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**Datasheet for the decision
of 27 June 2007**

Case Number: T 1540/05 - 3.5.03

Application Number: 00931485.7

Publication Number: 1192815

IPC: H04Q 7/22

Language of the proceedings: EN

Title of invention:

Method and system for connecting a mobile terminal to a database

Applicant:

Nokia Corporation

Opponent:

-

Headword:

Mobile terminal/NOKIA

Relevant legal provisions:

EPC Art. 123(2), 84, 52(1), 56
RPBA Art. 11(3)

Keyword:

"Added subject-matter (yes) - 'primary', 'main' and
'1. auxiliary' requests"
"Clarity (no) - '2.', '3.' and '4.' auxiliary requests"

Decisions cited:

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Catchword:

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Case Number: T 1540/05 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 27 June 2007

Appellant: Nokia Corporation
Keilalahdentie 4
FI-02150 Espoo (FI)

Representative: Kupiainen, Juhani Kalervo
Berggren Oy Ab
P.O. Box 16
FI-00101 Helsinki (FI)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 30 June 2005
refusing European application No. 00931485.7
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: A. S. Clelland
Members: D. H. Rees
R. Moufang

Summary of Facts and Submissions

I. This is an appeal against the decision of the examining division, announced in oral proceedings held on 11 May 2005, with written reasons dispatched on 30 June 2005, to refuse application number 00 931 485.7, publication number 1 192 815, originally filed under the PCT as PCT/IB00/00770 and published as WO 01/01711. According to the decision the main and first auxiliary requests did not satisfy Article 123(2) EPC. The second, third and fourth auxiliary requests were refused for lack of an inventive step with respect to the disclosure of document

D3: EP 0 779 756 A

in combination with common general knowledge or

D4: US 5 752 186 A, or

D5: US 5 835 861 A.

The second and third auxiliary requests were also stated to be unclear.

II. Notice of appeal was filed and the fee paid on 26 August 2005. A statement of grounds of appeal including an new additional set of claims was filed with a letter dated 19 and received 21 October 2005.

III. In preparation for oral proceedings the board sent a communication whose content is reproduced in part below:

"

1. ...

2. The appellant (applicant) requests that the decision under appeal be set aside and that a patent be granted. The board understands the claims on which the grant is requested to be based to be

claims 1 to 42 filed with the statement of grounds of appeal ("primary request") or the claims of the main or of one of the first to fourth auxiliary requests at the oral proceedings in examination.

The rest of the text is not specified, despite the requirement of the Rules of Procedure of the Boards of Appeal Article 10a(2) that the statement of grounds of appeal shall contain a party's complete case, including all requests made. For the purpose of this communication the board will assume that the description and drawings are as follows:

description pages

7 to 16 filed with the letter dated 4 and received 6 September 2002,

1 to 6 filed on 11 April 2005; and

drawing sheets 1 to 4 as published.

There is a conditional request for oral proceedings.

3. The following documents, with the numbering taken from the appealed decision, will be mentioned in this communication:

D1: US 5 796 351 A

D3: EP 0 779 756 A

D6: US 5 214 793 A

4. Added subject-matter

4.1 The "primary" request

4.1.1 There appears to be no disclosure in the application as filed that the "identification information comprises a portion of a database (26, 102) at which second information ... is stored," as specified in independent claims 1 and 22. The passage cited by the appellant in support of the amendments states merely that, "The identification information provides an address of the server, database, or a portion of the database at which the information associated with the identification information is stored." The only consistent way to analyse this sentence is that the identification information provides an address of a portion of the database, not the portion of the database itself.

Hence this amendment apparently adds subject-matter which extends beyond the content of the application as filed, in violation of Article 123(2) EPC.

4.1.2 ...

4.2 The "main" and "1. auxiliary request"

4.2.1 The board agrees, on the basis of the arguments and evidence so far put forward, with the examining division that "said identification information comprises information identifying said information

source (20) and further information which is a function of a geographic position of the broadcast location (16)," constitutes matter which was not disclosed in the application as filed. The passages in the description cited by the appellant apparently disclose these features only as possible alternatives. In particular page 12 lines 15 and 16 of the original application must be read in combination with the following lines, which state that the location information source is "one possible form of the identification information," (page 12, lines 18 and 19). Originally filed dependent claim 2 would therefore probably be read by the skilled person as meaning not that there are two separate kinds of information making up the "identification information", but rather that the "identification information relating to the information source" of claim 1 is embodied by the "information which is a function of a geographic position" of claim 2.

5. Clarity

- 5.1 The board takes the preliminary view that the feature "sufficient information to obtain an [sic] attention of a user," specified in the independent claims of 2. 3. and 4. auxiliary requests is intrinsically and irremediably unclear, relying as it does on the subjective experience of the user.

6. Novelty and inventive step

6.1 The "primary request"

6.1.1 None of the prior art documents to hand appear to disclose that information from a radio beacon is transmitted in the form of a "web page". The claimed subject-matter is apparently therefore novel.

6.1.2 The appellant's arguments with respect to the inventive step are based on two points, marked "1.1)" and "1.2)" in the statement of grounds. As pointed out above it would appear that Point 1.2) relates to added subject-matter. Hence, ignoring this element it would appear that the only feature distinguishing over the disclosure of D3 is that the information sent by the "position transceiver" is in the form of a web page, i.e. uses HTML format. However, the data sent in D3 must be in some specific format and given that (1) it may comprise text, audio, video or a picture (D3 page 4 line 17) and that (2) its content may be "a short advertisement" (page 6 line 30), the benefits of using this flexible and well-known format would have been obvious to the skilled person.

6.2 All requests

6.2.1 The board is inclined to agree at this stage that the subject-matter of the independent claims of all the requests does not involve an inventive step with regard to the disclosure of D3, together with common knowledge. The appellant argues that "D3 does not identify the actual information source but merely gives a telephone number or Internet address, thus actually identifying

the destination," (statement of grounds, Section 2). The board does not agree; while it is true that the document concentrates on the idea of placing voice calls, the reference to an Internet address would, in the opinion of the board, suggest to the skilled person connection to a web server which would necessarily supply information automatically. Moreover, D3 discusses concatenating "transmissive data" and "identifying signal" (page 4 lines 56 to 58), which would in the context of Internet addresses identify a particular web page relating to the particular location as well as to the particular advertiser, thus satisfying the feature of accessing a "block of information" in a "database".

6.2.2 In its arguments relating to the 2. auxiliary request the appellant apparently touches on the issue that D3 discloses a receiver having a highly directional antenna, which the user must point at the advertising source. The board sees nothing in the subject-matter claimed in any of the requests which excludes such a directional antenna. Moreover, it would seem that in contexts where a directional antenna would be disadvantageous, such as in a car picking up information from quickly passing roadside beacons (discussed in various of the prior art documents), it would not require an inventive step to remove this feature.

6.2.3 In the context of inventive step the board would also like to draw the attention of the appellant to D6, which seems to disclose the same concept as the application, with the one difference that the further information is retrieved from a database in the vehicle

itself (column 6 lines 65 to 68 and column 14 lines 51 to 59). The limitations of this would be manifest in the board's opinion, so that the skilled person would be motivated to consider the alternative shown in various prior art documents (including D3) of setting up a call to retrieve information from a remote location. It is noted also that D6 discloses a museum application (column 17 lines 63 to 68), and that D1 discloses a system for such an application using a central host computer and a database.

"

IV. In response the appellant sent a letter in which it was stated that,

"The applicant respectfully disagrees with the Board of Appeal and considers the present invention patentable. However, to avoid further costs, we do not intend to appear at the oral proceedings."

No substantive arguments or amendments were submitted.

V. The board takes the appellant's requests to be as set out in its communication, the appellant not having demurred.

VI. The independent claims of the "primary request" read as follows:

"1. A communication system (10) comprising:
an information source (20),
a position transceiver (14) disposed at a broadcast location (16) and coupled to the information source (20), the position transceiver (14) radio broadcasting information relating to the information source (20) within a broadcast area (18) where the position

transceiver (14) is located, the radio broadcasted information including identification information relating to the information source (20), a mobile terminal (12) comprising first and second transceivers (44, 46), the first transceiver (44) being adapted to communicate with the position transceiver (14) within the broadcast area (18) and the second transceiver (46) being adapted to communicate with a network (42), a server adapted to communicate with the network (42), characterized in that, the radio broadcasted information to the mobile terminal (12) is configured to contain a webpage and said identification information is configured to provide the mobile terminal (12) with an ability to access said network (42), so that said identification information comprises a portion of a database (26, 102) at which second information associated with said identification information is stored, and that the server is associated with said database (26, 102) storing said second information, which is transmitted to the second transceiver (46), associated with the identification information in response to the server receiving at least the identification information by transmission of the network (42) from the mobile terminal (12)."

"22. A method for transmitting data in a communication system (10) including an information source (20), a position transceiver (14) coupled to the information source (20) and disposed at a broadcast location (16), a mobile terminal (12) within a broadcast area (18) comprising first and second transceivers (44, 46) with the first transceiver (44) communicating with the

position transceiver and the second transceiver (46) communicating with a network (42), and a server communicating with the network (42), the method comprising:

radio broadcasting with the position transceiver (14) information including identification information relating to the information source (20) to the first transceiver (44) within the broadcast area (18), transmitting the identification information from the second transceiver (46) with the network (42) to the server,

characterized in that

the radio broadcasted information to the mobile terminal (12) is configured to contain a webpage and said identification information is configured to provide the mobile terminal (12) with an ability to access to said network (42), so that said

identification information comprises a portion of a database (26, 102) at which second information associated with said identification information is stored, and

in response to the server, associated with said database (26, 102), receiving the identification information, transmitting from the database (26, 102) the stored second information associated with the identification information to the second transceiver (46)."

The first parts of the independent claims of the "main request" are the same as those of the "primary request", except that "radio" has been omitted from "radio broadcasting" and "radio broadcasted". The characterizing parts read as follows:

"1. ...

characterized in that,
said identification information comprises information
identifying said information source (20) and further
information which is a function of a geographic
position of the broadcast location (16), and that
the server is associated with a database (26, 102)
storing plurality [sic] of blocks of information (104)
so that each block of information (104) is addressable
by corresponding identification information, and in
response to the server receiving said identification
information by transmission of the network (42) from
the mobile terminal (12), the server being configured
to fetch a particular block of information (104)
associated with said identification information and
further to send the fetched information over the
network (42) to the mobile terminal (12)."

"21. ...

characterized in that
said identification information comprises information
identifying said information source (20) and further
information which is a function of a geographic
position of the broadcast location (16), the server is
associated with a database (26, 102) storing plurality
[sic] of blocks of information (104) so that each block
of information (104) is addressable by corresponding
identification information, and that
in response to the server receiving said identification
information by transmission of the network (42) from
the mobile terminal (12), fetching by the server a
particular block of information (104) associated with
said identification information and sending the fetched

information over the network (42) to the mobile terminal (12)."

The independent claims of the "1. auxiliary request" differ from those of the "main request" in that: (1) the position transceiver (14) is qualified as having a "short range radio link" and the broadcast area (18) is equally qualified as being a "short range radio broadcast area"; and (2) the mobile terminal has been restricted to being a "cellular mobile telephone" and the network (42) has been restricted to a "cellular telephone network".

The independent claims of the "2. auxiliary request" differ from the "primary request" only in their characterising parts, reading as follows:

"1. ...

characterized in that

the radio broadcasted information to the mobile terminal (12) when within the broadcast area (18) is configured to contain sufficient information to obtain an [sic] attention of a user of the mobile terminal (12), and that

the server is associated with a database (26, 102) storing information, which is transmitted to the second transceiver (46), associated with the identification information in response to the server receiving at least the identification information by transmission of the network (42) from the mobile terminal (12)."

"21. ...

characterized in that

the radio broadcasted information to the mobile terminal (12) when within the broadcast area (18) is configured to contain sufficient information to obtain an [sic] attention of a user of the mobile terminal (12), and in response to the server, associated with a database (26, 102), receiving the identification information, transmitting from the database (26, 102) the stored information associated with the identification information to the second transceiver (46)."

The independent claims of the "3. auxiliary request" as filed on 11 April 2005 differ substantively from those of the previous request only in that the "radio broadcasted information" is further specified thus:

"the radio broadcasted information to the mobile terminal (12) when within the broadcast area (18) is configured to contain sufficient information to obtain an [sic] attention of a user of the mobile terminal (12) and to enable the user to obtain an access to information stored in a database (26, 102)."

Independent claim 1 of this request was amended in the oral proceedings before the examining division to add "a cellular mobile telephone" and "when a user passes within short range radio area" (see the minutes of the oral proceedings points 17 to 19 and refusal decision reasons 4.4.a). The claims as submitted at the oral proceedings still included the phrase, "sufficient information to obtain an [sic] attention of a user," (see the decision reasons point 4.4.b).

The independent claims of the "4. auxiliary request" differ substantively from those of the "2. auxiliary request" only in that the "radio broadcasting" and

"radio broadcasted information" is qualified as "continuously" broadcast.

VII. The chairman announced the board's decision at the end of the oral proceedings, held in the absence of the appellant.

Reasons for the Decision

1. Although the appellant announced that it would not attend the oral proceedings, no request was made that they be cancelled and the board decided to hold them as scheduled - see Article 11(3) of the Rules of Procedure of the Boards of Appeal.
2. The "primary", "main" and "1. auxiliary" requests do not satisfy the requirements of Article 123(2) EPC, for the reasons given in the board's communication at points 4.1.1 and 4.2.1, as set forth at point III above. The appellant has not submitted any counter-arguments.
3. The "2.", "3." and "4." auxiliary requests do not satisfy the requirements of Article 84 EPC, for the reason given in the board's communication at point 5.1, as set forth at point III above. Again the appellant has not submitted any counter-arguments.
4. Since there is no allowable request the appeal must be dismissed on these grounds alone. However the board further notes that the appellant has not attempted to rebut the board's arguments, given in point 6 of its communication, leading to the view that the subject-

matter of the independent claims of all the requests
did not involve an inventive step.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar

The Chairman

A. Wolinski

A. S. Clelland