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**Datasheet for the decision
of 25 October 2007**

Case Number: T 1518/05 - 3.5.03

Application Number: 02002289.3

Publication Number: 1229751

IPC: H04Q 7/38

Language of the proceedings: EN

Title of invention:

Multi-network communications system's access and handover
method based on least-cost-routing

Applicant:

NEC CORPORATION

Opponent:

-

Headword:

Multi-network communications/NEC CORP.

Relevant legal provisions:

EPC Art. 56

Keyword:

"Inventive step - no"

Decisions cited:

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Catchword:

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Case Number: T 1518/05 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 25 October 2007

Appellant:

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Representative:

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Decision under appeal:

Decision of the Examining Division of the
European Patent Office posted 6 June 2005
refusing European application No. 02002289.3
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: A. S. Clelland
Members: A. J. Madenach
M-B. Tardo-Dino

Summary of Facts and Submissions

- I. The present appeal is against the decision of the examining division to refuse application No. 02002289.3 on the basis of Article 56 EPC.

In their decision the examining division primarily referred to the following documents

D1: EP 0 808 073 A

D2: WO 96/28947 A

and concluded that starting from D1 as the closest prior art the subject-matter of claim 1 differed from the teaching of this document in that the claim required a response to a request signal which included a traffic congestion level. Starting out from the objective problem of improving the basis of a user's network selection, D2 would suggest to the skilled person to base network selection on parameters including speed and availability; according to the examining division the skilled person would understand that these parameters corresponded to the traffic congestion level of claim 1.

- II. In the notice of appeal of 19 July 2005, the appellant requested that the decision be set aside and a patent granted. An auxiliary request was made for oral proceedings. Grounds of appeal were filed on 17 October 2005.

The appellant, in the grounds of appeal, argued that the method according to claim 1 allowed the user to

manually select one of the networks, whereas selection was performed automatically in both D1 and D2.

- III. In a communication of 4 May 2007 the board summoned the appellant to oral proceedings and gave its preliminary opinion on the case under appeal.
- IV. With letter of 25 September 2007 the appellant filed new claims 1 and 3, and referred to "pending claim 2". No explicit request was made.
- V. During oral proceedings on 25 October 2007, the appellant submitted a set of claims 1-3 and requested that the decision be set aside and a patent granted on the basis of these claims, which correspond to the claims 1 and 3 filed with the letter dated 25 September 2007 and claim 2 as submitted with the letter dated 14 March 2005.

After deliberation, the chairman announced the board's decision.

- VI. Independent claim 1 reads as follows:

"A method of establishing a connection to a desired communications network (11, 12, 13), comprising the steps of:

sending (103) a request signal to each of a plurality of communications networks (11, 12, 13) from a communication terminal (10, 20);

receiving (104) at said communication terminal (10, 20) response signals from said communications networks (11-13, 61-63), each of said response signals including a traffic congestion level of each of the communications

networks, information concerning a communication service of the network, and tariff information of the network;

indicating (107) the received response signals to allow a user to select (108) one of said plurality of networks (11, 12, 13) based on the indicated response signals; and

establishing (109) a connection to the selected communications network (11, 12, 13)."

Independent claim 2 relates to a communication terminal comprising a network interface and a user interface, together performing the method steps of claim 1.

Independent claim 3 relates to a communication system comprising a plurality of communication networks and further comprising a communication terminal comprising a communication interface and a user interface, together performing the method steps of claim 1.

Reasons for the Decision

1. *Claim 1: Inventive step (Article 56 EPC)*

1.1 D1 is considered to be the closest prior art. This document shows:

A method of establishing a connection to a desired communications network (see title and abstract), comprising the steps of:

sending a request signal to each of a plurality of communications networks (120, 130 in Figure 1 and

col. 3, lines 53-59) from a communication terminal (140 in Figure 1);
receiving at said communication terminal (140 in Figure 1) response signals from said communications networks (120, 130 in Figure 1), each of said response signals including quality and tariff information of the network (col. 4, lines 1-5);
and establishing a connection to the selected communications network (col. 4, lines 5-10).

The board notes that according to col. 3, lines 53-59 of D1 the mobile terminal "polls" the candidate system, i.e. it actively sends a request signal, as opposed to the candidate system continuously broadcasting information.

The subject-matter of claim 1 thus differs from the disclosure of D1 in that (1) "the quality information" is specifically a "traffic congestion level", and in that (2) the received response signals are indicated to allow a user to select one of said plurality of networks based on the indicated response signals.

- 1.2 With respect to difference (1), the board notes that the appellant concedes in his letter of 25 September 2007 that D1 discloses that "the mobile terminals ... automatically select a communication network on a decision based on the broadcast traffic information." This agrees with the board's understanding of col. 1, lines 17-24 of D1 which gives efficient spectrum utilisation and avoidance of overloading as desirable goals and links these criteria to quality of service. Efficient spectrum utilisation and avoidance of overloading are, however, according to the board's

understanding directly related to traffic congestion. Therefore, any information involving these criteria is inevitably linked to traffic congestion information.

D1 thus arguably discloses "traffic congestion" as a selection criterion or at the very least points the skilled person in the direction of this criterion.

- 1.3 The problem to be solved by difference (2) is to allow the user to select a network manually based on the received information which, according to D1, is selected automatically by the mobile terminal (col. 4, lines 5-6), i.e. to provide a manual selection step as an alternative to an automatic selection step.

The board considers the choice of a manual selection to be an obvious alternative, readily available to the skilled person and not involving an inventive step, given that the provision of a manual control which allows the user to override an automatic choice is commonplace in electronic apparatus.

Indicating or displaying the received response signals, to allow the user to select one of the networks, is a prerequisite for the user to be able to choose one of the networks. As no other possibilities exist for the user to perform an informed manual selection and as the implementation of this feature does not pose any particular technical difficulties, it was obvious for the skilled person wanting to implement a manual alternative to an automatic selection to display the choices available.

The subject-matter of claim 1 does not therefore involve an inventive step (Article 56 EPC).

2. As claim 1 of the only request does not meet the requirements of the EPC, the application has to be refused. The board has accordingly not found it necessary to consider independent claims 2 and 3, but notes that they relate to similar subject-matter.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar

The Chairman

D. Magliano

A. S. Clelland