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**Datasheet for the decision
of 15 September 2009**

Case Number: T 1909/06 - 3.5.03

Application Number: 98912871.5

Publication Number: 0972413

IPC: H04Q 3/64

Language of the proceedings: EN

Title of invention:

Call forwarding in an intelligent network

Applicant:

TELIASONERA AB

Headword:

Call forwarding in an intelligent network/TELIASONERA

Relevant legal provisions:

EPC Art. 56, 84, 123(2)

Relevant legal provisions (EPC 1973):

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Keyword:

"Clarity and support in the description (no)"

"Added subject-matter (yes)"

"Inventive step (no)"

Decisions cited:

-

Catchword:

-



Case Number: T 1909/06 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 15 September 2009

Appellant: TELIASONERA AB
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Representative: Aurell, Henrik
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 11 May 2006
refusing European application No. 98912871.5
pursuant to Article 97(1) EPC 1973.

Composition of the Board:

Chairman: A. S. Clelland
Members: T. Snell
M.-B. Tardo-Dino

Summary of Facts and Submissions

I. This appeal is against the decision of the examining division refusing European patent application No. 98912871.5, with international publication number WO-A-98/44749.

The refusal was based on the ground that the subject-matter of claim 1 did not meet the requirement of inventive step pursuant to Article 52(1) in combination with Article 56 EPC having regard to the disclosures of the following documents:

D1: US-A-5452350
D2: US-A-5600710
D3: EP-A-740480

II. The appellant filed a notice of appeal against the above decision and paid the prescribed fee. Subsequently, the appellant filed a statement of grounds in which comments were provided in respect of the documents D1-D3.

III. The board issued a summons to attend oral proceedings. In a communication accompanying the summons the board gave a reasoned preliminary opinion as to the allowability of claim 1 of the request refused by the examining division. In respect of inventive step, the board, exercising its power under Article 114(1) EPC, additionally referred to the following document to illustrate common general knowledge:

D4: Nguyen et al, "An ISDN signalling system for private networks", International Conference on

Private Switching Systems and Networks, 1988 (21-23 June 1988, London, GB), pages 22-26.

IV. The relevant part of the board's communication reads as follows:

"7. Articles 84 and 123(2) EPC

7.1 In the preliminary opinion of the board, the feature of claim 1 "wherein communication is performed by means of ISDN with transparent signalling on the D channel" is unclear as it is not clear from the wording of claim 1 which communication link in the communications system is being referred to (Article 84 EPC).

However, referring to the description on page 11, line 25 - page 12, lines 16-21, it is apparent that ISDN with transparent signalling on the D channel, as described in the present application, is contemplated only for the communication between the Operator Terminals OP and the service switching point SCP2. The description provides no support for any other use of ISDN with transparent signalling on the D channel. Hence claim 1 apparently is not supported by the description (Article 84 EPC).

Moreover, this generalisation of the use of ISDN with transparent signalling on the D channel to all communication links in the network appears to extend beyond the content of the application documents as originally filed, contrary to Article 123(2) EPC.

- 7.2 In the board's preliminary view, the inconsistent use of the terms "customer" and "subscriber" in claim 1 (and the description) renders the scope of protection sought unclear (Article 84 EPC).

In this respect, the term "subscriber" appears to be used to refer both to the end user (also referred to as a "customer") as well as to the network entity providing the "freephone" service. In the description, the terms "subscriber" and "customer" are used at various places to mean both the end user and the network service entity (see eg page 5, line 27; page 6, lines 19 and 32; page 7, lines 18 and 21; page 8, lines 20, 24, 27 and 30).

- 7.3 The scope of protection conferred by the term "freephone call" appears to be unclear, as it is not clear whether this term restricts the scope of the claim to services for which no charge is applied (Article 84 EPC).

8. *Inventive step*

- 8.1 For the purposes of examination with respect to inventive step, claim 1 is interpreted in conformity with the only embodiment of the description. Hence the "communication" performed by means of ISDN with transparent signalling on the D channel is assumed to refer to the communication between the Operator

Terminals OP (not defined in claim 1) and the Service Control Point SCP2.

8.2 The board regards all features of claim 1 associated with the phrase "if any" as entirely optional. These features therefore cannot contribute to inventive step.

8.3 The "alternatives" listed in claim 1 are regarded as defining separate embodiments. It is sufficient that any one of these separate embodiments not involve an inventive step for the claim as a whole not to meet the requirements for inventive step.

8.4 In the board's provisional opinion, having due regard to points 8.1-8.3 above, the "procedure" (which the board interprets to mean "method") defined in claim 1 differs from that disclosed in the closest prior art document D1 in that:

- (i) the local exchange forwards the call to the Service Control Point SCP via a Service Switching Point SSP, and
- (ii) communication is performed by means of ISDN with transparent signalling on the D channel.

This corresponds in essence with the first part of the reasoning of the examining division set out in the impugned decision (cf. "II. Reasons for The Decision", point 2 up to page 4, line 2). As the appellant has not commented on this part of the decision in the statement of

grounds, the board assumes that this analysis is not disputed by the appellant.

- 8.5 With respect to distinguishing feature (i), the board agrees with the finding of the examining division that the provision of a Service Switching Point SSP in an intelligent network is comprised within the common general knowledge of the skilled person, as illustrated for example by D2 and D3. This part of the decision also does not appear to be disputed by the appellant.
- 8.6 In respect of distinguishing feature (ii), the appellant appears to argue that the problem to be solved starting from D1 is to integrate the system with the public network in order that the invention may be performed in offices, at home, and in distributed work places.
- 8.7 In the board's provisional opinion, it would be obvious that the skilled person starting from D1 would wish to solve this problem since it is mentioned on col. 7, lines 24-27 of D1 that the "subscriber resources" may include "agents working out of their own homes".
- 8.8 In D1 (cf. Fig. 1), Resources A, B and C, the AIN Processor, the Customer Data Base, and the User terminal (which can be equated with the "chief operator" referred to in claim 1) are part of a "Subscriber Network". In accordance with Fig. 2, The resources A, B and C consist of ACD devices ("automatic call distribution")

linked to agents. Implicitly, the "Subscriber Network" is a private network external to the public switched telephone network.

8.9 Document D4 cited by the board concerns a specification developed by Telecom Australia for an open ISDN signalling system for private networks (called ("Telinc")). A specification of this type issued by a large telecommunications carrier is regarded by the board as forming part of the common general knowledge of the skilled person. As illustrated by D4, a private signalling network can be created via the public ISDN by using transparent signalling on the D-Channel (cf. D4, page 23, right-hand col., 2nd paragraph).

8.10 In the board's preliminary view, the skilled person wishing to solve the problem of integrating the system of D1 with the public network in order that the invention may be performed in offices, at home, and in distributed work places, would, on the basis of this common general knowledge of the art, regard the use of transparent signalling on the ISDN D-channel as one of the obvious possibilities available for communicating signalling data using existing network infrastructure. Hence distinguishing feature (ii) appears not to contribute to inventive step either.

8.11 In view of the above, in the board's provisional opinion the subject-matter of claim

1 does not involve an inventive step (Articles 52(1) and 56 EPC)."

V. In a fax letter received 22 June 2009, the appellant announced that it would not attend the oral proceedings.

VI. In a fax letter dated 24 June 2009, the board informed the appellant that the oral proceedings were cancelled.

VII. Claim 1 as filed on 07.04.05 reads as follows:

"A procedure at a telecommunications network where a subscriber's customer calls a freephone number at which a local exchange recognizes that it is a freephone call and forwards/connects the call to an SSP of a transit exchange, wherein the call is detected as an IN-call and an enquiry is transmitted to an SCP about where to connect the call, at which the SCP detects that this is a call to an ACD service, plays a welcome message, if any, and a menu, if any, receives keying, if any, executed by the subscriber, parks the call momentarily, and asks an SCP2 about what to do, at which in the SCP2 the call is identified as a call to the subscriber's ACD and a distribution to, for instance, an associated answering group (ACD-group) is executed according to one or more of following alternatives:

- Reception area from which the call is coming, by means of a calling number.
- Time of the 24-hour period and/or date.
- Depending on identification presented by the customer via voice menus.
- Based on the called number or parts of this.

- Based on distribution of load between ACD-groups, at which a chief operator of the subscriber via computer equipment is given the possibility to route the call to a selected person or answering group, wherein communication is performed by means of ISDN with transparent signalling on the D channel."

Reasons for the decision

1. *Procedural Matters*

1.1 *The appellant's request*

The appellant requests in the notice of appeal that the impugned decision be set aside and a patent granted. No specific version of the application documents is referred to, but, given that no new documents were filed in the course of the appeal proceedings, the board infers that the request comprises the same documents on which the impugned decision was based, namely:

claims: 1-3 filed on 07.04.05;
description: pages 1-13 as published;
drawings: sheets 1/3-3/3 as published.

1.2 *Article 113(1) EPC*

The appellant did not reply in substance to the reasoned objections set out in the communication accompanying the summons to oral proceedings, but merely informed the board that it would not attend the

oral proceedings, which had been arranged of the board's own motion. The board therefore infers that the appellant does not wish to avail itself of the opportunity to comment on this case further, either orally or in writing, and has opted instead to rely on the reasons provided in the statement of grounds. The board is therefore in a position to take a decision in compliance with Article 113(1) EPC.

2. *Substantive examination of the appeal*

2.1 The board has reconsidered the reasoning given in the communication accompanying the summons (see above, "Facts and Submissions", section IV), and sees no reason to alter its view that claim 1 fails to comply with Article 84 EPC (cf. points 7.1-7.3 of the communication), Article 123(2) EPC (cf. point 7.1), and Article 52(1) in combination with Article 56 EPC (cf. points 8.1-8.11).

2.2 In the statement of grounds the appellant argued that D1 did not address the problem of integrating the system with the public network or suggest the solution of using ISDN with transparent signalling on the D channel; this solution resulted in that the invention could be applied "both at offices, at home and in distributed work places, since the signalling can be performed both in public networks and in packet networks". The appellant therefore concluded that the invention was novel and involved an inventive step over the prior art.

2.3 The board however judges that for the skilled person starting out from D1 it would be obvious both to

address this problem (cf. point 8.7 of the board's communication) and to solve it in the manner claimed using common general knowledge, as illustrated by D4 (cf. points 8.8-8.10), which describes a widely known system. The board observes moreover that the appellant has not denied that D4 illustrates common general knowledge. The board therefore finds these arguments unconvincing in respect of inventive step.

2.4 The appellant also commented in the statement of grounds that neither D2 nor D3 addressed the problem of integrating call routing and call forwarding in a public network. However the board considers this argument not to be relevant as the board has based its decision on these documents only to the extent that they illustrate that the provision of a service switching point SSP in an intelligent network was comprised within the common knowledge of the skilled person (cf. point 8.5).

2.5 As claim 1 of the only request is not allowable, it follows that the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

D. Magliano

A. S. Clelland