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**D E C I S I O N**  
**of 3 August 2006**

**Case Number:** T 1580/05 - 3.5.03

**Application Number:** 99944974.7

**Publication Number:** 1108322

**IPC:** H04M 3/56

**Language of the proceedings:** EN

**Title of invention:**

Improvements in, or relating to, teleservice management systems

**Applicant:**

TELIA AB

**Opponent:**

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**Headword:**

Teleservice management/TELIA

**Relevant legal provisions:**

EPC Art. 84, 123(2)

**Keyword:**

"Clarity - yes, after amendment"

**Decisions cited:**

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**Catchword:**

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Case Number: T 1580/05 - 3.5.03

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.03  
of 3 August 2006

**Appellant:** TELIA AB  
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**Representative:** Hopfgarten, Nils  
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**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 23 August 2005  
refusing European application No. 99944974.7  
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, dispatched on 23 August 2005, to refuse the European patent application number 99 944 974.7, originally filed as International application PCT/SE99/01445, with publication numbers 1 108 322 and WO 00/11886 respectively. The reason given for refusing the application was that the subject-matter claimed was not clear (Article 84 EPC). In addition an amendment to the claims was said to violate Article 123(2) EPC.
- II. Notice of appeal was filed and the fee paid on 14 October 2005. A statement setting out the grounds of the appeal and including a new set of claims was submitted in a letter dated 9 and received 12 December 2005.
- III. A communication from the board raised objections under Articles 84 and 123(2) EPC against the revised claims. It was noted that the examination in the department of first instance was apparently limited to the question whether the claims satisfied Article 84 EPC, so that if the appeal were successful it would be appropriate to remit the case to the examining division for further prosecution. In response the appellant submitted a further set of claims and corresponding amendments to the description and requested that the case be remitted for further prosecution.
- IV. Independent claims 1 and 13 read as follows:
- "1. A teleservice management system for supporting the provision of a plurality of teleservices and including

a plurality of intercommunicating subsystems, and

negotiation means for settling agreements between participants to a teleservice session by exchanging messages using a teleservice control protocol,

resource control means within terminals and a resource control means in a transmission network,

characterized in that said plurality of intercommunicating subsystems comprise a network resource manager and terminal resource managers,

in that said negotiation means are arranged to operate according to said a teleservice control protocol for transmitting messages between said subsystems, and

in that said network resource manager, service users and terminal resource managers are linked into a teleservice control process for delivery of a teleservice which is agreed by a service user by commonly using said teleservice control protocol.

13. A method of managing a plurality of teleservices employing a teleservice management system including a plurality of intercommunicating subsystems, wherein agreements are settled between participants to a teleservice session by exchanging messages using a teleservice control protocol,

characterized in that

said plurality of intercommunicating subsystems comprises a network resource manager and terminal resource managers, and in that

said network resource manager, service users and terminal resource managers are linked into a teleservice control process for delivery of a teleservice which is agreed by a service user by commonly using said teleservice control protocol."

- V. The appellant requests that the decision under appeal be set aside and the case be remitted to the department of first instance for further prosecution on the basis of:

claims 1 to 13 filed with the letter dated 19 and received 22 June 2006;

description pages

4 to 10 filed with the letter dated 19 and received 22 June 2006;

1 and 1a filed with the letter dated 23 and received 25 June 2005; and

2, 3 and 11 to 31 as originally filed;

drawing sheets 1 to 40 as originally filed.

## Reasons for the Decision

1. *Admissibility of the amendments with respect to Article 123(2) EPC*
- 1.1 The present claims are derived directly from the originally filed claims. Present claim 1 corresponds to a combination of the features of original claims 1 and 2, and claim 13 corresponds to original claim 27. The further amendments serve only to clarify the claimed subject-matter by avoiding unconventional use of terminology ("architecture", "protocol") and the imprecise qualifier "complex". The board notes in particular that no special meaning could be assigned to the term "architecture" in the original expression "resource control architecture", so that its replacement by the generic term "means" does not add subject-matter to the application as filed.
- 1.2 The examining division objected in its decision to an amendment deleting a feature from claim 1. However this feature has been restored to the present independent claims. The objection is therefore no longer relevant.
- 1.3 The amendments to the description serve only to acknowledge the prior art and bring the introduction into correspondence with the new claims.
- 1.4 The board concludes that the present text of the application does not contain subject-matter which extends beyond the content of the application as filed; i.e. it satisfies the requirements of Article 123(2) EPC.

2. *Clarity, Article 84 EPC*

2.1 The examining division gave the following reason for an objection under Article 84 EPC:

"The term 'subsystems' in claim 1 is still unclear, what the function is of the subsystems, since it can not be derived from the claim which parts they contain, rendering the subject-matter of claim 1 unclear according to Article 84 EPC. It is therefore also unclear why messages are transmitted between said subsystems and therefore what the technical contribution is of having subsystems in order to solve the problem mentioned."

2.2 However the requirement of Article 84 EPC with respect to clarity is that the matter for which protection is sought shall be clear, not necessarily that the function of features be specified, or the reasons for including them in the claim be clear, or that they make a "technical contribution". The question of clarity depends solely on whether the skilled person would be able to decide what subject-matter falls within the terms of the claim and what does not. The board considers that the skilled person would indeed be able to decide whether any given teleservice management system included intercommunicating subsystems, and in particular a network resource manager and terminal resource managers, or not.

2.3 The qualifier "complex" in "complex teleservices", to which the examining division objected, has been removed.

2.4 The examining division further observed that it was not clear how the network resource manager related to the resource control architecture in a network. As noted above (Point 1.1) the term "architecture" has been replaced by "means" in the present claims. Thus the relevant features are that the claimed system comprises a network resource manager and "resource control means in a transmission network". It appears clear to the board that a network resource manager would receive data from and/or give instructions to such resource control means. Thus the board considers that this observation is not relevant to the present claims.

2.5 Further comments were made with respect to the "interfaces" which were included in the then claim 1. This objection has been overcome to the extent that these features are no longer included in the independent claims. However the board agrees with the objection in that present dependent claim 6 is not entirely clear. It appears to be based loosely on the description page 17 line 20 to page 18 line 4.

2.6 Finally the examining division commented that the independent claim attempted to define the subject-matter in terms of the result to be achieved, "the result being a teleservice protocol," (decision to refuse Point 8.4). It is true that the original description gives the impression in places that the invention is a protocol, and the independent claims do not specify any features of said protocol. However the independent claims are not directed to the protocol but to a teleservice management system and a method of managing a plurality of teleservices. The claims are specified in terms of technical features of the system



- and method, not by defining any specific result, beyond the simple fact of managing teleservices.
- 2.7 The board notes an apparent typographical error in claim 11 omitting "control protocol" (c.f. claims 8 to 10), which renders it unclear.
- 2.8 The positioning of the expression "characterized in that" in the independent claims will depend on the features disclosed in the closest prior art. Since there has been no examination as to novelty and inventive step so far the board takes no position on whether this expression is correctly placed.
- 2.9 With the exception of the minor items mentioned above (Points 2.5, 2.7 and 2.8), which should be dealt with in the course of further prosecution of the application, the board considers the claimed subject-matter to be clear.
3. Thus the board either does not agree with the grounds given for refusing the application or with the additional comments in the decision under appeal, or the issues raised no longer apply to the present text. Since no examination of further substantive issues has taken place it appears appropriate to remit the case for further prosecution.

**Order**

**For these reasons it is decided that:**

1. The decision under appeal is set aside.
2. The case is remitted to the department of first instance for further prosecution.

The Registrar

The Chairman

D. Magliano

A. S. Clelland