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Datasheet for the decision
of 11 February 2009

Case Number: T 1188/07 - 3.5.03

Application Number: 00958542.3

Publication Number: 1208693

IPC: H04M 17/00

Language of the proceedings: EN

Title of invention:
Customizing prepaid service

Applicant:
Nokia Corporation

Opponent:
-

Headword:
-

Relevant legal provisions:
EPC Art. 56, 113(1), 123(2)
EPC R. 115(2)
RPBA Art. 15(3)

Keyword:
"Oral proceedings held in the absence of appellant"
"Inventive step - main request (no)"
"Added subject-matter - auxiliary request (yes)"

Decisions cited:
-

Catchword:
-

EPA Form 3030 06.03

Case Number: T 1188/07 - 3.5.03

D E C I S I O N
of the Technical Board of Appeal 3.5.03
of 11 February 2009

Appellant:	Nokia Corporation Keilalahdentie 4 FI-02150 Espoo (FI)
Representative:	Honkasalo, Terhi Marjut Anneli Kolster Oy Ab Iso Roobertinkatu 23 PO Box 148 FI-00121 Helsinki (FI)
Decision under appeal:	**Decision of the examining division of the European Patent Office posted 14 March 2007 refusing European application No. 00958542.3 pursuant to Article 97(1) EPC 1973.**

Composition of the Board:

Chairman:	A. S. Clelland
Members:	F. van der Voort
	R. Moufang

Summary of Facts and Submissions

I.   This appeal is against the decision of the examining
        division refusing European patent application
        No. 00958542.3 (publication number EP 1 208 693 A).

II.   The following document which was referred to in the
        decision under appeal is relevant to the present
        decision:

        D2:   WO 99/18713 A.

III.   With the statement of grounds of appeal the appellant
        filed claims of a main request and an auxiliary
        request I and submitted arguments in support. The
        appellant requested that the decision be set aside and
        that a patent be granted on the basis of the claims of
        the main request or, alternatively, on the basis of the
        claims of the auxiliary request I. Oral proceedings were
        requested.

IV.   In a communication annexed to a summons to oral
        proceedings the board raised, without prejudice to its
        final decision, objections under Articles 84 and 123(2)
        EPC to the pending claims; the appellant was informed that,
        if the claims of either request were held to meet the
        requirements of Articles 84 and 123(2) EPC, it could be
        necessary at the oral proceedings to discuss *inter alia*
        the question of inventive step having regard to the
        disclosures of the documents on file (Articles 52(1) and
        56 EPC). Further, the appellant's attention was drawn to
        Article 13 RPBA relating to amendment to a party's case;
        the board stated that if amended claims were filed, it
        would be necessary at the oral proceedings to discuss

their admissibility and, if the claims were held
admissible, the question of whether the amendments, the
claims and the claimed subject-matter complied with the
requirements of the EPC, in particular Articles 123(2), 84
and 52(1) EPC, respectively.

V.   In response to the board's communication, the appellant
        filed claims of a new main request and a new auxiliary
        request and submitted arguments in support. The
        appellant furthermore requested that, if the board
        considered that the claims did not solve a technical
        problem or had no other technical contribution, the oral
        proceedings be postponed until after the Enlarged Board
        of Appeal had answered the questions in referral
        G 2/08 *[sic]* relating to the patentability of computer
        implemented inventions.

        In a further letter the appellant informed the board
        that it would not attend the scheduled oral proceedings.

VI.   Oral proceedings were held on 11 February 2009 in the
        absence of the appellant. After deliberation, the
        board's decision was announced.

VII.   Claim 1 of the main request reads as follows:

        "A method for customizing in a telecommunications
        system a prepaid service in which prepaid subscribers of
        prepaid subscriptions can prepay for their calls by
        recharging their accounts via vouchers, the method
        comprising the steps of:
            maintaining (304) subscriber information on at
        least one prepaid subscriber using a prepaid
        subscription,

0102.D

maintaining voucher information,

obtaining, in response to a prepaid subscriber performing a recharge of the prepaid subscriber's account via a voucher, values of the voucher, the values including a credit period of the voucher,

characterized by

defining at least two different prepaid profiles to be used with prepaid subscriptions, each prepaid profile defining at least one attribute for the prepaid service, one of the at least one attribute being an expiry function (EF) defining how to calculate the validity time of the prepaid credit;

associating (302) the prepaid subscriber's subscriber information with one prepaid profile,

calculating, in response to the recharge, the prepaid subscriber's credit validity time according to the expiry function defined in the prepaid profile associated with the prepaid subscriber's subscriber information, the expiry function using the obtained credit period of the voucher as an input."

Claim 1 of the auxiliary request differs from claim 1 of the main request in that between the associating and calculating steps the following step is inserted:

"maintaining the prepaid subscriber's current state in the prepaid subscriber's subscriber information,"

and in that at the end of the claim "input" is followed by "; and calculating for each state a date when the state is entered".

Reasons for the Decision

1.   *Procedural matters*

1.1   The conditional request for postponement of the oral
        proceedings was refused, since the point of law referred
        in G 03/08 (the board assumes that the appellant
        erroneously referred to G 02/08) is concerned with the
        application of the exclusion of computer programs as
        such, Article 52(2) and (3) EPC, and was considered to
        have no bearing on the decisive issues in the present
        appeal. The appellant, which was duly summoned, had
        informed the board that it would not attend the oral
        proceedings and, indeed, was absent. The oral
        proceedings were therefore held in the absence of the
        appellant (Rule 115(2) EPC, Article 15(3) RPBA).

1.2   In view of the observations made in the communication
        annexed to summons to oral proceedings, see point IV
        above, the appellant could reasonably have expected the
        board to consider at the oral proceedings the objections
        and issues raised in the communication not only in
        respect of the claims as pending at the time but also in
        respect of the claims which were filed by the appellant
        in response to the summons to oral proceedings. In
        deciding not to attend the oral proceedings the
        appellant chose not to make use of the opportunity to
        comment at the oral proceedings on any of these
        objections and issues but, instead, chose to rely on the
        arguments as set out in the written submissions, which
        the board duly considered below.

1.3   In view of the above and for the reasons set out below,
        the board was in a position to give at the oral

0102.D

proceedings a decision which complied with the
requirements of Article 113(1) EPC.

2.   *Main request*

2.1   The appellant argued that D2 represents the closest
        prior art. The board agrees.

2.2   The appellant further argued that the method of D2
        differed from the method according to claim 1 of the
        main request in that the method of D2 did not have at
        least two different prepaid profiles having as an
        attribute an expiry function, a prepaid subscriber's
        subscriber information was not associated with a prepaid
        profile, and no credit validity time was calculated in
        response to a recharge, the credit validity time being
        calculated according to an expiry function using a
        credit period of the voucher used in recharge as an
        input.

        In the board's view, D2 discloses, using the language of
        claim 1 of the main request, a method of implementing in
        a telecommunications system a prepaid service in which
        prepaid subscribers of prepaid subscriptions can prepay
        for their calls by recharging their accounts via
        vouchers (see D2, the abstract). The telecommunications
        system includes a service control point (SCP) 162 (Figs
        1 and 2) which includes a computer 180, service logic
        182 and a database 184 in which several database records
        200, 220, 240 and 260 are stored (Figs 2 and 3 and
        page 12, second paragraph). The method includes the
        steps of maintaining subscriber information on at least
        one prepaid subscriber using a prepaid subscription, to
        wit in database record 200 (Fig. 3) which includes a so-

called A-number field 202 which identifies the
subscriber (page 12, third paragraph, and page 14, third
paragraph), maintaining voucher information in database
record 240 (page 12, penultimate paragraph, and Fig. 3),
and obtaining, in response to a prepaid subscriber
performing a recharge of the prepaid subscriber's
account via a voucher, values of the voucher, *inter alia*
a voucher number and a voucher secret code (Fig. 5,
page 12, penultimate paragraph, and page 14, last
paragraph, to page 15, first paragraph). At page 16,
second paragraph, it is stated that a voucher may also
have a predefined expiry date. The voucher can be used
for adding a desired amount of money to the subscriber's
account in record 200, i.e. to monetary field 208 of the
record 200 (page 12, last paragraph, and page 13, lines
3 to 6).

In database record 200, the prepaid subscriber's
subscriber information is associated with a respective
prepaid profile, in which attributes for the
subscriber's prepaid service are defined in a
corresponding field. More specifically, for each
A-number, field 212 of record 200 represents possible
blocking instructions and field 210 represents an expiry
date (page 12, third paragraph, and Fig. 3). Hence, the
prepaid service is customized to each subscriber in that
for each subscriber the fields 210 and 212 of record 200
define a prepaid profile to be used with the prepaid
subscription.

2.3   The subject-matter of claim 1 thus differs from the
      method disclosed in D2 in that according to claim 1 one
      of the attributes is an expiry function which defines
      how to calculate a validity time of a prepaid credit and

in that, in response to the recharge, the prepaid subscriber's credit validity time is calculated according to the expiry function defined in the prepaid profile associated with the prepaid subscriber's subscriber information, the expiry function using an obtained credit period of the voucher as an input.

2.4   D2 does not describe how the expiry date in field 210 of database record 200 of the subscriber's account is determined. Starting out from the disclosure of D2, a person skilled in the art would therefore, on putting the method of D2 into practice, be faced with the problem of implementing a means for determining this expiry date.

2.5   In the board's view, it is evident that in the system of D2, after a recharge via a voucher which has a predefined expiry date which expires later than the subscriber's account, the expiry date of the subscriber's account is to be updated so that the new expiry date is equal to or, preferably, later than the expiry date of the voucher. In doing so, the new expiry date in field 210 of the subscriber's account represents the prepaid subscriber's credit validity expiry date and is arrived at by using an expiry date calculation scheme, or expiry function, which is applied in each of the subscriber's prepaid profiles represented by the record 200 and which defines how to calculate the prepaid subscriber's credit validity expiry date in response to a recharge by the respective subscriber, in which the expiry date of the voucher is used as input.

Further, in the board's view, whether the validity period of the voucher is expressed in terms of a credit period or a credit expiry date and whether the validity

period of the subscriber's prepaid credit is expressed
in terms of a credit validity time or a credit expiry
date is, in the context of the claimed method, arbitrary.
In this respect, it is noted that in the preferred
embodiment the expiry function actually calculates a
credit expiry date rather than a credit validity time
(see the description as published, page 6, lines 14 to
16). No inventive contribution can therefore be seen in
choosing one or the other.

2.6   Putting the method of D2 into practice and taking into
        account his/her common general knowledge in the relevant
        field, a person skilled in the art would therefore,
        without the exercise of inventive skill, have arrived at
        a method which includes all the features of claim 1.

2.7   The appellant argued that the objective problem to be
        solved was how to provide customization of prepaid
        services so that credit validity time, for example, may
        vary, without it being necessary to increase the number
        of different vouchers. This problem was said to be
        solved by having at least two different prepaid profiles,
        each having an expiry function associating a prepaid
        subscriber with a prepaid profile, and calculating
        during a recharge a credit validity time according to
        the expiry function and using the credit period of the
        voucher as an input.

        The board does not find these arguments convincing. As
        set out above, D2 implicitly discloses different prepaid
        profiles; the appellant's formulation of the objective
        problem does not take this into account. Further, the
        board notes that, in any case, the claimed method does
        not require that the expiry function defined in the

prepaid profiles is different for the different prepaid
profiles. Hence, it is not clear how the claimed method
would actually solve the problem of customizing the
prepaid services as formulated by the appellant.

2.8   The subject-matter of claim 1 of the main request does
       not therefore involve an inventive step having regard to
       the disclosure of D2 and taking into account the common
       general knowledge of the person skilled in the art
       (Articles 52(1) and 56 EPC).

2.9   The main request is therefore not allowable.

3.   *Auxiliary request*

3.1   The amendments to claim 1 according to the auxiliary
       request introduce the term "state" (see point VII above;
       "the prepaid subscriber's current state", "each state",
       and "the state").

3.2   The appellant submitted that claim 1 was amended "to
       take into account the states according to what is
       disclosed on page 7, line 29- page 8, line 6, and Figure
       2 having DF as a deposit function and EF as an expiry
       function". Further, it submitted that "on page 6, lines
       21-27, it is described that other dates are calculated,
       the other dates being dates when a corresponding state
       is entered".

3.3   The board notes however that in the description (see
       page 5, lines 17 to 25, and page 6, lines 3 to 7 and 24
       to 27), the term "state" is used in a specific context
       only, namely one in which five different subscription
       states are distinguished, i.e. an "active" state, a

0102.D

"near the credit expiry" state, a "credit expired" state,
a "near subscription expiry" state, and a "subscription
expired" state, and in which an expiry state handling
function is defined which is used to calculate when one
of these states is to be entered as the current state on
the basis of the calculated credit expiry date and
values ("DTn") which correspond to these different
states (see page 4, lines 23 to 27, page 6, lines 21 to
27, and Fig. 2).

Claim 1 of the auxiliary request does not however
include these specific features, but merely refers to
"prepaid subscriber's current state", "each state" and
"the state" without any further definitions. Since none
of the claims as originally filed includes features
relating to a "state", with the exception of claim 6, in
which, however, reference is made to the above-mentioned
expiry state handling function only, claim 1 of the
auxiliary request defines an intermediate generalisation
of what is disclosed in the description and drawings as
originally filed, on the one hand, and the claims as
originally filed, on the other hand, without there being
a basis for this intermediate generalisation in the
application documents as originally filed.

3.4   Claim 1 of the auxiliary request therefore contains
        subject-matter which extends beyond the content of the
        application as filed and, hence, does not comply with
        the requirements of Article 123(2) EPC.

3.5   The auxiliary request is therefore not allowable.

4.   In the absence of an allowable request the appeal must
        be dismissed.

0102.D

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

D. Magliano   A. S. Clelland