the called end user represent H.323 entities.

An end user sends a request, i.e. a message, to its gatekeeper for setting up a connection to another user, the request comprising the alias address of the receiving end user, see D1, page 4, lines 1 to 4. The gatekeeper sends a zone request to the zone management means which informs the gatekeeper of the physical location of the receiving end user, see D1, page 3, lines 21 to 23 and page 4, lines 13 to 15.

If a user moves from one zone, e.g. a second domain, to another zone, e.g. a third domain, the gatekeeper of the third domain informs the zone management means that the subscriber is now located in the third domain, see D1, page 9, lines 6 to 9.

Thus, D1 discloses, at a gatekeeper of a first domain, the gatekeeper associated with a location database, the location database comprising home user location information and visiting user location information, receiving, from a calling H.323 entity registered with the gatekeeper and located in the first domain, a message comprising an alias address of a called H.323 entity, the message originating a call to the called H.323 entity, the called H.323 entity registered as a home entity in a second domain, the called H.323 entity registered as a visitor in a third domain.

When the gatekeeper of the calling end user, e.g. of the first domain, requests the destination address of the receiving end user, the zone management means, by sending a zone information signal, informs the gatekeeper of the current physical location, see D1, page 4, lines 17 to 20 and page 3, lines 21 to 23. The gatekeeper provides the end user with an address confirmation signal comprising inter alia the destination call signalling address, i.e. the actual routable address, which the gatekeeper receives upon request to the called party's gatekeeper, see D1, page 4, line 22 to page 5, line 2.

Thus, D1 discloses receiving an actual routable alias address for the called H.323 entity, the actual routable alias address associated with the alias address of the called H.323 entity.

The subject-matter of claim 2 differs from D1 in sending the actual routable alias address received from the non-gatekeeper database to the calling H.323 entity instead of sending to the calling H.323 entity the destination call signalling address received from the called party's gatekeeper on the basis of the zone confirmation request, which is provided by the zone management means. Thus, it is novel.

The objective achieved by the subject-matter of both of claim 2 and the method disclosed in D1 is avoiding the need for paging the called gatekeeper as necessary in the H.323 standard. Thus, the technical problem underlying the subject-matter of claim 2 starting from D1 is to provide for an alternative solution to this

objective. In the method of D1 zone location information necessary to request the destination call signalling address is received from the zone management means which represents a central database external to the gatekeepers and avoids the need of paging the called gatekeeper as necessary in the H.323 standard. Based on this location information the routable network address is obtained from the gatekeeper of the called party, i.e. D1 uses a partially decentralized database. The difference between the subject-matter of claim 2 and the method of D1 is seen in using a centralized location management database instead of a distributed location management database. Whether to use a centralized location management database or a distributed location management database is a matter of choice of implementation being part of the normal professional activity of a skilled person.

The board notes that the appellant did not present any additional problem solved or advantage achieved by the subject-matter of claim 2 and, moreover, that in the application as published it is stated at column 7, lines 51 to 54 that the choice of using a distributive [sic] location management database vs. using a centralized location management database was a matter of choice of implementation, a statement with which the board agrees. The trade-offs between distributed and centralised databases were part of the skilled person's notorious general knowledge at the priority date.

Thus, the subject-matter of claim 2 does not involve an inventive step.

3.2 Claim 2 of the first auxiliary request

As claim 2 of the first auxiliary request and the main request are the same, the comments made in section 3.1 with respect to claim 2 of the main request apply.

3.3 Claim 2 of the second auxiliary request

As claim 2 of the second auxiliary request and the main request are the same, the comments made in section 3.1 with respect to claim 2 of the main request apply.

3.4 Claim 2 of the third auxiliary request

As claim 1 of the third auxiliary request corresponds to claim 2 of the main request, the comments made in section 3.1 with respect to claim 2 of the main request apply.

3.5 Claim 1 of the fourth auxiliary request

D1 discloses in an embodiment implemented in a network using the H.323 protocol a method for establishing a connection between an end user and another end user in which the calling end user initiates a connection set-up by signalling to the gatekeeper, see D1, page 3, lines 7 to 9 and 19 and 20. Signalling to the gatekeeper implies receiving, at a wide area network-based intelligent service controller, a request to originate a call to an H.323 entity. The request comprises the destination alias address of the receiving end user which is a H.323 entity, see D1, page 3, lines 26 and 27 and page 4, lines 2 to 4. The gatekeeper sends a zone request signal comprising the

destination alias address to the receiving end user to the zone management means, see D1, page 4, lines 13 to 15. In response to the zone request signal, the zone management means sends a zone confirmation signal to the end user's gatekeeper which in turn sends a location request signal to the gatekeeper of the called party and, in response, receives the destination call signalling address, see D1, page 4, lines 13 to 26. Providing the destination call signalling address on the basis of the destination alias address corresponds to translating the alias address to an actual routable address.

The zone management means is connected to all the gatekeepers and comprises a table of the alias addresses of all registered end points in all zones of the network, and the zone in which each end point is registered, see D1, page 3, lines 14 to 17.

According to D1, page 1, lines 14 to 17 a virtual private network may comprise a number of zones, or subnetworks. For example each department in a company may have its own zone, all zones being connected to one large network. Each zone has its own gatekeeper. The partitioning into zones may reflect the departments, i.e. organisational or administrative structures. No technical difference between a domain consisting of a single zone as interpreted at point 1 above and a zone as defined in D1, page 1, lines 14 to 17 can be seen.

As the zones of D1 are connected to one large network (see D1, page 1, lines 15 and 16), the zone management means performs the function of a non-gatekeeper database external to a domain of a calling entity and

external to a donor domain of the H.323 entity, as the term "non-gatekeeper database" is interpreted at point 1 above. Thus, the plurality of gatekeepers and zone management means of D1 corresponds to the entity comprising the gatekeepers and the non-gatekeeper database, i.e. the wide area network based intelligent service controller of claim 1.

The subject-matter of claim 1 differs from the method of D1 in translating the alias address to an actual routable network address at the non-gatekeeper database instead of elsewhere in the wide area network based intelligent service controller comprising the gatekeepers and the zone management means (acting as a non-gatekeeper database). It is novel.

The objective achieved by the subject-matter of both of claim 1 and the method disclosed in D1 is avoiding the need for paging the called gatekeeper as necessary in the H.323 standard. Thus, the technical problem underlying the subject-matter of claim 1 starting from D1 is to provide for an alternative solution to this objective. In the method of D1 location information necessary to request the destination call signalling address is received from the zone management means which corresponds to the non-gatekeeper database, i.e. a central database external to the gatekeepers, and avoids the need of paging the called gatekeeper as necessary in the H.323 standard. Based on this location information the routable network address is recalled from the gatekeeper of the called party, i.e. a decentralized database.

The difference between the subject-matter of claim 1 and the method of D1 is seen in using a centralized location management database instead of a distributed location management database. Whether to use a centralized location management database or a distributed location management database is a matter of choice of implementation being part of the normal professional activity of a skilled person.

The board notes that the appellant did not present any arguments of additional problems solved or advantages achieved by the subject-matter of claim 1 and, moreover, that in the application as published it is stated at column 7, lines 51 to 54 that the choice of using a distributive [sic] location management database vs. using a centralized location management database was a matter of choice of implementation, a statement with which the board agrees. The trade-offs between distributed and centralised databases were part of the skilled person's notorious general knowledge at the priority date.

Thus, the subject-matter of claim 1 does not involve an inventive step.

4. *Dismissal of the appeal*

As the set of claims of each of the requests includes at least one claim which is not allowable, the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

K. Götz D. H. Rees